



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

### Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

### About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>





1512oc 502



**Harvard College Library**

FROM THE FUND OF

**CHARLES MINOT**

(Class of 1828).

---

Received 4 April 1871











# **DEBATES IN CONGRESS.**





**REGISTER**

OR

**DEBATES IN CONGRESS,**

COMPRISING THE LEADING DEBATES AND INCIDENTS

**OF THE FIRST SESSION OF THE TWENTIETH CONGRESS:**

TOGETHER WITH

**AN APPENDIX,**

CONTAINING

**IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS**

AND

**THE LAWS ENACTED DURING THE SESSION,**

WITH A COPIOUS INDEX TO THE WHOLE.

---

**VOLUME IV.**

---

-c  
**WASHINGTON:**

PRINTED AND PUBLISHED BY GALES AND SEATON.

---

**1828.**

Doc R 224.1

L.S. Do. 502

1871, April 4.

1  
Not Found.



# GALES & SEATON'S

## Register of Debates in Congress.

### TWENTIETH CONGRESS—FIRST SESSION :

COMMENCING DEC. 3, 1827, AND ENDING MAY 26, 1828.

SENATE.] *First Proceedings in Senate.—Imprisonment for Debt.—Printer to the Senate.* [DEC. 3, 4, 5, 1827.]

### DEBATES IN THE SENATE.

MONDAY, DECEMBER 3, 1827.

THE hour of twelve having arrived, the Honorable JOHN C. CALHOUN, Vice President of the United States, took the Chair. The roll of Senators having been called over by Mr. LOWRIE, the Secretary, it appeared that every member was in attendance, except Mr. WEBSTER, of Massachusetts, and Mr. THOMAS, of Illinois.

The oath of office was then administered to such members as, having been elected since the last session, now take their seats for six years from the present time.

On motion of Mr. MACON, the Secretary was ordered to wait upon the House of Representatives, and inform them that a quorum of the Senate was present, and ready to proceed to business. He returned, and reported that the House had not yet elected their Speaker.

#### IMPRISONMENT FOR DEBT.

Mr. JOHNSON, of Kentucky, then rose to give notice that, on Wednesday next, he should ask leave to introduce a bill "to abolish Imprisonment for Debt." Mr. J. accompanied this notice with a few remarks, stating his desire that this subject might receive the early attention of the Senate, so that its fate might, without farther delay, be made known to the nation. He considered it his duty to press the subject at the present session, and should have done so at the last, but he had forborne, in consideration of its being the short session of Congress, and a crowd of other business demanding the attention of the Senate.

A message was then received from the House of Representatives by their Clerk, announcing that a quorum of that House had assembled; that ANDREW STEVENSON, of Virginia, had been elected their Speaker, and that they were ready to proceed to business.

Soon after, a second message informed the Senate that the House had passed a joint resolution, that a Committee be appointed by each House, to wait on the President of the United States, and inform him that they were ready to receive any communication he might have to make.

The resolution was concurred in, and Messrs. MACON, and SMITH, of Maryland, were appointed a Committee on the part of the Senate.

TUESDAY, DECEMBER 4, 1827.

Mr. MACON, from the Joint Committee of both Houses, appointed to wait upon the President of the United States, reported that they had done so, and had received for answer that the President would make a communication, in writing, to both Houses, at twelve o'clock this day.

VOL. IV.—1

The Message, (which will be found in the *Appendix*,) was shortly after received from the President of the United States, by Mr. John Adams, his Private Secretary: and, on motion of Mr. BALL, it was ordered that three thousand copies of the Message, and one thousand five hundred copies of the documents accompanying it, be printed for the use of the Senate.

On motion of Mr. EATON, the hour to which the Senate shall stand adjourned, was fixed at 12 o'clock, until further ordered.

#### PRINTER TO THE SENATE.

Mr. EATON, after some prefatory remarks in relation to the embarrassing situation of the Secretary of the Senate, who was at a loss to know who was to be considered as the Senate Printer, offered the following Preamble and Resolution:

In pursuance of a joint resolution of the Senate and House of Representatives, passed in 1819, regulating the subject of printing for the two Houses, respectively, an election having been had by the Senate during the last session, for a printer to the Senate, and Duff Green having, according to the provisions of the said Resolution, received the greatest number of votes: Therefore,

*Resolved*, That, in the opinion of the Senate, the said Duff Green is duly elected printer to the Senate.

After a debate of some animation, in which Messrs. EATON, HAYNE, BENTON, BERRIEN, and WOODBURY, advocated, and Messrs. MACON, HARRISON, CHAMBERS, and ROBBINS, opposed the Resolution, (ineffectual attempts having been made to lay it on the table and to postpone its consideration until to-morrow,) it was carried by Yeas and Nays, as follows:

YEAS—Messrs. Barnard, Barton, Benton, Berrien, Branch, Chandler, Dickerson, Eaton, Ellis, Hayne, Johnson of Kentucky, Kane, King, McKinley, McLane, Ridgely, Rowan, Sanford, Smith of Maryland, Smith of South Carolina, Tazewell, Tyler, White, Williams, Woodbury—25.

NAYS—Messrs. Bateman, Bell, Boulogny, Chambers, Chase, Foot, Harrison, Hendricks, Johnston of Louisiana, Knight, Macon, Marks, Noble, Parris, Robbins, Ruggles, Seymour, Silsbee, Willey—19.

WEDNESDAY, DECEMBER 5, 1827.

Mr. JOHNSON, of Kentucky, agreeably to leave, introduced a bill to abolish imprisonment for debt; which was read the first time, and passed to a second reading.

SENATE.]

• *Duty on Imported Salt.—Western Arsenal.*

[DEC. 6—13, 1827.]

THURSDAY, DECEMBER 6, 1827.

Mr. NOBLE, of Indiana, according to notice given yesterday, and leave obtained to-day, introduced a bill "to authorize the Legislature of the State of Indiana to sell the lands heretofore appropriated for the use of schools in that State;" which was read, and passed to a second reading.

On motion, Monday next was assigned for the appointment of the Standing Committees of the Senate, to which day it adjourned.

MONDAY, DECEMBER 10, 1827.

The Annual Report of the Secretary of the Treasury was communicated by the Vice President, and 1500 copies thereof ordered to be printed. [See *Appendix* for the Report.]

Mr. KING obtained leave to introduce a bill declaring the assent of Congress to an act of the Legislature of Alabama, for the incorporation of the Cahawba Navigation Company; which was read the first time.

The Senate then proceeded to the election of its officers for the present Congress, when the following individuals were declared to be elected, and took the oaths of their respective offices:

WALTER LOWRIE, Secretary.

MOUNTJOY BAYLY, Sergeant-at-Arms and Doorkeeper.

HENRY TINS, Assistant Doorkeeper.

This being the day appointed for the election of the Standing Committees, the Senate proceeded to ballot for the Chairman and members of each in rotation, and elected eight Committees.

TUESDAY, DECEMBER 11, 1827.

Mr. EATON remarked, that, on inquiry of the Secretary, he had found that no rule existed as to the number of copies required by the Senate of such documents as were ordered to be printed. He therefore offered the following resolution:

*Resolved*, That, unless when otherwise ordered, the usual number of copies of any document ordered by the Senate to be printed, shall be 687, except bills and amendments, the number of which shall not exceed four hundred, to be distributed as heretofore.

The Senate then proceeded to ballot for the remainder of the Standing Committees, and made the appointments required.

WEDNESDAY, DECEMBER 12, 1827.

DUTY ON IMPORTED SALT.

Mr. HARRISON introduced a bill repealing, in part, the duty on imported salt, which he prefaced by a few remarks. He said that a similar measure having been before the Senate last year, upon which his conduct had been somewhat misunderstood, he wished to explain his motives in now offering this bill. It would be recollected that he had given his feeble efforts, last year, to sustain the bill, which underwent a full discussion. He had then supported it more from his convictions that the measure was calculated to be generally beneficial to the country, than from any knowledge that it was peculiarly desirable to his own State, although he believed Ohio would share in the benefit. The reason of his bringing forward this bill, and aiding it with his voice, was, that he was now perfectly convinced that it was as loudly called for in his own State as in any other section of the country. Not long since, there was a rise in the price of salt which had been felt severely in Ohio. This advance was produced by a combination among the capitalists engaged in the domestic manufacture, by which the article was brought up to 50 cents. The inhabitants of Ohio were, in fact, at the mercy of a few capitalists, who, at certain seasons,

were able to raise the prices by a combination, whereby a heavy tax was put upon the People, and thousands of dollars realized by these speculators. It had been formerly argued, that the reduction of the duty on imported salt would injure the sale of the domestic article. This he did not think could, in any respect, be the case. The bill which he now proposed was the same as that offered last year, and contemplated a reduction, at the expiration of one year, of the present duty, from 20 to 15 cents, and the next year to 10 cents. So far as the result would affect his own State, it would be beneficial; because the salted provisions which were put down with imported salt would bear a competition with those of any country; and, therefore, for the prosperity of that branch of trade, it was requisite to obtain the imported article. It now came up the Ohio in steamboats, and was procured, although at a high rate. To lower the duty would not injure the manufacture, while it would protect the People from those combinations by which capitalists were able to raise the prices to an exorbitant height. The bill was then read the first time.

Various portions of the message communicated by the President of the United States at the commencement of the session, were referred to their respective committees.

THURSDAY, DECEMBER 13, 1827.

WESTERN ARSENAL.

Mr. JOHNSON, of Kentucky, submitted the following resolution:

*Resolved*, That the Secretary of War, under the control of the President of the United States, be authorized and requested to instruct one or more officers of the Corps of Engineers to examine the Horse Shoe Bend, on Licking river, in the State of Kentucky, and report the practicability of establishing an armory of the United States at that place, similar to the one at Harper's Ferry or Springfield.

Mr. JOHNSON remarked, in relation to the resolution which he now offered, that he had, for fifteen years, from time to time, submitted propositions of a similar nature to Congress; and he believed no member had ever opposed the proposition, either on the score of economy or propriety, and yet it seemed as far from being obtained now as when it was at first introduced into Congress. A bill was proposed by him in Congress some years since, in which the President was authorized to survey and locate an armory on the Western waters, but the jealousy of the members of this and the other House, and the difference of opinion as to which State it should be located in, had left the subject, up to this time, entirely afloat. It was true that he should prefer its location in the State of Kentucky. But it was not his intention to discuss that question now. If it could not be established in Kentucky, he was desirous that it should be elsewhere. In the surveys that had been made, the Licking Summit had been overlooked. This point was situated in the district which he formerly represented, and on that ground he was the more anxious that it should be examined and its advantages decided upon. His resolution, therefore, went to authorize the survey. And, in advancing this wish, he was convinced that—apart from his wish to serve a People, who, of all others, had honored him with their confidence—he was advocating a plan from which public benefit and an economy of the country's resources was to result. All he wished, was, to have it settled whether or not the Licking Summit was the most eligible situation for an armory. If it should prove to be otherwise, as about thirty places had already been named, he did not doubt an advantageous site would be found. This resolution, however, he hoped, in the mean time, would be allowed to stand on its own bottom.

DEC. 14, 1827.]

*Indemnification to Foreigners.—Amendment to the Rules.*

[SENATE.]

FRIDAY, DECEMBER 14, 1827.

## INDEMNIFICATION TO FOREIGNERS.

Mr. SMITH, of Maryland, presented the petition of Robert Hall, a subject of Great Britain, praying for further indemnification for the destruction of the ship *Union*; which was read, and, on the question, Whether it should be referred to the Committee on Claims—

Mr. EATON said, that he was opposed to the reference of a petition of this description, on the ground that the question involved in it, could be settled otherwise; and that Congress was assembled to transact the business of the citizens of this country, and not that of foreigners. If the Secretary of State could not settle the question, he did not see how Congress could do it, consistently with the principles by which it was generally governed. He therefore hoped the reference would not be made.

Mr. SMITH, of Maryland, remarked, that this was a case out of the scope of the general rule to which the gentleman from Tennessee alluded. The petition and papers had been received and referred by the other House. The vessel mentioned in the petition had been seized, and the cargo forfeited, on the day after the peace. And in awarding the indemnification at a former period, instead of obtaining the invoice of the cargo taken in at Sumatra, after leaving Calcutta, the invoice of the cargo taken in at Calcutta had been resorted to. The consequence was, that an indemnification was awarded to the petitioner for less in value than the loss which he really sustained. Congress was now asked to rectify this injury, growing entirely out of a mistake, and he hoped no obstruction would be thrown in the way of such an object.

Mr. EATON said, there was, of course, nothing personal in his remarks—he only alluded to the subject, as related to the policy which ought to govern Congress in all such applications. He would ask the gentleman from Maryland, whether our citizens, going to France, and applying for any redress of wrongs, would be allowed to approach the Legislature of the country? Would our citizens be permitted to petition the French Chamber for redress for any of the numerous spoliations made upon our commerce? Every one knew that they would not. Or, would they be allowed to present their petitions to the British Parliament? It was well known, that the proper channel for such applications was through the Secretary of State. In this case, a foreigner comes forward and asks Congress to take his case into consideration. If it was considered; if Congress did not in this instance show that such applications were not to be looked upon as regular or proper, the consequence would be, that much of their time would be taken up, to what extent could not be known, in the adjustment of the affairs of foreigners, while the concerns of our own citizens would be neglected. Let this business be done as it ought to be. Let it go to the Secretary of State, and if he could not settle it, let it be sent to the President; then, if it was necessary, from its nature, that it should be referred to Congress, the proper method would be taken: but let it not be brought here without having first been officially examined.

Mr. SMITH, of Maryland, said, that this was not a case to which the remarks of the gentleman would apply. It appeared that it had been formerly before Congress, and being guided by incorrect documents, they had made an erroneous award. To rectify that mistake was the object of bringing it now before Congress again. This, therefore, was a different case from those to which the principle advanced by the gentleman from Tennessee would generally apply. He did not know what was the general rule in England; but he recollected one instance in which an individual who had done some service under the British Government, after having returned to this coun-

try, and become again an American citizen, applied to the British Parliament, and received a compensation for these services. He hoped the petition would have a reference, as justice required that some inquiry should be made into the claim of the petitioner.

Mr. HAYNE observed, that he saw some force in the objections made by the gentleman from Tennessee. The petition was presented by a British subject. That was not denied. And to him it appeared clear, that it ought to be presented officially to Congress: therefore, it seemed out of order for him to petition this body. The gentleman from Maryland had said, that this was a case peculiarly fitted to be laid before the Senate, because it had once before been passed upon by Congress: hence he argued that it ought to be considered again. If, as was stated, justice required that this matter should be investigated, there was, no doubt, a way in which it might be done. For instance, any member might present a resolution to that effect; and if the gentleman from Maryland was acquainted with the merits of the case—as he, Mr. H., could not possibly be—a resolution from him, that the Committee of Finance inquire into the merits of the claim, would, as he apprehended, arrive at the desired result. There were but two ways in which the matter could be properly settled—either that the claim should come through the British Minister, or should be settled by a resolution authorizing its investigation by the proper committee.

Mr. BENTON was convinced that the citizens of other countries had no right to petition Congress for the adjustment of their claims. For, he contended, that while our citizens had not the same right in England, it was a privilege Englishmen had no right to claim in this country. It was partial and unequal. The right was secured in the Constitution, to our citizens, to petition Congress, and it was an infringement upon that right to permit foreigners to do so. If such a privilege were once accorded, there would be no possibility of measuring the inconveniences which would arise from it. The abuse of such a privilege would seriously interfere with the rights of our own citizens. He was aware of an instance in which a Frenchman had introduced a petition in the other House, which no American citizen would have introduced—and he, Mr. B. having then reflected much upon the effect of such a practice, came to the conclusion, that no foreigner ought to be allowed to petition Congress; that they had no right to do it, and that it was an encroachment upon the privileges of our own citizens. He hoped, therefore, that the rule would now be established; and that, hereafter, foreigners would be restricted to applications made through their respective Ministers. On these grounds, he was opposed to the reference of the petition.

Mr. MACON said, that, as it appeared desirable that the petition should be examined into, in order to decide whether it was or not an improper petition, he should move that it lie on the table. He did not intend by this course to *kill* it, as the gentleman from Maryland could call it up at any time.

The petition was then ordered to lie on the table.

## AMENDMENT TO THE RULES.

The following resolution, submitted by Mr. RUGLES, yesterday, was then considered:

*Resolved*, That the following be added to the Rules of the Senate:

Rule 2d. As soon as the Journal is read, the business of the Senate shall be taken up as follows:

1. Resolutions of State Legislatures, petitions, and memorials, shall be presented, and disposed of.
2. Reports of Committees, and bills introduced on leave.
3. Motions or resolutions of individual Senators.
4. Orders of the day."



SENATE.]

Western Armory.—Reporters to the Senate.—Indiana School Lands.

[DEC. 17, 1827.]

After some conversation between Messrs. RUGGLES, FOOT, and KING, on the expediency of the Rules proposed, the resolution was, on motion of Mr. R., laid on the table, and ordered to be printed.

## WESTERN ARMORY.

The resolution submitted yesterday, by Mr. JOHNSON, of Kentucky, authorizing the survey of a site for the location of an Armory at the Horse Shoe Bend, on Licking River, was then taken up.

Mr. HENDRICKS said that he should neglect his duty were he to allow this resolution to pass without offering an amendment. As the object proposed in this examination was to choose the best site for a Western Armory, it could not be objected to that any point which was considered likely to present the advantages required, should also be surveyed, as well as the one proposed by the gentleman from Kentucky. When the surveys were formerly made in relation to this object, a site on Blue river, in Indiana, was pointed out to the surveyors; but it was not surveyed. His amendment went to propose the survey of that site, of one near Lawrenceburg, and of a site on the Wabash, near the mouth of Eel river.

Mr. NOBLE said that there were other sites, as well as those already named, which, when the matter was fairly before the Senate, he should propose for examination. He hoped the gentleman would agree with him that the subject ought to be examined thoroughly; and, in order that it might be, he should move to lay the resolution and the amendment on the table, and print them; but waived his motion to lay on the table.

Mr. KING said, he did not see the object of proposing to print the resolution and amendment. If the resolution was to be considered, he should be under the necessity of offering another amendment, to examine a site on Cypress and Shoal Creeks in Alabama. This situation comprised manifold advantages. It afforded the most perfect water communication with the whole Western Country, and would afford the greatest facility to any defence the country might hereafter be called upon to make against attacks along the Gulf country. Among the various advantages of this position might also be enumerated an abundance of iron ore in its vicinity, of the very best quality.

Mr. RUGGLES rose, with the remark, that he should not represent the true interests of his constituents, did he neglect to bring forward as an amendment to the resolution, a proposition to add to the sites to be examined, that of Zanesville. This place had, on a former occasion, been surveyed, and favorably reported upon; but the difficulty of transporting to it the materials for the erection of the armory, was then objected to. This objection, however, was now removed, as the Ohio Canal, constructed within two years, had obviated that difficulty, rendering Zanesville accessible by navigation of the safest description. He thought that, these being the facts, Zanesville was fully entitled to a re-examination. It would be also recollected, that it was within 100 miles of the Lakes, and the communication was free and direct with Lake Erie, through which this country was most likely to be attacked in case of war.

Mr. JOHNSON, of Kentucky, said, that, to save time and trouble, he would offer another resolution, (as we understood him,) similar to that offered and amended last year, and comprising all the sites then proposed.

[He was informed by the Chair, that it was out of order to offer any other, until that now before the Senate should be disposed of.]

He then moved to withdraw the resolution under consideration; which was agreed to.

On motion of Mr. WILLIAMS, it was ordered that, when the Senate adjourn, it adjourn until Monday next.

The Senate adjourned.

MONDAY, DECEMBER 17, 1827.

Mr. SMITH, of Maryland, from the Committee of Finance, reported a bill to reduce, in part, the duty on imported salt, without amendment.

## REPORTERS TO THE SENATE.

The following resolution, submitted by Mr. HARRISON, on Friday, was taken up.

*Resolved*, That the Secretary, under the direction of the President of the Senate, cause seats to be prepared upon the floor of the Senate Chamber, for the accommodation of the Reporters of the proceedings of the Senate.

Mr. HARRISON remarked, that, for introducing this proposition, he had but one reason. It was, that the seats, now occupied by the Reporters, were so situated, that it was impossible for them to hear those Senators who were out of their view. He knew that the difficulties they now labored under were very great: for he himself had been made to say things that he had never conceived, which he readily believed arose from the impossibility that the Reporters could catch distinctly what passed in the body of the Senate. It must be perfectly obvious to all, that, as the seats of the Senators were now arranged, this difficulty must exist. For his own part, he had never experienced any inconvenience from the manner in which the seats were formerly arranged, but this was a serious evil, arising out of the recent change, which he wished to see removed. If the People were interested in knowing what passed in the Senate, and, if it was proper that it should be reported, it was highly desirable that it should be correctly reported. This could not be done in the present location of the Reporters. For this reason he had introduced this resolution.

Mr. JOHNSON, of Kentucky, remarked, that he was in favor of the arrangement proposed; and was sensible of the inconveniences now experienced by the Reporters. He had seen some of the effects of the difficulty they had in hearing—as his friend from Missouri had been reported, in one of the papers, to have introduced a bill for a still further reduction of our little army of 6,000 men, when, in reality, he had only brought in a bill to explain a previous act, making that reduction; which had produced great anxiety among those whose interests seemed likely to be affected. It was impossible for the Reporters, under present circumstances, to give the proceedings more correctly than they did; and he hoped they would be so placed as to be enabled to perform their duties more satisfactorily. It was unnecessary to say how much the public was interested in having the reports correctly made.

Mr. CHANDLER expressed himself in favor of the object of the resolution; but suggested that it would be better to modify it in such a manner as to give the Reporters a wider range. It might be found that the floor would not be the most eligible situation.

The CHAIR observed, that the object of the gentleman from Maine would be answered by striking out the words "on the floor of the Senate Chamber," which would leave the location of the seats at the discretion of the President and Secretary.

Mr. HARRISON expressed his acquiescence in the suggestion, and moved the striking out; which was agreed to. The resolution, as modified, was then adopted.

## SCHOOL LANDS IN INDIANA.

The bill to authorize the State of Indiana to sell the lands hitherto appropriated to the use of Schools in that State, was read a second time.

Mr. BENTON said, that he hoped no sale of lands by the Legislature of that State would be made suddenly. He thought it would be better if a precaution were taken, in relation to the disposal of these lands, by inserting a clause, deferring the sale until another election should have taken place, and another stated session of the Legis-

Dec. 17, 18, 1827.]

*Duties on Imports.—School Lands in Indiana.*

[SENATE.]

lature have been convened. The proposition would then be fairly before the People, and no act would take place in which they were not disposed to acquiesce. He suggested this to the gentleman from Indiana, as a prudent modification of this bill. Were the quantity of land greater, he would have proposed it himself; but, the amount being small, he only threw out this suggestion.

Mr. HENDRICKS said, that he did not distinctly hear the gentleman's remarks; but, in relation to the suggestion, he, [Mr. H.] did not feel prepared to offer any amendment to the bill. He should wish the bill to pass in its present form. But, if the gentleman desired to examine its merits, or to offer any amendment, he had no objection to laying it on the table, the more especially as his colleague was not now in his seat. He therefore moved to lay it on the table; which was agreed to.

#### DUTIES ON IMPORTS.

Mr. HAYNE said, he had received a communication, conveying a memorial, which he was requested to present, and to which he would call the particular attention of the Senate. It related to a subject of great importance, and advocated those principles of free trade in defence of which we had already waged two wars, and on the preservation of which, he was persuaded, the prosperity and permanence of the Union depended. The memorial was signed by no less than fifteen hundred and sixty-two inhabitants of Boston and its vicinity; and he was assured, that there were among the names of the memorialists, many of the most enlightened, learned, and disinterested citizens of that metropolis, and not a few of the most intelligent and reflecting of her manufacturers, all of whom had here united in a decided remonstrance "against any increase of duties on imports, and especially "on the important and essential article of woollen manufactured goods." The memorial was written with great ability, and contained facts and arguments, which Mr. H. could not bring himself to believe, would be disregarded by any enlightened Legislature. There was displayed, throughout, a pervading good sense, and a practical knowledge, which, added to a tone of candor and moderation, could not fail to secure for the memorial the most respectful consideration of the Senate. Mr. H. said, he wished that it might be now read, in order that the attention of the Senate might be seriously called to a subject, certainly second in importance to none that could come before them during the present Session. Mr. HAYNE said, he could not take his seat without expressing the satisfaction he felt in receiving the unequivocal evidence afforded by this memorial, that the cause of "free trade and unrestricted industry" was not yet lost in the East. His colleague [Mr. SUMNER] and himself would, in a few days, submit to the Senate the memorials from South Carolina, on the same subject, and he could not but hope that the united efforts of the agriculturists, merchants, and "judicious manufacturers," might yet save the country from the evils of the "prohibitory system." Mr. H. then submitted the following letter, which was read:

*"Boston, Dec. 12th, 1827.*

Sir: The Committee of the citizens of Boston, and the vicinity, opposed to an increase of duties on imports, have the honor, herewith, to forward to your care a memorial on this important subject, of which they request an early presentation to the Senate, and such an advocacy of its principles as shall seem to you called for, by the arguments therein contained, as applied to the interests of the whole Nation. There are, Sir, among the names of the memorialists, those of many of our most enlightened, learned, disinterested citizens, and not a few of the most intelligent, judicious, and reflecting, of our Manufacturers both of Cotton and Woollens. The Committee have the most entire conviction that the best interests of the country are involved in this question, and will be promoted by the abandonment of any further prosecution of this system of high duties. The Committee have the honor to be, Sir, with great respect, your very humble servants,  
Nath. Goddard, Lemuel Shaw, Isaac Winslow, William Goddard, Enoch Shibly, Thomas W. Ward, Edward Croft, Lot Wheelwright, Henry Lee, R. D. Shepherd, Samuel Street, William Foster, Daniel S. Parker, Joseph Baker, Samuel C. Gray, Committee.  
To the Hon. Robert T. Hayne, Washington."

Mr. HAYNE then submitted the memorial of the citizens of Boston and its vicinity, against an increase of duties on importations; which was read, ordered to be printed, and on motion of Mr. H. referred to the Committee on Manufactures.

TUESDAY, DECEMBER 18, 1827.

#### SCHOOL LANDS IN INDIANA.

On motion of Mr. NOBLE, the bill to authorize the State of Indiana to sell the lands heretofore appropriated to the use of Schools in that State, was taken up.

Mr. BARTON said, it was not his intention to oppose this bill, or say much upon it. He, however, disapproved of the practice, which seemed to be gradually becoming general, for States to sell out the lands appropriated for specific objects, although he allowed that, in the present case, the quantity of land was small. The practice, he believed, had been commenced by Ohio; but Ohio was differently situated from the other Western States. In the year 1802, when Ohio was admitted into the Union, she declined acceding to that clause in the compact, in relation to reserves of land for schools, which vested the 36th section in the several towns. In 1804, a law passed in Congress, which vested those lands in Ohio in the Legislature, and, consequently, gave it a right to sell them. He supposed that Ohio might have sold these lands without applying to the United States. But it was not so with the other States. They had not objected to the manner in which the lands had been appropriated.

His view of the matter was, that the inhabitants of all the townships must be consulted, and give their consent, before the lands could be disposed of. A glance at the geographical map of those States would convince the Senate that no satisfactory measure could be taken on that head. A great number of the townships, it would be perceived, were not now inhabited at all. His objection, therefore, was, that it was impossible for the sale to be made fairly in relation to most of those townships, which were at present merely nominal. If the Legislature would provide against any future difficulties arising out of the sale, there might be no impropriety in passing the bill; and if the Senate was willing to trust the Legislature, so be it. He had, however, been informed by the member from Alabama, that when a bill was formerly passed in Congress, for the same purpose, in relation to that State, all the townships had not been willing to accede to the disposal of the lands.

Mr. NOBLE said, that he should regret if the Senate withheld from the State of Indiana that which they had granted to the States of Ohio and Alabama. That the Legislature of Indiana had, by their resolution, instructed him, with others, to ask for the passage of a bill similar to the one now before the Senate. If gentlemen will turn their attention to the act of Congress, of April 19, 1816, in relation to the School Lands in question, they will find that the section numbered sixteen, in every Township, and, when such section had been sold, other lands, were to be granted to the inhabitants of the Township or District for the use of Schools. The fact of the Legislature applying to Congress for permission to sell the lands, is an evidence that they are not productive, and the information is derived from the members of the Legislature. The bill is sufficiently guarded. The power to sell the lands, and to invest the money in some productive fund, which is to be applied for the use of Schools in the Townships, solely, and for no other purpose, can never be done without the consent of the inhabitants of the Township. Mr. N. said, he thought that the gentleman from Missouri might be mistaken—that he was well aware that the Legislature would never sell the lands in Townships inhabited, or partially so: their object would be, when they brought it into market, to obtain the best price possible,

SENATE.]

*Imprisonment for Debt.*

[Dec. 19, 1827.]

and never to sell it for the minimum price; that, in proportion to the fund becoming productive, so would education flourish. The reason to him was clear. To sell the land as wild lands, for less than the minimum price, would be folly; and to offer it for sale in a township uninhabited, could not be expected, because the competition would be too great, as the section of land would be surrounded by lands superior in quality, belonging to the Government, and always in market. The sole object of the Legislature would be to protect the fund for the benefit of the inhabitants of the several townships by the consent of each, and to sell only in the portions of the country that was strongly inhabited. It has happened that, in some instances, those, who have leased the school lands, have rendered them unproductive, instead of productive, by cutting and disposing of the timber, selling and disposing of the stone. There had been instances, that school lands were the place of resort for timber and stone, by those who had no lease. He concluded by saying, that, for the purpose of preventing, in time, the naked soil alone remaining for the inhabitants of the townships, the power had better be placed in the hands of the Legislature, with the consent of the inhabitants as to the future disposition of them.

The bill was then ordered to be engrossed for a third reading.

WEDNESDAY, DECEMBER 19, 1827.

#### IMPRISONMENT FOR DEBT.

The bill to abolish imprisonment for debt, having been made the special order of the day for this day, was then taken up.

Mr. JOHNSON, of Kentucky, rose, and said, that, if any member of the Senate was opposed to the bill on principle, he would willingly give way to hear the objections to it, that he might have an opportunity of meeting them at some other time, as he did not feel inclined nor prepared to enter upon the merits of the question as fully as he could wish. It was not from levity that he persisted in pressing this bill upon the Senate. It was no plaything which he had gotten up for his amusement, or the amusement of others. He presented it under a solemn sense of duty, as one of the most important, one of the gravest and most solemn subjects which was ever brought before a legislative body, at any time, in any country. His greatest object on the present occasion was, to call the attention of the distinguished men whom he saw in such numbers around him, to this subject. He would make bold to say, that, but for the prejudices which were so powerful over human reason, and which so often subdued the human mind into an acquiescence to the worst evils, imprisonment for debt would be considered as tyrannical, oppressive, and absurd, as the Spanish Inquisition. He had not risen to fatigue the Senate with reading authorities, although he had the books before him; nor to detain the Senate with the perusal of the various letters which he had received upon this subject from every part of the United States. These letters, he said, were laden with the most painful details of the cruel operation of the law of imprisonment for debt. He alluded to them because some might tell him, as he had been told on former occasions, on the threshold of his remarks, that there was no actual suffering from this source; that imprisonment for debt in this free and happy land was merely nominal. But I know, sir, that the evil is a crying one. It stalks among the People from Maine to Georgia with heavy and gigantic steps, spreading in its course desolation and distress. The cries of the sufferers reach us from the South, and are still louder from the North and the East. Nothing at this moment but public opinion and the charity of South Carolina saved the distinguished citizen of that State, one of the most gallant heroes of our

Revolution, [General SUMPTER,] from the horrors and mortification of a jail. The same barbarous law could have torn from his home and his family the illustrious author of the Declaration of our Independence. These two cases only served to place before the public the infamy of the system in more conspicuous colors. But he cared not whether the law affected the high or the low. He protested against it before God, who made men free and equal. His duty, as a Representative and as a man, was to protect the rights of the lowest as well as the highest of the community.

He did not pretend to say, that the abolition of imprisonment for debt would not sometimes favor dishonest debtors. He would admit that dishonest men would sometimes be relieved by it. But was that an argument against it? As well might the advocates of torture oppose its abolition, because confession of guilt had sometimes been extorted from the sufferer on the rack. One thing he knew, that the malicious and vindictive would be disarmed of this their legal weapon of persecution. He also knew that honest and unfortunate debtors would be protected against the cruel and selfish creditor. He was not disposed, however, to censure those views of the subject which differed from his own. Our Creator had so constructed the human mind, that the most highly gifted in intellect are not exempted from prejudice. In that situation was Paul, when he verily thought he was doing God service by persecuting the followers of our Saviour. It would hardly be thought that the community, and the many enlightened men who denounced this system as cruel and barbarous, were deluded on the subject. No. He was convinced in his own mind, that the delusion was on the other side of the question. But, Sir, said Mr. J. it is not sufficient for the establishment of a principle, that it is denounced by me or others.

He was prepared to prove it—First, as to *mesne process*. The first provision in the bill is to provide against the vexation of holding a defendant to bail upon *mesne process*—that is, to abolish imprisonment upon *mesne process*. He had in his hand an authority to prove that holding the defendant to bail previous to the trial of the cause, had its origin in judicial usurpation. The judges in England had, by legal fiction, changed the remedy which the common law had given to the plaintiff. The defendant could not be arrested and held to bail by the *capias*, or any other writ; he was liable only to a summons. The plaintiff was obliged to give, upon the commencement of his suit, pledges of prosecution, that it was not vexatious, but that he had an honest substantial cause of action. He was obliged to give, not John Doe and Richard Roe, but a real and sufficient security. The judges, by a cruel and absurd fiction, founded upon the pretence that the plaintiff was as pure as the angels, and the defendant as dark as Erebus, substituted John Doe and Richard Roe for the pledges—supposed again, that the summons had been served upon the defendant, and that he had refused to answer to the suit, and going on still further with their malicious, malignant falsehoods, called legal fictions, the defendant was supposed to have no property, and he was preparing to fly his country, in order to take his body by the *capias*, as the first step in the action upon which bail was required, or the defendant put into prison. Here is a complete *summerset*; the plaintiff released from all obligations on his part, viz. pledge of prosecution to secure the defendant against his malice, and the defendant deprived of his liberty wherein he had been always free from molestation. This practice of the ancient Britons, which secured to them freedom from arrest for debt, was changed by legal fictions and judicial usurpations. They did not deprive the debtor of his personal liberty upon *mesne process*. He thanked God that the foul stain was blotted from the escutcheon of his native State, Kentucky. No freeman of Kentucky can be enclosed for debt, nor

Dec. 19, 1827.]

*Imprisonment for Debt.*

[SENATE.]

cast into prison. You may deprive him of his property, and that is correct, where he owes it. There was a time, not long since, when it was otherwise. I have seen honest and valiant men, who had fought gallantly for their country, looking through the iron grates of a jail, for debt. But that time is past, never to return in the State of Kentucky. It had always been his opinion, and was yet his opinion, that an honest debtor, but whose misfortunes had prevented a punctual payment of his debt, to be cast into prison by his creditor, would feel absolved from all moral obligations to that man, at whose instance he had been deprived of liberty. One day; one hour, of virtuous liberty is worth an eternity of bondage. Mr. President, let me propose one question to you: Suppose I contract to pay a certain sum of money, or to do a certain thing, and it is entered into my bond, as a condition, that, if, upon failure on my part to pay the money, or to perform my covenant, I should be subject to loss of life, or limb, or liberty, and, farther, suppose I did fail, would not the courts relieve me from the penalty, as a violation of the constitution and the laws of the country? And if I cannot, under the constitution and laws, make myself a voluntary slave, how can I, under the same constitution and laws, be made an involuntary slave? I have not language, Sir, forcibly and eloquently enough to picture to you, like Sterne, the wretched victim of civil imprisonment, lying in his dungeon on his straw bed, counting the dismal days and nights of his confinement, and pining under that sickness of the heart which arises from hope deferred. But, let me ask if such confinement be not worse than the most abject slavery? It may be said, that the insolvent laws will afford relief. In addition to the other just principles and provisions of the bill, the best insolvent law which I have ever seen is incorporated into this bill, which was proposed by my worthy friend from Georgia, [Mr. BRADEN.]

But it is in vain to tell me of the insolvent laws as they now exist or can exist without the provisions of a bill like this. I have now before me a letter from Wm. Wood, of New York, who informs me, that, within less than two years, one thousand nine hundred and seventy-two persons have been received into the debtors' jail in that city. In some instances, men have been imprisoned for a sum as small as two or three dollars, with neither food nor bed except what was furnished by the Humane Society, a quart of soup for twenty-four hours; whereas the criminal, in Bridewell, receives three meals per day, a bed, and often clothing. While we applaud the exertions of these benevolent Societies, and rank Wm. Wood and its other members with the benevolent HOWARD, to be held up to mankind as worthy of imitation, we sit here with our arms folded, without seeing that these just praises to these benevolent Societies, and worthy individuals, press more indelibly the stain of cruelty and barbarism upon our National character. It is not my object to place the debtor upon any better grounds than the creditor. I wish to place them upon a perfect equality; there is as much honesty and integrity in the debtor part of the community as in the creditor part, and no more: all men, under the same circumstances, are nearly alike; give the property of the debtor to the creditor, till the debt is paid, if the property can be had; but, under all circumstances, give the debtor his liberty—he never sold that. It is beyond value or price—the law does not authorize him to dispose of it. He can only forfeit it by crime, by villainy. Imprisonment for debt, by some, is supposed to be used as coercive means. Be it so; and what then? It is very evident, that the hardships of coercion can only fall on the honest debtor.

If the debtor be a villain, and refuses to pay that which he owes, and is able to pay, his money, and the friends whom his money will gain him, will relieve him from all the hardships of your coercion—others say this imprison-

ment for debt is in satisfaction of the debtor's bond; that the honest debtor, too, must pay the pound of flesh; this is already answered; for I hold that a man cannot subject himself, without crime, to the loss of liberty. Mr. President, I am impressed with the belief, that, unless the relation of debtor and creditor in this wide, populous, and increasing Republic, be essentially changed, evils will sooner or later result from it, which, combined with other causes, will prove disastrous to our national liberty, happiness, and independence. I am not one of those who entertain the opinion, that nations, like individuals, necessarily pass through the stages of youth, maturity, and decline. It is true, this has been the case with many nations. We now read, in the pages of ancient history, of the splendid existence of Greece and Rome. But, in reality, they no longer exist—with many other renowned nations, they have all sunk beneath the all-devouring hand of time, and some latent principles of bad government. In very truth, we may say, that this is the freest Government on earth; and we might go farther, and say, it is the only free Government on the globe. These revolutions in States, Empires, and Kingdoms, have naturally made historians, philosophers, and statesmen, indulge in the remark, that States, like individuals, must pass through infancy, manhood, old age, and death. The causes which have produced, and are now producing, the same results, are to be found, not in the order of nature, but in some vice, some bad principle, inherent in their institutions.

When the population of Rome, on a certain critical occasion in the existence of that renowned Commonwealth, rose in rebellion, and retired to the Mons Sacer, or the Sacred Mount, it was owing entirely to the power of the creditor over his debtor; because the creditors exercised the power given them by the laws with cruel persecution and severity towards their debtors—citizen soldiers, who were revered for their public virtue, their gallantry, their public services, and could exhibit the deep scars which they had received in battle with the enemies of their country, could show to the populace the scars and stripes, fresh bleeding, inflicted upon them by their merciless creditors, by whom, with their wives and children, in some instances, they have been doomed to bondage. I have observed, that I do not believe that States and Kingdoms are doomed, by the decree of Heaven, to die as man dieth. I do not see how that consequence should follow. The materials of States and Kingdoms are always composed of the same materials at every stage of their existence, of rational and intelligent beings, moral agents, and always endowed with the same senses and same capacities by nature, and at all times capable of sustaining free institutions. The inquiry becomes more important to us, why these changes? I have no doubt that they arise from causes perfectly within our control, if we will it. Whatever has a tendency to degrade the human mind, or to infringe the unalienable rights of property, of conscience, of speech, of the press, and of personal liberty, in the smallest degree, has a tendency to destroy the best Government on earth. I will not pretend to say that imprisonment for debt alone will produce this result; but it is making great inroads upon free Government in the United States. And if, after the lapse of many years, the occasion should arrive—and Heaven grant that ages and ages may pass over before it does arrive—when some meditative Volney shall wander among the ruins, not of Palmyra and Persepolis, but of this proud Capitol, now the seat of free and enlightened deliberation, mark me, sir, if he does not trace our downfall, in part, to the fierce contentions arising between debtors and creditors. This is the time to apply the remedy to the evil, which is growing with our rapid growth, and increasing with the unparalleled increase of population. This is the time, in the vigor of our institutions, to free our legislation from this foul stain, which the law of civil improvement has stamped

SENATE.]

Public Lands.

[DEC. 20, 1827.]

upon it; and to place on a secure and permanent basis the rights and happiness of our citizens. If, Mr. President, all the Empires, Kingdoms, States, and Republics, of the earth were here met with us this day in Council, in what would we be willing to compare with them? Not in extent of territory, for Russia exceeds us in that; not in wealth and grandeur; not in commerce and manufactures, for many nations equal and some surpass us in them; nor in science and arts, nor in salubrity of climate, nor fertility of soil, for in these blessings other nations may compete with us: but it would be in our free institutions that we might proudly compare with them; in civil and religious liberty; in the freedom of speech and of the press; in the right of each citizen freely to pursue his own happiness. These principles are sealed with the blood of our fathers. Let us not prove treacherous to them in one of their most essential particulars: for imprisonment for debt is a violation of those sacred rights, and perhaps the only exception to the freedom of the citizen.

In conclusion, Mr. J. said, he was unwilling, at this time, to trespass further upon the indulgence of the Senate. He had spoken without notes, and without intending to have said as much at present; upon some other occasion, in the progress of the bill, he might attempt more fully to explain the history of imprisonment for debt, and to show that it originated in judicial usurpation and legal fictions, and had been supported by tyranny. He entreated the Senators to turn their attention to the subject, and to open their ears to the cries, which were loud to those who would listen, of the unfortunate and distressed debtors, and to decide on the bill without delay.

THURSDAY, DECEMBER 20, 1827.

## THE PUBLIC LANDS.

Mr. HENDRICKS submitted the following resolution: *Resolved*, That the Committee on the Public Lands be instructed to inquire into the expediency of ceding and relinquishing, in full property, the public lands, within the limits of the new States, to the several States in which they lie.

Mr. HENDRICKS said, that, in offering this resolution for the consideration of the Senate, it was, perhaps, proper for him to make a few remarks. It would be recollected, that, at the last session, in the form of an amendment to the bill proposing to graduate the price of the public lands, he had offered the same proposition, though in another form. The proposition of last session was one to which the attention of the Senate had not been very much directed. It was considered a novel proposition, a bold one, and there is little doubt that, by many accustomed to look to the public lands as a source of revenue, more important than they ever yet have been, or promise hereafter to be, it was deemed an unreasonable proposition. The bill and the amendment were laid upon the table, having received a very partial examination, and, for want of time, were permitted there to rest, without discussion, till the close of the session.

With a view of preventing this state of things, and that a full discussion of the principles contained in the proposition might be had at the present session, he had, at this early period, presented it to the Senate. The bill to graduate the price of the public lands would again be introduced, and, in all probability, he again referred to the Committee on the Public Lands. To this committee he wished to have this subject also referred. The Senate would then have the aid of their examinations and report, and be the better prepared for a vote upon the question.

Believing, as he did, that the sovereignty, freedom, and independence of the new States were much impaired, and that their equality with the old States was entirely taken away by the present condition of the pub-

lic lands, as the representative of a new State he could not but feel a deep interest in the proposition, and he did believe, that, when the subject should be fully canvassed by the Senate, the constitutional argument, and the question of expediency, would alike preponderate in favor of the new States, and strongly admonish of the propriety of an absolute transfer of the public lands to the several States in which they lie. He believed that the Federal Government had no constitutional power to hold the soil of the States, except for the special purposes designated by the Constitution, such as the erection of forts, magazines, arsenals, dock yards, and other needful buildings, and even for this purpose, the consent of the Legislatures of the States was necessary, by the express language of the Constitution.

He was well aware that the cessions from the States, and the pledge that the proceeds should be applied to the payment of the national debt, were usually resorted to as the authority of the General Government to hold the lands in the States; but these authorities, connected with the history of the times, which show the intentions and views of the actors of that day, instead of showing the right of this Government, might, in his opinion, be safely relied on to sustain a contrary position. It surely was the intention of Congress, and of the States, ceding waste and unappropriated lands to the Union, that the new States to be formed should be received into the Union as sovereign and independent States, and on an equal footing with the original States, in all respects whatever; and nothing could be more clear than that this was the intention of the framers of the Constitution. To maintain the equality of the States, it had even extended favors to the small States. It had in some degree balanced numbers in the large States, with political power in the small States. The equality of the representation in the Senate was an instance of this. To Senators who hold to the letter of the Constitution, and who deny to the Federal Government all powers not clearly expressed, he might safely appeal. To those who deny the power of Congress to interfere with the sacred soil of a State, so far only as might be necessary for the location of a road or canal, he might speak with the greatest confidence. If, according to their doctrine, Congress cannot thus temporarily occupy a small portion of the soil of a State, surely, they would agree with him in saying that Congress cannot permanently hold, in full property, the entire soil of the new States.

If, then, the constitutional argument should be with him, that Congress has no power to become or to remain, the lord of the soil of the new States, no one would contend that the compacts ought to be binding; for, if they are not based on the Constitution, they impose no obligation on the States. But, if even based on the Constitution, it was in the power of the new States, on the principle of free agency, to make them, or to refuse to make them. If the new States had refused to make them, then the objects attained by them would have been defeated. And what were those objects? That the new States should never interfere with the primary disposal of the soil. And if this object had not been attained by the General Government, would not the converse of the proposition have been the consequence? would not the inference have been irresistible, that the new States might have interfered with the primary disposal of the soil? Here it would, no doubt, be said, that the new States, refusing to enter into these compacts, could have been kept out of the Union. But this was ground untenable; for the new States were, by the ordinance of 1787, guaranteed admission into the Union, with a population of 60,000, on an equal footing with the original States, in all respects whatever.

Mr. H. said, that arguments of expediency, almost innumerable, might be urged in the present case. It

Dec. 20, 1827.]

Public Land—Imprisonment for Debt.

[SENATE.]

seemed to him that whenever the subject should be fully examined, it would appear that an estimate had heretofore been put upon the public lands, far above their real value. The public lands had been in market upwards of forty years, and the whole receipts into the Treasury had been about thirty-six millions. We had now in market more than one hundred millions of acres, and for the last years the receipts had frequently been below a million, while the whole revenue of the country, in those years, had ranged from twenty to twenty-five millions. This view would show how small is the portion of our whole revenue derived from the public lands. This million, if indispensable to the Treasury, could easily be supplied in some other way. It could be laid on other objects of taxation, which would neither be seen nor felt, and the new States would rise to a level of equality with the old States. The new States would then be relieved from what he considered an unconstitutional and dangerous dependence on the old States and on the Union.

Nor had this proposition any thing to do with the great mass of these lands. The public lands in the new States amounted to little more than 200 millions of acres, and perhaps fifty millions of this had been given away in military bounties, and other donations, together with the public sales. The residue, subject to the action of the present land system, would be eight or nine hundred millions. With an unlimited control over this vast scope of country, the General Government ought to be satisfied.

Surely, said Mr. H. the Legislatures of the States are better qualified than the Congress of the United States, to dispose of the public lands, as the condition of their respective States require. They better know than we possibly can know, how to graduate the price agreeably to the quality, and when to give pre-emption rights and donations to actual settlers. The people of the new States should look to their own Legislatures for the regulation of the public lands, and Congress should be left to pursue, with undivided attention, the national interests submitted to their care by the Constitution of the United States.

But, there was another consideration, more weighty still. It was, that the public lands in the hands of the General Government, offered to the new States the strongest inducements to a dissolution of the Union, for, the Union dissolved, the lands would instantly become the property of the States, and all such inducements ought most carefully to be guarded against.

He had already glided further into the discussion than he intended when he rose. He hoped, that, at the proper time, the Senate would be favored with the reflections of others, much more capable of doing justice to this very important subject than himself. He would at this time no longer detain the Senate.

A resolution submitted yesterday by Mr. PARRIS, for the erection of suitable buildings for the Courts of the United States, in the several States, was considered and agreed to, after having been amended, on motion of Mr. P. so as to embrace a provision for the preservation of the records of the Courts.

Mr. PARRIS remarked, that the Courts of the United States were, in many of the States, unprovided with suitable buildings, and were necessitated to depend upon the courtesy of the State Courts for the use of their rooms. It was to remedy this evil, and to procure the requisite accommodation for them, that he proposed this resolution. The preservation of the records of the Courts was a matter of great importance, and no regulation for that purpose had hitherto been made.

#### IMPRISONMENT FOR DEBT.

The bill to abolish imprisonment for debt was then taken up, and, after several amendments proposed by

Messrs. BERRIEN, EATON, CHANDLER, HAYNE, KANE, and RIDGELY, which were agreed to, Mr. JOHNSON, of Kentucky, moved that the bill be made the special order of the day for Tuesday next.

Mr. TAZEVELL rose, and said that, as the bill was now open to discussion upon its details, he would say a few words, more by way of suggestion to the friends of the measure than of argument against it. Whether the object of the bill was useful or necessary, and whether the public was now displeased with the power enjoyed by the plaintiffs, were questions of great importance, and would be fully discussed at a proper stage of the progress of the bill. He did not rise to debate the question, whether the abolition of Imprisonment for Debt would be useful, necessary, or proper. It was his design only to say a few words upon the method by which it was proposed to obtain this object. His remarks would be directed to the *machinery* by which it was to be done. They wished to effect an abolition of Imprisonment for Debt; and how do they propose to do it? By removing from the laws of the land a certain process. Now, to every gentleman who has any knowledge of law, it is evident that this cannot be safely done. Will they say, that in taking away this single process, they can leave the laws exactly *minus* that process? No man of legal knowledge would say so. For the various processes are so connected, that it is impossible to disjoint one from the context without injuring and disorganizing the whole system. They are so amalgamated, that, to abstract any portion, would be to decompose and destroy the whole. To do this, without producing such an effect, was a scheme beyond the skill of the greatest statesman that ever lived, so were the laws under our system woven into and connected with each other. He would state some cases, which might—nay, which, he was confident, must arise, were this measure to go into effect. In the State of Virginia we follow the English law, which we have handed down to us by our forefathers. Real estate is not subject to execution for debt. But lands can be seized to pay a debt by an indirect process, which is equally efficient, and ensures to the creditor the real property of the debtor. For instance, you take the body of the debtor, and incarcerate him: you then say to him, you must release your lands for the payment of my demand, and until you do, you remain a prisoner. This is done by the means of a *capias ad satisfaciendum*. Now, if the *capias ad satisfaciendum* is taken away, what power is there remaining over the lands of the debtor? What safety will there be to the creditor, whose debtor is possessed of real estate alone? The body of a debtor is, by the operation of this act, to be free of imprisonment; and, it matters not whether the debt be five shillings or five thousand dollars, still the operation is uniform. But, if an individual agree to do a specific act, and fail in its performance, you have jurisdiction over his body, because this Bill does not extend to Chancery cases. Then the operation of it will be this: The man is released who owes five shillings in money; but the man who agrees to do a specific thing, not worth half that value, may be imprisoned. Is this an equal operation? Is it not partial in the extreme? These two statements, of what he believed would be the operation of the Bill, were merely given to illustrate the opinion which he entertained, of the operation of the Bill as it now stood before the Senate. The Bill would effect, perhaps, too much, and certainly in some respects, too little—probably more in some points, and less in others, than its friends desired. Mr. T. therefore, submitted to the advocates of the Bill, whether it would not be better to make some general arrangement to cover all the ground which the title of the Bill seemed to indicate, by making some general arrangement by which the exemption from imprison-



SENATE.]

Imprisonment for Debt.

[Dec. 20, 1837.]

ment should be universal. He also suggested that it was dangerous to encumber the Bill with all the machinery under which it now labored. In the present shape of the Bill, they would assuredly do more or less than they intended. He had not risen to argue the principles of the Bill, at this period, and he merely threw out these reflections, in order that the attention of gentlemen should be directed to what he thought faults in the Bill. In its present form, he could not vote for it—nor would he pledge himself to do so in any case—but should it pass, it would be desirable to all, that its provisions should be calculated to arrive at the object in view.

Mr BERRIEN observed, that, under the circumstances that the gentleman who had introduced the bill had moved its postponement, it was hardly in order to discuss its merits. But, if it was advisable to postpone the details, it was, nevertheless, important to examine the principles of the measure, and he was particularly desirous to meet the objections made to it by the gentleman from Virginia. He was aware that any innovations upon existing laws of long standing, were more or less dangerous, and there was always reasonable doubt, whether they might not trench on existing institutions. And, it was highly to be desired, that the collective knowledge and experience of the Senate should be brought into action, to prevent, in completing a salutary measure, the occurrence of any such evils. But, if they were to refrain from any provision which the good of society, and the interests of humanity required, because there was danger that they might make innovations on existing laws—if they were to refrain from tearing from the statute-book, a leaf that stained and disgraced it, fearing, that in so doing, they should trench on the system of laws, of which it had for ages made part—if an acknowledged evil of no common magnitude were to be sanctioned and perpetuated, because, to abolish it, implied a danger of creating confusion in the practice—then might any amelioration be prevented. He knew not whether these effects would arise out of the present bill; but he knew, if such were the principles upon which Congress acted, then they were doomed never to advance, but to sit idly down under all the evils of the present system. If the bill now under consideration threatened any of those inconveniences that had been enumerated by the gentleman from Virginia, it was the duty of his brethren of the Senate to give their assistance in checking them, and render more perfect the bill, by placing around it all the requisite safeguards. For himself, he was in favor of the bill. Its principles met his full approbation. He had long looked upon imprisonment for debt as an evil that disgraced a free, an enlightened, and humane community; and from such motives he had acquiesced in the report of the Committee, of which he was a member, in its favor. He was not bigoted in his preference for the bill now before the Senate; nor did he arrogate that its form was the most perfect. In his adherence to the principle, however, he was firm. The bill was now subjected to the investigation of his brother Senators, and, from a body comprising so much learning and intelligence, he might hope that its provisions would receive all the necessary modification. He, therefore, wished that the opponents of the measure would examine it thoroughly—not to cavil and find fault—but to direct and improve it. So far as he was concerned, he held himself ready to accede to the bill as it might be modified by his colleagues. He was not pledged to it in its present form; but wished that the lights of others might be shed upon it, that all the good it promised might be realized and as little of the evil, with which it was charged in anticipation, might arise from its operation. With such views, he might be allowed to say that he was in no way appre-

hensive that the difficulties named by the Senator from Virginia, would be experienced. By the laws of Virginia, lands were not subject to a direct process; but they were liable to be seized by the indirect process, which that gentleman had explained. Now this right, or practice, was not touched by this bill. It provides that a plaintiff can, by making oath that the defendant keeps his lands in such a condition that they cannot be levied on—a complaint which every citizen has a right to make—which becomes the subject of a trial, and, if found to be true, his original right to issue a *ca. sa.* recurs; and thus, for all useful purposes, that process is retained, while, only where its operation is oppressive, is it abolished. It does not, in fact, touch upon the ancient mode of recovering land by taking the body by a *capias ad satisfaciendum*. It makes that process milder, and more accordant with the principles of justice and humanity. He did not wish to go farther at this time. He was desirous to hear the opinions of his coadjutors upon the measure; and he solicited the aid and counsel of those associated with him in pointing out the best and safest method of reducing the principle to practice.

Mr. JOHNSON, of Kentucky, was, although not intending to join it, highly pleased to hear the discussion upon this subject. He merely rose to offer a few remarks upon the objections offered by the gentleman from Virginia. That gentleman had done—what no one could be more sensible than Mr. J. that he was able to do—in making out a plausible, and even probable, case of hardship, under the bill for the abolition of imprisonment for debt. It amounted to this: that one man might sell a quantity of land to another, who, subsequently would not, or perhaps could not, pay for it; and that, in this case, the creditor must lose his demand. To this objection, said Mr. J., I have two answers. I admit that there might happen such a case of hardship. I go farther. I allow that such cases would undoubtedly happen. My first answer to the objection is this: The law is prospective in its operation, and the seller would, for his own safety, not only take the obligation of the purchaser for the payment, but he would retain a hold upon the title in default of satisfaction of his demand. He believed no gentleman would, even under present circumstances, sell a valuable estate in Virginia, and not retain some security upon the property for the fulfilment of the obligation entered into by the purchaser. Whether would it be better that this law should not pass, affecting as it does the freedom and happiness of thousands, or that an occasional case of hardship—and for which there was an adequate remedy—arising generally from the negligence of the seller to his own interests, should occur? If the gentleman from Virginia was disposed to make any motion by which the liabilities on the part of the debtor should be increased so as to protect the creditor from any imaginable injury, he was perfectly willing to accede to it. But in passing an act which the happiness of millions required, was it the fault of Congress that Virginia was not treated in the same manner as the other States? Nor was it to be maintained, that some partial inconvenience, or occasional hardship, must stand in the way of a measure calculated to redeem our country from a disgraceful violation of the rights of man, and the dictates of Christianity, freedom, and benevolence. He had one more remark, in answer to the gentleman from Virginia. If the case which he has stated be a hardship, what will he do with the thousands of cases in which an honest debtor, unable, by some unforeseen and unavoidable misfortune, is deprived of the means of paying his debts, and who is liable to be imprisoned, at the mercy of a hard-hearted and vindictive creditor? Can these cases be weighed against those possible ones to which he has referred us? Now,



Dec. 20, 1827.]

Imprisonment for Debt.

[SENATE.]

if the gentleman will frame a bill, by which the honest and unfortunate debtor shall be exempted from imprisonment, I will, in turn, agree to one by which the rich and fraudulent debtor shall be punished—I care not how severely. Yet the cases on his side are but one to a thousand of those that would be relieved by the abolition of this barbarous practice, from undeserved and inevitable wretchedness. To him, the character of the country seemed deeply involved in this measure. The doctrines of Christianity pointed out its adoption; for it was one of its first principles, that none but the guilty should suffer punishment. If this bill passed, it would be a triumph of principle; for it was based on the best and most humane principles. That it might do some partial injury, and create some minor inconvenience, he was not prepared to deny. But, when was ever a great change effected without some partial evil? The ingenuity of any individual would not be put to a very difficult task, to prove, that the putting down of any institution, long established, would produce injury to some one. This, however, is no substantial argument to oppose to a measure whose principles are founded in the dictates of truth and humanity. He was, however, fully convinced that, when the gentleman reflected on the benefits and injuries likely to arise out of this bill, he would be led by the acuteness of his judgment to a conviction that there was a vast balance in favor of the former, and be satisfied with the beneficence of its general operations. Mr. J. observed, in conclusion, that, as his friends were still desirous of putting off the consideration of the subject, he would alter his motion, and move that it be made the order of the day for Friday se'night, when he hoped that the Senate would be prepared to come openly to the discussion, and finally reject or adopt the bill.

Mr. TAZEVELL remarked, that he had, on several former occasions, stated his impressions firmly and strongly upon the measure proposed by this bill. His opinions were now the same—he had seen no reason to alter them. He had, in what he had said a short time since, suggested to the advocates of the bill the objections that had occurred to him, in order that they might put their object on its proper footing. Do they wish to abolish imprisonment for debt. So they say. But they have pitched upon the process of *capias ad satisfaciendum*, and think to attain their object by removing it. But they are in error. By this method they destroy their own object. If they are desirous to persist in the path they have marked out, they may. But were I a friend of the bill, which assuredly I am not—even were I as strong in its favor as my friend from Georgia, I should be averse to its present form. I, being opposed to it, shall offer no amendment; for I have been too long familiar with legislation not to have learned that amendments offered by an opponent, are little heeded, and are generally looked upon in a hostile light. They say that they do not intend to destroy the liability of real estate, but to abolish imprisonment for debt. And although they are, in my opinion, entirely in error, in endeavouring to reconcile these two positions, yet this is not the time to enter into the broad discussion of those fallacies. I say again, that the object I have in view, in the remarks I have made, is to call the attention of the defenders of the bill, to those means by which it can be made capable of attaining the end they propose. If they wish to go on, as it is, I can only say that it must meet with my opposition.

Mr. VAN BUREN, in the commencement of his remarks, spoke in so low a tone that the Reporter could not distinctly hear him. He was understood to say, that, if there was any ground for opposing the measure, it was that it might interfere with the laws of the States. The bill had formerly been before the Committee on the Judiciary, of which he was a member, and had been found full

of difficulties. Its importance dictated that it should be carefully investigated. He was, however, of opinion, that the objection started by the gentleman from Virginia was founded upon an imaginary difficulty. He recollected that clause to which he took exception was formerly proposed by a member from Virginia. It went to provide, that, whenever real estate was removed by the debtor from liability to execution, the creditor was restored to his right of issuing a *capias ad satisfaciendum*; and the debtor was deprived of the benefit of the act, and the liberties of the jail were taken away; so that the creditor in Virginia would have an increased security over the debtor by this provision. Mr. V. B. had not read the bill this year, but believed it mainly the same. He did not apprehend that the difficulty pointed out by the gentleman from Virginia would be experienced. He was friendly to the bill in general, and thought it a good measure; nor was he apprehensive of any evil that would result from it.

Mr. KANE said that, as he was friendly to the measure, he hoped the details of the bill would be so arranged as fully to meet the objects in view. The gentleman from Virginia had stated objections which the present form of the bill did not remove. He wished to incorporate into the bill a provision, by which the objections of the gentleman from Virginia might be removed, which might, he thought, be done by altering the phraseology in such a manner as to provide that the debtor shall not be imprisoned unless he refuses to give up his property, or be guilty of a fraud.

Mr. HAYNE, after a few preliminary remarks, observed, that he thought the proposition of the gentleman from Illinois would not altogether meet the objections. He would suggest that a better method would be to strike out all but the 6th section of the bill. By striking out all but this section, it would be allowed to extend to all cases, in courts in which the debtor was liable to process; who, by filing a list of his property, and surrendering it to the Clerk of the Court, would be released from all liability of process thereafter. This would meet the object of the proviso as to fraud, and cover the whole ground. He thought, if the bill was in this manner amended, the most important objections would be removed. There was another view he had taken of it, which he would now submit. He thought the benefits of the bill would be much increased, if a provision were made for a uniformity of process in all the States—that is, an uniformity in each State with the process of the Courts of the State. The process, for instance, in Kentucky, was regulated by one rule, that in South Carolina by another, and so on, through the various States. His proposition would be, to make the process of the United States' Courts conform to that of the Courts of the State in which they were located. He did not rise to discuss the merits of the bill; but as its details were now under consideration, he threw out these suggestions, as tending, in his opinion, to increase its value.

Mr. MACON said he had no objection to the suggestion of the gentleman from South Carolina. But the question was, whether the plan proposed by the bill was the best. Perfection, he knew, was not to be expected from human nature. All the States had made alterations in their laws after being admitted into the Union. The evils which often existed in their laws were not discovered until custom had made men familiar to them. But evils could not be remedied at once, for it wanted time to discover them. As we go on we see our errors and faults; and he hoped his friend from Kentucky would not again, with his usual complacency, postpone the bill until it is lost in a press of other business, as has been the case on former occasions. Mr. M. thought he had better bring it up now, than put it off, and put it off, until the business became more urgent. There was at present but little to do, and the opportunity was a good one to push this measure to an issue.

Mr. JOHNSON, of Kentucky, expressed himself high-

SENATE.]

Public Lands.

[DEC. 24, 1827.]

ly pleased at a prospect that the bill was about to be fairly discussed. He hailed the proposition of the gentleman from South Carolina, as the dawning of a disposition to restore to Kentucky the rights of which she had so long been deprived. He hoped that unfortunate and patriotic State was about to be reinstated in the immunities of which she had been shorn, refused the right of making her own laws, and restricted by legal constructions, with a Solon to legislate for the People, in the character of a Circuit and District Judge. Mr. J. here alluded to the difficulties under which Kentucky had long suffered, and the evils, political and domestic, to which she had been subjected. He then moved the postponement of the bill to Friday next, then to be made the order of the day; which was agreed to.

MONDAY, DECEMBER 24, 1827.

## PUBLIC LANDS.

Mr. BENTON having obtained leave to introduce a bill for the graduation of the price of the Public Lands, prefaced it with the following remarks:

I rise Mr. President, for the purpose of making the motion for which I gave notice on Thursday last—a motion for leave to introduce a bill to graduate the price of the public lands. In asking this leave, for the fifth time, Sir, I do not deem it necessary to go into any general exposition of the merits of my bill; that was done very fully about two years ago; and it is not my intention to repeat now, any thing which I then said. But there is one point of view in which the character of the bill has been misunderstood, and for the better understanding of which, I should be glad to be indulged in saying a few words. It has been thought, by some, that this bill was of a sectional or local character, calculated for the peculiar benefit of the new States in the West, and not intended to do any good to the older States in the East, and the Union at large. If such was the fact, Mr. President, I believe I should have no necessity, certainly no inclination, to conceal or deny it: for I have had too many proofs of the paternal kindness of the Senate towards these young States, to fear that any measure favorable to them, would be the less favored in this Chamber on that account. But such is not the fact, Sir. My bill is not of a sectional or local character. It is not intended for the exclusive or peculiar benefit of the new States in the West, but comprehends within its liberal scope, the essential interest of every State in the Union. Every State, Mr. President, is essentially interested in having the public debt paid off, and its citizens relieved from the load of taxes which they now bear on account of it. My bill is, Sir, intended to facilitate the accomplishment of these objects; and any bill which shall have that effect, will be admitted, I apprehend, to be a very different thing from a piece of sectional or local legislation.

I believe, Mr. President, that, by the operation of this bill, in conjunction with other measures now in force, the public debt may be paid off in five years, and the people relieved from the annual levy of twelve or fifteen millions of taxes. I say five years; and paradoxical as such a declaration may seem, I believe it is not only true, but that the plainest statement of my proposition will amount to a demonstration of its truth. For example: We owe a debt of sixty-seven millions, bearing an interest of three millions, and we have a government to support which costs us ten millions. To meet these demands, we have a revenue of a million and a half, derived from sales of public lands, and twenty-three millions more, taking an average of three years, derived from duties on imports, bank dividends, and a few other sources. Now, it is clear that the revenue derived from duties and other sources, exclusive of the lands, would be sufficient of itself to defray the current expenses of the Government, and to extin-

guish the debt in five years, provided its whole amount could be applied to these two objects; and that it might be so applied is equally clear, provided the interest of the debt, for that period, could be raised from the lands. This, then, is my object; and in proposing to accomplish it by means of the bill which I am asking leave to introduce, I do not consider myself as attempting any new thing, or proposing any innovation upon the ancient policy of this government, but only as endeavoring to use these lands for the precise purpose for which they were ceded to the Congress of the Confederation above forty years ago. It is well known, Mr. President, that these lands, or the greater part of them, were, long since, ceded to the General Government, by different States, to be “disposed of” for the payment of the public debt; and it is equally well known, that, instead of being so “disposed of,” they have, on the contrary, been so reserved from sale, and kept out of market; so hugged up in the arms, and treasured away in the bosom of the Federal Government, that upwards of nine-tenths of them remain to this day unsold! and that enough has not been received from their sales to reimburse the federal treasury for its expenses in the acquisition and management of them! So far from paying the public debt, they have not yielded the one-fifth part of the interest which has accrued upon it; and the States which made so magnificent a provision for the discharge of that revolutionary legacy, after paying about one hundred and fifty millions in interest, with money derived from other sources, have the mortification, at the end of nearly half a century, to see the debt about as large as it was, and themselves still recurred to to furnish ten or twelve millions more, from other sources, to meet its annual interest, and a fraction of the capital! Such a result, Mr. President, announces a great fault in the administration of this fund, so patriotically given for a purpose to which it has not been applied; and I have no hesitation in affirming, that this fault lies in the policy of holding up these lands for a future rise and a higher price, instead of selling them off promptly for their actual value, as recommended by President Washington and Secretary Hamilton, in the year ‘91. These great men, when they were at the head of affairs, twice recommended to Congress to “dispose” of these lands as soon as possible, for their real worth; and the sum of twenty cents per acre was fixed by General Hamilton as their average value. I mention this sum particularly, Mr. President, and with emphasis, that gentlemen who have been astonished that my scale of prices should descend as low as to a *minimum* of twenty-five cents per acre, may henceforth dedicate a part of their amazement to the plan of General Hamilton, which rose no higher than to an average of twenty! His report to this effect, and the two messages of President Washington recommending it, with the manner in which his plan was defeated, and the consequent injury to the country, were fully insisted upon by me on a former occasion, and will not be further adverted to now.

But I wish to avail myself of the authority of the great names of Washington and Hamilton, in this my adventurous attempt to revive their policy, and to achieve a victory where they had sustained a defeat. I wish to have it known that my bill is bottomed on a principle which has received the high sanction of their approbation, and which the experience of six and thirty years has proved to be correct. I wish to have it seen that, like them, I am in favor of sinking *our* price to the *quality* of the land, instead of waiting, indefinitely, for its *quality* to rise to *our* price. To do this, my bill proposes, after the public sales are over, and all the choice lands are sold, which command more than one dollar and twenty-five cents per acre to offer the remainder, for five consecutive years, at an annual periodical reduction of price, at the rate of twenty-five cents per acre per annum, until every tract shall find a purchaser, or fall into the class of refuse lands. In this

Dec. 24, 1837.]

Public Lands.

[SENATE.]

way every tract would graduate itself, and find a purchaser when it fell to its value. In five years every district would be picked five times over; every saleable part would be culled out and taken up; and the refuse, which would not sell for twenty-five cents per acre, and which would otherwise lie idle for centuries in the hands of the Federal Government, would be disposed of in donations to the poor, and in cessions to the States in which they lie for promoting the education of the people and the improvement of the country.—Such, Mr. President, is the plan of my bill; and, in proposing it to the Senate, I have the satisfaction to be able to say that it is not an untried experiment, now to be ventured upon for the first time, but that it has been tried in one of the States—the State of Tennessee—with the most complete and gratifying success, disposing of all her arable land in a few years, and bringing more money into the Treasury than it had received in the half century preceding. Doubtless the same system will operate equally well on federal lands; at least that it will make our two hundred and sixty millions of acres produce as much as will meet the interest of the public debt for five years, which, on the basis of an annual reduction of thirteen millions of the capital, will not exceed the sum total of nine or ten millions.

Thus, Mr. President, in the brief space of five years, the whole public debt may be paid off, (for what is not redeemable, is purchasable in market,) and the United States present the imposing spectacle of a great nation without a national debt. Such a spectacle would command the admiration of the civilized world, and would impart a moral power to this Republic, greater than the possession of fleets and armies could ever give her. But the advantages of such a position would not be limited to the acquisition of moral power, and to the enjoyment of foreign admiration. Other benefits, of a more direct and sensible kind, would immediately result, and diffuse themselves among the people. The extinction of the debt would enable the Federal Government to dispense with more than half of its present revenue, and, of course, to abolish taxes in the shape of duties upon *comforts* and *necessaries*, to that amount. The blessings of such a dispensation would need no recommendation from arts of speech, to render them acceptable to the people,—at least to the people of the grain-growing and planting States of this Union, with whose condition I am best acquainted. Unhappily, they have at home, in the decaying condition of too many of their towns and villages—in the melancholy aspect of too many of their farms and country houses—a sufficient commentator upon the amount of their taxes, and the necessity of relief. But, to gentlemen who dwell in more favored parts—to Senators who come from the sea-board of the East, where commerce collects her accumulated treasures, where multiplied banks diffuse an abundant paper currency, and where the policy of the Federal Government causes to be expended the chief part of the revenue which is elsewhere collected—to such gentlemen it may not be an act of supererogation to intimate, that the North American of the United States is among the most heavily taxed animals of his species; and that he occupies, in this respect, a middle position between the Englishman, who is taxed to the ultimate point of human endurance, and the Frenchman, who is not very far behind him. I make this suggestion, Mr. President, upon the authority of one of the most acute and practised statesmen of the age—one of whom we have long known, and under various titles, but best and longest under his old Republican and Revolutionary appellation of *Citizen Talleyrand*.—This veteran statesman, in a late debate in the French Chamber of Peers, took occasion to class the burthens of the English, French, and Americans, in the order in which I have stated them; and, strange as his classification appeared to me at first, I must confess that subsequent reflection and observation, much

talking with the people, and two or three thousand miles of annual travelling through eight or ten different States, has brought me to acquiesce in its truth—at least so far as the aforesaid North American of the grain-growing and planting States of this Union is concerned. The secret of this heavy taxation, Mr. President, lies in the fact, that the citizens of the United States are subject to be taxed, at the same moment, by two separate and distinct Governments, without having, what the people of Asia under the like circumstances once demanded from Mark Anthony, a double set of seasons and of crops to answer the duplicate demand. They are taxed by the Federal Government, in duties upon imports, to the amount of twenty odd millions, which go into the Treasury, and eight or ten millions more, in the shape of mercantile profit, upon that sum, which go into the pockets of the retail dealers. By the State Governments they are taxed, as nearly as can be ascertained, about twenty millions more, in all the different forms of State taxes, county taxes, city taxes, corporation taxes, poor taxes, taxes upon licenses, working upon roads, serving on juries, supporting churches and charitable institutions, and a long list of *et ceteras*. The aggregate of the whole annual levy, under the exactions of the duplicate governments, may well be, as supposed by *Citizen Talleyrand*, about fifty millions of dollars. An enormous sum, Mr. President, for a population of twelve millions to pay, even if they were all tax-paying people, which they are not; for some are paupers, and pay nothing; many are poor, and pay but little; and two millions are slaves, and are paid for by their owners. I repeat, Mr. President, that fifty millions would be an enormous tax for this population to pay, even if the burthen of it was equally diffused, which it is not: for it is incontestable that an undue proportion of it is levied upon that quarter of the Union whose labor contributes most to the support of this Government, and whose citizens receive least from it—that quarter which is drained at once by the conjoint operations of Federal legislation, and the course of trade—that quarter, whose cotton, tobacco, and rice, constituting seven-eighths of the agricultural, and three-fifths of the total exports of the country, gives employment to numerous ships and mariners of the East, enriches many of their merchants, and builds up their cities, and brings back the chief part of the imports which pay the twenty odd millions of revenue into the Treasury, which are elsewhere expended. Still the fifty millions are paid, and must be paid. It is a levy which no force can resist, no art elude. The *Sheriff* is collector for one Government, and *necessity* for the other; and both agents are equally inexorable. One commits the body to prison for non-payment, and the other applies to it, not the old Roman interdiction of fire and water, but the Federal interdiction of food and clothes. It is in vain to say, that the duties are levied upon articles of consumption, and that it is optional with the citizen to use them or not. It is mockery to talk in that way: for the duties of which I speak, are levied upon articles of prime necessity, or ordinary comfort, and such as no family can live without—upon sugar, teas, and coffee; upon salt and spices; upon blankets and linens; upon the working tools of the well man, and the physic of the sick one. It is in vain to speak of more economy, and more retrenchment. These negative aids of family revenue have long since been in requisition. Every family that lives upon its own means, has long since been reduced to its "*peace establishment*"—to its *minimum* of expenditure, and its *peasimum* of enjoyment. Still, every one has to yield its proportion of these thirty odd millions to the Federal Government, and 20 odd to the States. For every hundred dollars worth of foreign goods or groceries which a family buys, it pays, in addition to the value of the article, a tax of thirty-five or forty dollars to the Federal Government, besides another little tax of ten or twelve dollars upon that sum, in the shape

SENATE.]

Public Lands.

[Dec. 24, 1827.]

of mercantile profit, to the retail dealer. The amount of this superincumbent, superstructure, and, I believe I might say, supercrescental tax, in the shape of mercantile profit upon taxes, cannot be less than one-third per centum, or eight or ten millions upon our present Custom-house revenue—a sum in itself four times as great as that direct tax of the year '98, which overturned the President of this Union, ruined his party, and marked an era in the history of this country, which is still referred to as one of oppression on the part of the Government, and of suffering on the part of the people.

I hope the Senate will not misunderstand me. I do not draw this picture for the purpose of exciting dissatisfaction with our present rate of duties. I am one of those who contributed to establish it, and am willing for it to remain unaltered until the occasions which called for it are passed away. But it is not to be dissembled that thirty millions upon articles of consumption, in addition to twenty millions upon property in possession, is an enormous load for our population to carry, and that the Congress which shall relieve them of one-half or two-thirds of it, will confer a national benefaction, which will entitle it to the glorious appellation of "blessed." The Congress of 1832-3 may be that most enviable body, provided the Congress of 1827-8 shall make itself participator in its glory by laying the foundation of its work. To do that we must go to work at once, and in earnest, upon these public lands. We must rouse them from their dormant state. We must infuse new life and animation into the sales. We must give them an accelerated movement in the path of their original destination. We must force them to yield at least as much as will meet the interest of the debt for five years. In a word, Mr. President, this Congress must pass my bill. Then may we hail the approach of that auspicious day when the national debt shall cease to exist, and when the tariff shall be taken up, not to alarm and distract the country, not to array one half of the Union against the other—but to reconcile all hearts, to excite all hopes, and to call forth universal benedictions. Then shall we see the day when this subject, so pregrant with the seeds of bitter contention, shall be taken up with unanimous consent, and for the joyful purpose of expunging a long list of articles from its ample catalogue. What these articles shall be, is not for us to say, but for that most happy Congress which shall have the grateful task to perform, and which shall come fresh from the body of the people, instructed by their wishes, and amenable to their will. But, if I could be permitted to speculate on a measure still five years ahead, and to indicate a few of the articles which might be struck from the list, I would put into the first class all the articles of prime necessity, or ordinary comfort, which are now taxed for the sole purpose of raising revenue, and without comprehending the further object of encouraging the home production of a rival article. This class would comprehend coffee, which pays a duty of five cents a pound, and costs the consumer six or seven cents more, in consequence of that duty: teas, which pay duties from twenty-five to fifty cents a pound, and cost the consumer from thirty odd to seventy odd cents more: spices, which pay one or two hundred per cent. and cost the consumer double; and linens, which incur an advance of forty or fifty per cent. on the twenty-five per cent. *ad valorem* which they bring to the Government. These articles and others of the same class, which are taxed for the sole purpose of raising revenue, would be expunged from the list with unanimous consent, the instant the Treasury could dispense with their proceeds. The next class would comprehend the catalogue of necessities partially made at home, and now subjected to duty for the double purpose of raising revenue and cherishing domestic industry. In this class is included salt, the duty on which takes thirty cents a bushel out of the pocket of the consumer, and puts twenty into the

coffers of the Government: sugars, which take four, five, and six cents a pound from the consumer, and give three, four, and five cents to the Government; and blankets, which cost us forty or fifty per cent. more, for twenty-five per cent. *ad valorem* which they put into the Treasury. Upon the question of abolishing the duties upon these articles, and others of the same class, some diversity of opinion might prevail; but the rule which should govern in every case, is, to my mind a clear one, viz: to abolish the duties upon articles of prime necessity or ordinary comfort, which are not made at home at all, or not made in sufficient quantity to merit rational protection, and to leave them upon articles of taste and luxury, and upon such rival productions of foreign countries, as our security in time of war, and our general independence as a nation, require to be made at home. An abolition of one half the present duties, upon these principles, would not only relieve the country from a vast burthen, but would have the happy effect of reconciling all parts of the Union to the continuance of the tariff for the combined object of supporting the Government and protecting our useful manufactories.

These few remarks, I trust, Mr. President, will be sufficient to satisfy gentlemen that the bill which I ask leave to introduce, is not of a local or sectional character—that it is not designed for the exclusive or peculiar benefit of the new States in the West—but that, howsoever beneficial its enactment may prove to these young States, in extricating them from the condition of tenants to the Federal Government—giving them the use of all the soil within their limits, for settlement and taxation—multiplying the number of their freeholders—raising many indigent families from poverty and wretchedness to comfort and independence—and converting some millions of acres of refuse and idle land into an active fund for the promotion of the great cause of education and internal improvement—it would, at the same time, be eminently advantageous to the old States, and to the whole Union, by hastening the extinction of the public debt, and the consequent release of the people from twelve or fifteen millions of taxes.

Mr. BARTON said, he did not rise to oppose granting leave for the introduction of this bill, but to make some explanation in relation to it. It was not needful to tell the Senate that the propositions alluded to, of Washington and Hamilton, were made at a time when the Government was in great want of funds, when they were looking about for means to supply immediate necessities, and seizing upon every thing that promised to yield them. That other means were found, was well known, and that the practicability of the plan was never tested. He believed the Government would reap no benefit from it, however it might be beneficial to individuals. Indeed, there had been some practical experience of the effect of such a plan, as one of a similar nature had been adopted in the State of Alabama, where companies of persons had been banded together to purchase the lands; and the effect had been that the cultivator of the soil had paid much more than the speculators. Although no one could hold the character and opinions of General Hamilton in higher respect than he did; still, he believed that the proposition which his colleague had alluded to, was a mere temporary plan, hit upon at a season when the country was struggling for existence. As to any effect that the plan might have on the increase of settlements, he did not think any such result would arise from it. He believed, as soon as necessity required, the land would be settled and filled up; and he did not wish that any neglect should cause them to rise to an exorbitant price, of which he thought there was no fear, under the present arrangement. But he felt confident that the graduation of the prices was impracticable. It was, he knew, but just, that a graduation should take place, so that the price of the lands should

Dec. 31, 1827.]

*Public Lands.—Cancelling a certain Bond.*

[SENATE.]

be apportioned to their quality; but this was now impossible, since it was not adopted at the commencement. It ought to have been infused into the system at the beginning: the idea of graduating the price of lands was a pleasing and specious one. It was not the project itself that he opposed; it was the inevitable effect which he looked to. The operation of the measure, which could only be looked upon as a scale of depreciation, would be to delay all sales until the expiration of the five years designated in the bill; and then the same speculations would occur as had taken place in Alabama. The surveys that had as yet been made were merely superficial, and it would be impossible to ascertain the quality of the interior lots. Great misrepresentations have been made to the Western people, in newspapers and pamphlets, asserting that our land system "cost the Government upwards of 33 1-3 per cent. on the amount collected." The official reports from the Treasury, show that the whole expense of selling the nineteen millions and upwards of lands, heretofore sold, including the expense of surveying, was only 3 and 6-10ths per cent. on the amount of the sales: and this was cheaper than our revenue from commerce, which had been estimated at about 5 per cent.

One word more and he should close the few remarks which he designed now to offer. His colleague had noticed the land system in Tennessee. There was formerly an arrangement between the United States and Tennessee, in which it was stipulated that Tennessee, should not undersell the General Government. This arrangement went on for several years, until the best lands in that State were disposed of, as it was more populous than most of the other new States. All the States' lands being sold but the coves in the mountains, and other waste strips, the restriction was removed. He was not long since in Tennessee, and knew that persons were entering such pieces of lands at one cent per acre, which the State was willing to dispose of, because they became, after sale, taxable, like other lands. The plan only operated after the other lands were sold out; and there was nothing plainer, than that, if Tennessee could sell her lands at twenty-five cents, it would operate to increase her population. He should not oppose the introduction of the bill, because it was not customary; but he should, at a proper time, express himself more fully on its merits.

The bill was then ordered to a second reading.

Agreeably to notice, Mr. NOBLE asked and obtained leave to bring in a bill for the continuation of the Cumberland Road; which he prefaced by remarking, that, under the administration of Mr. Jefferson, the first bill for the construction of the Cumberland Road was passed, when Congress clearly held out to the people of the west that it should be continued. The bill which he now offered called on Congress to redeem the pledge then made, and take the preliminary steps towards a continuation of this great public work.

The bill was read and ordered to a second reading.

The resolution submitted on Friday, by Mr. HENDRICKS, in relation to a cession of the Public Lands to the States in which they lie, was then considered.

Mr. SMITH, of Maryland, said that, as the Senate was very thin, and as this was an important proposition, he hoped the resolution would be laid on the table until after the holidays.

Mr. HENDRICKS observed that, he saw no cause for the delay, as no principle was to be settled by this resolution. It was simply a motion for an inquiry, by the Committee of Public Lands.

Mr. SMITH, of Maryland, said that it would be injurious to have an idea get abroad that the lands were to be given away. He therefore urged his motion.

Mr. SMITH's motion was carried, 19 to 12.

The bill to authorize the President of the United States to cause the reserved Salt Springs, in the State of Missouri, to be exposed to sale, was read a second time.

Mr. BARTON, in reference to this bill, remarked, that so much had formerly been said on this subject, that much explanation was not necessary. The whole number of Springs reserved in the State of Missouri, were 34. Of these, 12 had been taken by the State, and were in operation. The remainder were considered of so small value, as to render it unnecessary to make any distinction between them and other territory. There was reserved around each of these Springs, however weak, a section of land, which was now lying waste. The neighboring inhabitants plundered these sections of their timber; and, if they were not shortly disposed of, their value would be much injured. It was a fact that a sufficient number of Springs had been reserved by the State to prevent a monopoly of the manufacture; and there was, therefore, no objection to disposing of these inferior Springs.

The bill was then ordered to be engrossed.

The Senate adjourned to Thursday.

THURSDAY, DECEMBER 27, 1827.

There was no business transacted this day to give rise to debate. The Senate adjourned over to Monday.

MONDAY, DECEMBER 31, 1827.

The bill to authorize the cancelling of a certain bond therein mentioned, was read a second time.

Mr. KING asked for an explanation of the bill.

Mr. VAN BUREN called for the reading of the petition, which he said would fully explain the object of the bill. The petition having been read, Mr. V. B. made a few explanatory remarks.

Mr. CHANDLER proposed some questions in relation to the bill: Whereupon,

Mr. BERRIEN made some additional explanations, from which it appeared that the negroes (39 in number) referred to in the bill, were part of a cargo of negroes found on board a Spanish vessel which was captured by a revenue cutter of the United States, went into Savannah and libelled for an alleged violation of the slave acts of the United States. The Spanish Consul set up a claim to the vessel and cargo, as the property of Spanish subjects. The Portuguese Consul set up a claim in behalf of certain subjects of Portugal; and the Captain of a privateer, sailing under a South American flag, advanced another claim. Upon investigation, it was found that the negroes had been plundered from several Spanish and Portuguese ships, by a South American privateer. The suits growing out of these claims were prosecuted in different Courts of the United States; and, after the lapse of eight years, were finally decided by the Supreme Court, at the last term. The Portuguese claim was rejected because no owners appeared; and the Spanish claim was reduced in amount to thirty-nine negroes. The claimants were also required to give bond, with security, for the removal of the negroes from the United States. The other portion of the negroes was sent to Liberia at the expense of the Government. Meanwhile, the negroes adjudicated to the Spanish claimants had formed ties in this country, and were unwilling to be carried to the West Indies. The petitioner, from motives of humanity alone, purchased them from the Spanish owners, for the sum of \$1,500. He had also paid for salvage \$4,500, to Marshals \$6000, and to the Proctors in the different Courts between 2 and \$3,000; the aggregate amount being greater than the value of the slaves. The petitioner had also offered the negroes to the Colonization Society, for transportation to Liberia, but the funds of the Society did not enable them to accept the offer. The petitioner, now, therefore, prayed that the bond given

SENATE.]

*Military Road in Maine.—Imprisonment for Debt.*

[JAN. 3, 1828.]

for the removal of the slaves from the United States may be cancelled, in order that they may remain in a state of mitigated slavery in Georgia, where they are well treated and content.

The bill was then ordered to be engrossed for a third reading.

The Senate adjourned over to Thursday.

THURSDAY, JANUARY 3, 1828.  
MILITARY ROAD IN MAINE.

The following resolution, offered on Monday by Mr. CHANDLER, was taken up for consideration:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of making a Military Road from the mouth of the Mattawomkiag, where it empties into the Penobscot river, to Mars' Hill, in the State of Maine."

Mr. CHANDLER said that a military post must eventually be established at or near the termination of the road contemplated in the resolution. All he asked was, that the expediency of constructing the road should be inquired into by the committee.

After some remarks on the resolution, from Messrs. SANFORD, NOBLE, and PARRIS, Mr. ROWAN, who objected to the resolution on the ground that the construction of a military road, as such, would excite the jealousy of our British Canadian neighbors, moved that the resolution be laid on the table; which motion was lost.

Mr. HARRISON observed, he could not acquiesce in the suggestion of the Senator from Kentucky, that the designation of the proposed road, as a military road, would give offence to the British Canadian Government. They could not take umbrage at the construction of a military road more than at the establishment of a fort or an arsenal. Both the British and the American Governments have made warlike preparations on the frontier. Ships have been built since the late war on the lakes, and military posts established. He was not sufficiently well acquainted with the localities of the country, to say whether the military road contemplated in the resolution was necessary. But he was well aware that the Senator from Maine [Mr. CHANDLER] was acquainted with those localities, and he was disposed to confide in his opinion, as to the expediency of the road, at least so far as to authorize an inquiry on the subject by the Committee on Military Affairs.

The resolution was then agreed to.

#### IMPRISONMENT FOR DEBT.

The bill for abolishing imprisonment for debt, as formerly amended, came up as the special order of the day.

Mr. M'KINLEY was, he said, favorable to the principle of the bill, but submitted to the Senate, whether the 5th section was not at war with the principle of the bill. He, himself, could see no reason why a preference should be given to judgments recovered in another State; and he moved, therefore, to strike out the following section, to wit:

"Sec. 5. *And be it further enacted*, That, in all actions brought upon a judgment recovered in another State, it shall be lawful to require bail on mesne process, and the plaintiff may have his execution against the body of the defendant or defendants, as if this act had not passed."

Mr. JOHNSON, of Kentucky, would not oppose the motion for striking out this section. He was never partial to it, and he had assented to its adoption only in compliance with the expressed wishes of some members of the Senate.

The amendment was then agreed to.

On motion of Mr. BERRIEN, several verbal amendments were adopted.

Mr. JOHNSON, of Kentucky, rose, and said, that an opportunity was now offered to those opposed to the bill to present their views; and he would be gratified if his

respected friend, the Senator from South Carolina, would now give his reasons against the passage of the bill.

Mr. SMITH, of South Carolina, observed that, however much he might be disposed, on other occasions, to gratify his honorable friend, the Senator from Kentucky, he was not now willing to go into the discussion of the question. Ten years ago, when this subject was before the Senate, he had joined in its discussion; and he was willing again to give it an examination, but was sorry he could not this day have the pleasure of gratifying his friend from Kentucky.

Mr. JOHNSON expressed a wish that the bill would now be ordered to a third reading, and that Monday might be assigned for its discussion and decision.

Mr. SMITH said, that the Senate was now very thin, and thought it proper that a certain day should be assigned for the discussion: he should then take occasion to express his objections to the bill.

Mr. ROWAN proposed to amend the bill by striking out that portion of the first section which makes the operation of the bill entirely prospective. The bill, he said, in its original shape, embraced all cases of imprisonment for debt. It provided for the abolition of imprisonment in all cases, without reference to the date of the contract upon which suit had been instituted, or to the period when the judgment was obtained. The Judicial Committee had so amended it, as to confine its operation to suits instituted, and judgments obtained, upon contracts entered into after the 4th day of July next. He feared, he said, that the restriction of the operation of the bill to future contracts, would inflict a greater evil than the one which the bill was intended to remedy. The restriction having been made by the Judicial Committee, might imply that, in the opinion of that very enlightened organ of this body, there was no distinction between right and remedy—between the law of the contract, and the law of the forum; or rather, that the remedial system, which existed at the time a contract was made, entered into and formed a part of the contract; and, of course, that it could not be altered, without impairing the obligation of the contract. Such an opinion, coming from so high a source, might tend to strengthen the erroneous notions which were propagated in some of the States, by those who were disposed to weaken the power and diminish the rights of the States, in the view to strengthen the arm of the General Government. He stated, that he believed the rights of the States, and the rights, liberty, and happiness, of the People of the States, depended, essentially, upon maintaining the natural distinction between right and remedy—a distinction which existed most obviously in the nature of things, and one which had, until lately, been recognised by all jurists. A new doctrine had lately been established by the Courts in Kentucky, both State and Federal, that the legal obligation of a contract consists alone in the remedy. If it should be acquiesced in by Congress, and the States, it would produce consolidation, in its worst aspect. If such was the opinion of the statesmen of this country, it could not be too soon known. It would, he said, supersede the necessity of guarding against encroachments by the General Government, upon the rights and powers of the States, in relation to other matters, about which there had been much sensibility displayed. That clause in the Constitution which provides that no State should pass any law impairing the obligation of contracts, would, if it were once conceded that the remedial laws of a State enter into and form a part of the obligation of contracts, throw the States inextricably into the power of the General Government. It would paralyze them. It would leave them no power worth exercising. It would not be in the power of any of the States, whose citizens might be fighting the battles of their country, to save, by a modification of the remedial laws, the property of those citi-



JAN. 3, 1828.]

*Imprisonment for Debt.*

[SENATE.]

zens from sacrifice by the Sheriff, in their absence—to save their families from being unhoused and reduced to the extremest want. Mr. R. insisted, that the great object of the State Legislatures was, to mitigate the evils inflicted upon the People, by great and unforeseen changes in the state of things. That, while a State would be restrained by its wisdom from changing its remedial system upon light or ordinary occurrences, it ought to possess the power to do so in instances of great national calamity; and does, he insisted, possess this power, and will exercise it, whenever its interests and its happiness will be promoted by its exercise, or rather, whenever, by its exercise, great suffering and misery can be avoided. He referred to the practice of the States during the last war. There was not, he believed, one of them that did not, during that period, soften the rigor of its remedial system. And he insisted that much distress had been avoided by the exercise of this power during that period; and who, said he, then contended that those alterations were unconstitutional—that they impaired the obligation of contracts? Mr. President, said Mr. R., we are very much influenced by the force of circumstances. If this erroneous sentiment were even adopted in peaceful and prosperous times, it would be rejected in times of great public calamity. But it is only in times of public calamity, that the remedial laws, which had been accommodated to times of prosperity, would be thought rigorous. It is only then that they would require to be so changed, as to suit the changed condition of society. The wisdom of all legislation consists in suiting the laws to the condition of the People; when, that condition shall be altered, the laws ought to be so altered as to fit the change. This power of altering the remedial laws upon great emergencies, was so essential to the States and to the prosperity and happiness of their citizens, that he was unwilling to see it questioned even by implication. He hoped, therefore, that the advocates of the prospective operation of this law had been influenced by what they considered reasons of expediency. That they had not predicated the alteration upon their belief of a want of power to alter the remedial laws in relation to existing contracts. If they should place it on the ground of expediency, and not of constitutionality, he should feel but little concern for the success of the amendment; which he had proposed rather to elicit the sentiment of the committee, than on account of any great concern about its import. He was, he said, in favor of the abolition of imprisonment for debt—but he did not believe that much would be gained by the passage of this bill.

He stated that the abolition should be by the States, and that the execution laws of the States should be the execution laws of the United States; that the only law which Congress ought to pass upon the subject of executions, should be a law adopting those of the States; that the United States should have no execution laws peculiar to itself, except those which related exclusively to its revenue. The cases, he said, which this law, if it passed in either aspect, could embrace, would be comparatively so few, that he felt concerned only about the moral effect which its passage would have upon the public mind. He repeated again, that the execution laws of the country must be enacted by the States, and adopted, so far as they are needed, by the United States.

Mr. BERRIEN said, in reply, that the object of the amendment was to render the provisions of the section retrospective. As the bill stood, they were limited to contracts which should be entered into, or causes of action which should originate, after the fourth of July next. The amendment would extend them to all contracts and causes of action, whenever they originated, or may originate.

The views of the Senator from Kentucky, it appeared to him, were erroneous in two particulars. No doubt can

exist that there is a clear and well-settled distinction between the power of legislation over existing laws which affect the contract, and those which merely regulate the remedy. But that question does not arise here. So far as he understood, the section, in its present form, was adopted, not from want of power, but of will, to make the provision retrospective. In the opinion of the committee, it was expedient to leave the remedy on existing contracts, and other causes of action, to the regulation of the laws under which they originated. The inference which the Senator from Kentucky apprehended, could not, therefore, he thought, be deduced from the provisions of the bill as reported by the Committee. But if this were so, the argument in support of the amendment attached to such an implied concession by this House, an importance which did not belong to it. The States, in the exercise of Legislative power, cannot be controlled by the acts or concessions of this House. Within the limits of their constitutional charters, the whole array of Federal legislation is incompetent to such a purpose; and, whenever, in the exercise of their respective powers, in their application to individuals, a difference of opinion as to the extent of those powers shall occur, there is a common arbiter to which such controversy must be referred. He resisted the amendment, therefore, because it was founded on views not justified by the provision to which it was applied; and because the argument urged in its support seemed to him to attach an undue importance to the acts or declarations of this House, in their supposed influence on the constitutional powers of legislation in the several States. The restriction in the section did not concede a want of power, but resulted from a want of will on the part of the committee to render the bill retroactive. It was in their view a mere question of expediency, and neither does nor can effect the legislative power of the States, or of the Union. He trusted, therefore, that the amendment would not prevail.

Mr. BRANCH said, that the inference which had alarmed the Senator from Kentucky, was not justified. The States were forbidden, by the Constitution, to pass laws impairing the obligation of contracts; and no act of Congress could either give that power to the States, or deprive them of it. He did not conceive that the power of the States could be, in any way, affected by our legislation. The means of coercion which were placed in the hands of the creditor, was, he contended, a part, and an essential part, of the contract. Right was not worth a stiver without a remedy. Congress, he said, had, undoubtedly, the power to make this bill retrospective. The question was, whether it was expedient to exercise that power. For his own part, though warmly in favor of the principle of the bill, he would not vote for it, if it was to operate on existing contracts.

Mr. KANE rose in support of the amendment. He thought, with the Senator from Kentucky, that the restriction ought to be done away with. It was due to the consistency and impartiality of this body, to render the law uniform in its operation upon all contracts, whenever and wherever made. Congress, he declared, never established the law of imprisonment for debt. The process acts of 1789 and 1792, provided that the United States' Courts should use the process of the several States, subject to alteration whenever occasion required. In some of the States, a debtor cannot be held in prison; in other States he can. This renders the United States' process different in different States. A uniform rule should, in his opinion, be established. There was no limitation to the power of Congress over contracts; nor did he think, with the gentleman from Georgia, that it was inexpedient to exercise the power vested in us over the subject.

Mr. ROWAN agreed with the member from Georgia, that Congress had no power to alter the laws of the States. His idea was this: that the moral power of a law

SENATE.]

Case of Francis Larche—Abraham Ogden—Imprisonment for Debt.]

[JAN. 4, 1828]

of Congress would often induce the State Legislatures to concur in an opinion expressed in that law as to a constitutional point, &c.

After some further remarks from Messrs. BRANCH and ROWAN, Mr. R., at the solicitation of his colleague, withdrew his amendment.

FRIDAY, JANUARY 4, 1828.

#### CASE OF FRANCIS LARCHE.

The bill for the relief of Francis Larche, of New Orleans, was read a second time, and considered as in Committee of the Whole.

Mr. RUGGLES said, that this bill had, two or three times, passed the Senate, but had never been finally acted on in the other House. The circumstances of the claim are these. The negro slave of the petitioner was impressed into the service of the United States during the last war, and was employed in the transportation of baggage. Whilst in this service he was killed by a cannon ball from the enemy. These facts had been proved to the satisfaction of the Committee, and, as slaves were recognized as property by the laws, the petitioner was, in the opinion of the Committee, entitled to relief.

Mr. CHANDLER asked, whether other slaves, killed under like circumstances, had been paid for by the Government?

Mr. RUGGLES, in reply, said he had no recollection of a similar case at present; no claim, to his knowledge, had been made upon the Government for compensation for slaves impressed into the service of the United States, and killed while in that service, and he was not aware that any similar case had ever occurred.

On motion of Mr. RUGGLES, the blank was filled with \$800, and the bill was ordered to be engrossed for a third reading.

#### CASE OF ABRAHAM OGDEN.

The bill for the relief of Abraham Ogden, and others, was read a second time, and considered as in Committee of the Whole.

Mr. WOODBURY said he was instructed by the Committee on Commerce to move that the blank be filled with \$1,000. Before the question was taken, he wished the report accompanying the bill to be read. The report having been read,

Mr. WOODBURY said he would explain the facts and grounds on which the Committee rested the bill. The petitioners claimed compensation for the detention of their vessel, which was chartered by the Government. He was aware that demurrage could not be recovered unless specified in the charter party. The decisions were contradictory on the subject, but the balance of them was against the admission of the claim. But, on principles of equity, the person who does the wrong is answerable for it. The vessel was freighted by the United States to transport a quantity of provisions to Laguaira; she was there detained twenty-eight days in unloading; she might have been unladen by lighters; and it was customary at that port to use lighters for this purpose, as the ships could not be brought to the wharves. It was the duty of the United States to have unladen her in the manner usual at this port. If this had been done, she would have been unloaded in four days, instead of twenty-eight. He was aware that the Consul of the United States had given reasons for not using the lighters. It was convenient for him to keep the ship as a store ship, and lighters were scarce, in consequence of the large quantity of shipping in the port. Two days after the ship was laden, the pacificating army entered Laguaira, and the ship was seized. This seizure occasioned a further detention of nine days, when the vessel was given up. The gross loss suffered by the owners was 5 or \$6,000.

The United States was not answerable for this last detention, because the owners might have effected an insurance against capture by foreign power. They had neglected to do it, probably because they did not anticipate a long detention of the vessel at the port by the officers of the United States. The Committee had fixed upon the sum of \$1,000 as a remuneration, upon the hypothesis that the United States were answerable for damages resulting from the detention of the vessel twenty-four days. The Committee allowed 5 or \$600 for the detention for twenty-four days; which, with the interest amounted to \$1,000. But, if the Senate thought that the United States were answerable for the further detention eight or nine days after, the sum allowed should be considerably increased.

Mr. SMITH, of South Carolina, said, that before the question was taken on the bill, he should be glad to have an opportunity of examining it. He recollected a corresponding case formerly before the Senate, in which he took an active part. He did not care for the amount, but the principle involved in the bill he considered highly important. This affair grew out of a project of benevolence. We undertook to feed the sufferers by the earthquake at Laguaira; and, like most other projects of this sort, it had been productive of little good to any party. He did not think the claimant entitled to compensation. But, in order to examine the facts, he would move to postpone the farther consideration of the bill until Friday next.

Mr. WOODBURY assenting to the motion, the bill was accordingly postponed.

#### IMPRISONMENT FOR DEBT.

The bill for abolishing Imprisonment for Debt was taken up, as the unfinished business of yesterday.

Mr. HAYNE had not intended, he said, to participate in the discussion of the bill, but he was constrained to state his views in relation to it, by the circumstance that, in his former remarks, he had been erroneously supposed to have expressed himself in favor of the bill, as it now stood. He was in favor of the principle of the bill, but was opposed to its provisions. It might be made to assume a form in which it would meet his approbation, but he did not think it probable that such a form would be given to it. The only principle of the bill was this: it deprived the creditor of the power which the common law gave him, to hold the body of the debtor, after he had surrendered his property; and this is made to apply only to suits brought in the courts of the United States.

He was perfectly willing to adopt this principle, but he was not willing to abolish the process of *capias ad respondendum* and *capias ad satisfaciendum*.

He would beg leave also to remark, that the object as purport of the bill was wholly different from what its title expressed. It was called a bill to abolish imprisonment for debt. But it did not apply its provisions to a single case of existing debt, and affected no contracts except those that should be formed after the 4th of July next; and only that part of them which should be sued in the Courts of the United States. Of the whole number of debtors now confined, or in danger of being confined, jail, not one would be relieved by this bill, and not more than four or five, perhaps, even if it were made retrospective. Of those contracts which may arise after the fourth day of July next, not one in a hundred will be affected by this bill. These remarks he did not make to depreciate the bill; he knew that Congress had not the power to legislate for the States in this case; but he wished it to be understood by the people generally, many of whom had misconceived the purport of the bill, that it would not afford, to any extent, relief to debtors. The bill was nothing more than an act to regulate process, in certain cases, in the United States' Courts.



JAN. 4, 1828.]

Imprisonment for Debt.

[SENATE.]

There were two classes of provisions embraced by the bill—one respected mesne process, and the other process after judgment.

As respected mesne process, the common law provides, that a person who is sued should give security that he will remain in the country, and abide the issue of the suit. The bill did not abolish this provision, but took away the means of enforcing it; and substituted, in cases where fraud or flight was intended, a mode of procedure which was expensive, tedious, and inconclusive. The plaintiff must allege, in certain forms, before certain authorities, that the defendant intends to abscond, set forth his cause of action, and then comes the defendant to contest the allegations, &c. forming altogether a complicated and tedious process.

The other provisions of the bill respected the means of enforcing payment after judgment had been obtained. After taking the plaintiff through this new and troublesome process, the bill gives him no means of collecting the money adjudged to be due to him. In South Carolina, and, as he believed, in nearly all the States, the plaintiff, after judgment, had recourse to the visible and tangible property of the defendant, not to his person. But it often happened, especially in cities, that the property of the defendant was locked up in bonds, money, notes, bank stock, and choses in action; in which case, the body was arrested as the means of enforcing payment. What does the bill substitute for this process? A new suit. After the plaintiff has obtained judgment, he must, to recover his money from a defendant whose property is secured in money, stock, or choses in action, institute a new suit, and pass a second time through the forms, expenses, and delays, of an action at law. Mr. HAYNE here read and commented on the several sections of the bill, in order to show that his construction of its provisions was correct.

The writ of "*ne exeat*," he remarked, was intended to hold defendants to bail who were about to leave the country; and, by the law as it now stands, the plaintiff may procure the writ from the Clerk of the proper Court, at a trifling expense, and without delay; but, under the provisions of the bill, it was necessary for the plaintiff to institute a Chancery suit. His objections, too, in regard to the final process provided in the bill, were insuperable; and, unless these objections were removed, he should be compelled to vote against the bill.

He would now suggest a remedy for what he considered the imperfections of the bill. He would propose, as an amendment, that the "process of the United States' Courts should be made to conform to the established process of the Superior Courts of the several States." The States, he conceived, were better able to provide rules of practice suited to their wants and habits than the United States. An exception might be made as to revenue debts. He did not know whether the bill embraced revenue cases. To that matter he would call the attention of the Committee of Finance. He thought it proper for them to inquire whether the provisions of the bill would compel the Government to pursue the circuitous mode which it established for the collection of debts. His first motion was, to recommit the bill to the Committee which reported it, with instructions so to amend it as to conform the process of the United States' courts to the process established by the Superior Courts of the several States, and to embrace proper provisions to secure the collection of the revenue of the United States. Another motion he should subsequently make, if he found gentlemen at all disposed to simplify the bill, and rid it of its cumbersome and complicated machinery; that is, to make the simple declaration that defendants, in any action of debt, in the United States' Courts, should be entitled to a discharge, upon filing in Court an assignment of all their property; with a proviso that, if subsequently found guilty of fraud or concealment, they shall be punished. If the friends of the

bill chose to modify the bill, either according to his first or second proposition, he should vote for it. He then moved the recommitment of the bill, with instructions, &c. as above stated.

Mr. KANE said that the existing laws on the subject rendered the process of the courts of the United States conformable to the process of the State courts; subject, however, to the rules which might be prescribed by the United States' courts. The existing law, therefore, accomplished the object proposed by the gentleman from South Carolina. But the existing law did not apply to all the States. There was now a bill before the Senate for extending the process of the United States' courts to those States which had been admitted into the Union since the year 1789. That bill would, in a few days, come before the Senate, and until it had, he hoped the Senator from South Carolina would consent to withhold his motion.

Mr. VAN BUREN said that the proposition of the gentleman from South Carolina related to the Judiciary, which he conceived to be one of the most important branches of our Government. Great difficulty had been found in adapting the process of the United States' courts to the judiciary system of the States. It had more than once been proposed to pass general laws on the subject. But, whenever this had been attempted, it had been found impossible to reconcile any one general system to the dissimilar usages of the several States. The law of 1789 adopted the State process as the rule of the United States' courts, under certain restrictions; while the proposition, now made, would put the process of the United States' courts wholly under the direction of the State courts. Mr. V. B. here enlarged upon the difficulties which would attend any change of the present system, either by extending or restricting the powers of the United States' courts over their process. Mr. V. B. also complimented the Senator from Kentucky, [Mr. JOHNSON,] on the zeal and ability with which he had prosecuted his important and philanthropic measure, and expressed a hope that his honorable exertions would be crowned with success.

Mr. JOHNSON, of Kentucky, rose, and said that the proposition of the Senator from South Carolina was totally distinct from the object of the bill. It presented a substantive and distinct object—to govern the United States' courts by the State laws. He would not oppose that proposition when offered separately from the bill, with which he did not see that it had any connexion. He and his colleague had, for year after year, attempted, without success, to effect this very object, in reference to the State of Kentucky, which the Senator from South Carolina now proposed in reference to all the States. The United States' courts had undertaken to regulate the process of the Kentucky courts; and, instead of adopting the execution laws of Kentucky, as they existed, so as to go, *pari passu*, with the improvements of the Judiciary of that State, they had arbitrarily and cruelly adopted those execution laws which had been used in the infancy of the State. The object of the law of 1789, he contended, was to render the process of the United States' courts conformable to the process of the State courts, as it might be modified from time to time. This matter, in his opinion, presented the most interesting question which had ever been agitated in this body, viz: whether the Supreme Court of the United States was clothed with legislative power? and whether the assumption of such powers over the process of the Kentucky courts, by the Supreme Court, was not palpable usurpation? Mr. JOHNSON here proceeded at some length to show the calamities which had been brought upon his State by the judicial legislation that had been exercised over it. He thought the subject presented considerations of much greater importance than the regulation of a *ca. sa.*; but he did not think

SENATE.]

*Imprisonment for Debt.*

[JAN. 7, 9, 10, 1828.]

that it should be brought up in the shape which the Senator from South Carolina had given to it. He would, however, at any time, vote for it as a distinct proposition.

In relation to the objections of the Senator from South Carolina, he would consider whether the bill went too far in restricting the power of creditors over debtors. The gentleman says, that many debtors may have concealed property, bank stock, money, and choses in action, and thereby may be able fraudulently to defeat the claims of their creditors, even after judgment has been rendered against them. But what, sir, is to be done with those debtors who have no bank stock, nor money, nor choses in action? Must they suffer, in hopeless confinement, because some few rich men may be villains? If debtors were proved to be dishonest, the bill provided for their punishment. He did not believe that the debtor part of the community was any better or worse, on the score of morality, than the creditor part. And he would fain know, upon what principle gentlemen assumed the fact, that debtors were dishonest. As many instances of oppression, on the part of creditors, can be enumerated, as of fraud on the part of debtors. The bill provided that the creditor, instead of confining the body of the debtor, upon a presumption that he has property concealed, should first give some kind of evidence of the fraud. Whereas, under the present laws, a creditor may first strip his debtor of all his property, even to his last blanket, and then, to complete his wretchedness, may turn against him, as a villain. But the gentleman also says, that the course of proceeding is too troublesome to the creditor. It would be more convenient for him to put the debtor in jail, at once, upon bare presumption of fraud.

He submitted, whether this sentiment was in accordance with any principle of morality, or with that equality of rights, in defence of which the honorable gentleman himself had so often raised his voice. In this connexion, Mr. J. begged leave to call the attention of the Senate to the historical fact, that coercion was never, in a single instance, applied to any one of the English Lords, who might become a debtor; and, that no inconvenience had ever resulted to any creditor from their exemption. The consequence of this privilege, in this respect, was, that their creditors took from them pledges of valuables, or relied upon their honor and property. Why cannot the same course be pursued, and with the same success, between creditors and debtors in this Republic, where all are nobles, and all commons; where there is neither patrician nor plebeian?

Let me ask the Senator from South Carolina, continued Mr. J., whether I have not shown to him, that the bill, in relation to the supposition of fraud, gives no more than a fair and equal opportunity to the debtor to exculpate himself from the suspicion or charge? If I am deceived as to this, let the gentleman suggest a better mode in which the object may be obtained.

I accord, said Mr. J., with the opinion of the gentleman, that the People should be undeceived as to the effect of this bill. He had been made aware by the great number of letters he had received from different parts of the country, that the People were under the impression that the bill would have a general operation, and would also affect existing contracts. But the advocates of the bill had not assisted in creating this impression.

A small number of the debtors alone can ever have the benefit of the bill; and most deeply do I regret, that its principles and application cannot be made co-extensive with the relation of debtor and creditor throughout the Union. But, if it relieves but one debtor out of a hundred, it will be well worthy of the benevolence and philanthropy of this body. It is, however, to the moral effect of this bill that I attach most importance. It will, in addition to the prevailing character of public opinion on the subject, have a decisive moral influence on the State Le-

gislatures, who, it is to be hoped, will soon be induced to engraft its principles on their own judicial system.

The gentleman says truly, that the bill will scarcely touch that mass of misery which is exhibited by the debtors in our towns and cities. I was in favor of giving them relief in a mode which the gentleman so eloquently recommended last session. I stood by him in support of a bankrupt law, though that law was in opposition to all my former views and prejudices. The gentleman also underrates the importance of the bill, inasmuch as it does not apply to existing contracts. I have no partiality for that feature of the bill. In adopting it, I yielded to the views of my friends who would not vote for a retrospective law. But, must we relinquish legislation, because we, of the present hour, cannot reap its fruits? Must we not legislate for posterity?

Mr. J. pursued the subject still farther, and at considerable length. In conclusion, he said, that the object of the bill was to establish the principle, that crime alone should render a freeman liable to loss of liberty; and he believed that the moral effect of the passage of this bill would, in a short time, cause the abolition of civil imprisonment throughout the country.

Mr. KANE rose to explain some misapprehension, on his part, of the character of the proposition of the Senator from South Carolina.

Mr. HAYNE spoke at some length, in reply to Mr. JOHNSON, Mr. VAN BUREN, and Mr. KANE, and concluded by withdrawing his motion for the recommitment, &c. for the reason that it would interfere with the bill now before the Senate, for extending the process of United States' courts to the States admitted since the year 1789.

On motion of Mr. BERRIEN, the bill was postponed to, and made the special order of the day for, Monday next, to which day

The Senate adjourned.

MONDAY, JANUARY 7, 1828.

The Senate were principally occupied to-day in discussing the propriety of printing a document from the War Department, containing the names of those officers and soldiers of the Revolution who were entitled to lands. The subject was referred to the Committee on the Judiciary, to report upon the expediency of the printing, and the manner in which it should be done.

Adjourned to Wednesday.

WEDNESDAY, JANUARY 9, 1828.

This day was principally occupied in discussing the propriety of printing certain memorials against an increased tariff of duties.

THURSDAY, JANUARY 10.

IMPRISONMENT FOR DEBT.

The bill to abolish imprisonment for debt came up in its order, and the question being put, "Shall this bill be engrossed for a third reading?" Mr. EATON asked for the Yeas and Nays, which call was sustained.

Mr. BARTON said that he should only detain the Senate with a few remarks. This bill proposed to abolish imprisonment for debt. Such a proposition must always be popular, where it was known and where it was not known. It was confined to the United States' Courts, but it did not meet with his approbation. He could not believe that the system which was now proposed, would be as good as the one at present in operation; and he thought many of the benefits anticipated founded in mere speculation. He should, therefore, vote against it.

Mr. SMITH, of S. C. was not very sanguine in his wishes, and his only object in making any remarks on this bill, was, to discharge his duty to himself and his consti-

JAN. 10, 1828.]

Imprisonment for Debt.

[SENATE.]

toents. When gentlemen intended to make a radical change in existing systems, it was, he thought, incumbent upon them to show some serious evil in the present state of things. He was not sure as to the practicability of abolishing imprisonment for debt at all; but were he in favor of its abolition, he should vote against the bill now before the Senate, because its principal, if not its only effect, would be to deprive the plaintiff of his rights. The plaintiff is to state his case, and to swear that the defendant is about to leave the State, thus encouraging vexatious proceedings on the part of the plaintiff. He is moreover bound to state on oath the exact sum due to him. In hundreds of instances, this would be next to an impossibility, where accounts had been of long standing, and had become complicated. But if he cannot do it, he loses his power over the debtor. Then he has to go before a clerk, and make oath of the cause of the action; and this is not safely done without consulting counsel; because if he should state one cause, and it should turn out that another cause existed, he is not to have the benefit of process against the defendant. Before he can proceed to trial, he is to bring his case before a single Judge, who is to decide whether the trial shall proceed. If he pleases, he may discharge the defendant from bail. It is the act of one Judge, unchecked and unaided; and an able jurist has said, that the law of one Judge is the law of a tyrant. All men look differently on the same matter; and as this Judge is to decide upon the statement under oath of the plaintiff, might it not be possible that he should decide wrong, and that the plaintiff should be the sufferer? Then when the Judge has decided that the defendant may be held to bail on meane process, he has to make investigation, and an affidavit, whether the property of the debtor is concealed. If he fails in his second suit, the costs fall upon him. There were too many affidavits proposed in this new system. The plaintiff must go through a series of them, before he arrives at any security as to the trial. After all this, the defendant comes in, and if the proof is not sufficient, has it in his power to traverse it: and if the jury decide against the plaintiff, the defendant is ever after discharged, and can never be held to bail. This bill, said Mr. S., is, in my view, a one-sided bill. It provides all for the defendant, and nothing for the plaintiff. We know no such principle in our law. It provides for one party as well as another. It deals equal and exact justice to all. We have been told that the present system is cruel, and that our execution law is a disgrace and stain upon our statute book. It might have been so in the dark ages, because the imprisoned debtors had to support themselves, or depend upon being supported by charity. But in the present age of charity and civilization, every one knows that no such thing exists. The several States have provided against it; and we talk of mere imaginary evils, when we speak of the cruelty of imprisonment, under the present system. The Senator from Kentucky has told us that this law is to protect the debtor from the horrid cruelties of the creditor, and he has paraded before us a list of nineteen hundred prisoners in one State. But has not that gentleman been deceived in the representations that have been made to him? May he not have met with persons willing to exaggerate the cruelties to which he alludes. And if it should be so, it would not be the only time that gentlemen whose meaning was as good as that of the gentleman from Kentucky, had been imposed upon. But supposing there are nineteen hundred, or twice that number of prisoners for debt, in one of the States, are we to suppose that all these, or any very great proportion of them, are hard cases? Are we to suppose that the majority of these imprisonments are made to satisfy vindictive dispositions? Not so. The genius of the country was against it. The People would not allow such an outrage to be perpetrated, against the spirit and feeling of the community. He says, also, that

this bill is to restrain the natural cruelty of mankind; and that all men are naturally cruel. I thought not. I believe that pity is the last passion that deserts the human breast. But are creditors always those who act from impure or unchristian feelings? Have we not instances every day where men have gone to prison, leaving their families to enjoy splendid fortunes, which they have wrongfully obtained from others? These are every day affairs. I will allude to some facts which were stated here the other day, facts which were stated openly, and which may serve to illustrate this matter. It was said, in relation to a list of the names of the officers and soldiers of the Revolution, that members of Congress had obtained access to that list, and by making extracts from it, had led to speculations by which the rightful claimants were defrauded of their lands. Now, what would the Senator from Kentucky say, if those purchasers were prosecuted for restitution of the lands thus obtained? Would he shudder, then, at the open prison door? This is often the case; as often, perhaps, as the reverse. I do not intend to offer any amendment. I once, on a former occasion, had the honor to present my views of this subject, which I do not think it advisable now to repeat. Indeed I do not know that I should have said a word upon this subject, had not the Senator from Kentucky alluded to two of our illustrious public men. One of these was the great statesman, Jefferson, who has gone from among us—the other, General Sumpter, a native of the State I represent. The Senator from Kentucky has said that even Jefferson was liable to be imprisoned for debt in his old age. To make the picture still more revolting, he said that Jefferson was liable to be laid hold of by a constable. But the State which I have the honor to represent, has shown by its conduct since his death, that he could not have been arrested on a writ of *capias ad satisfaciendum*. But, said Mr. S., I would not have such a man as Jefferson exempt from the operation of the law. He ought to be, and, as a good citizen, he would have desired to be, a sharer in the liabilities as well as the protection of the law. It is but seldom that a good or an honorable man is oppressed by it, excepting in some case where the complex operations of banking institutions produced some evil of such a nature. The gentleman has mentioned General Sumpter, as one who had been subjected to the operation of the present system. But it is not to be supposed that a man who has served his country so well, and so nobly, could be forgotten by that country, whether the statement made by the gentleman, as to the pecuniary difficulties of that great man, was true or not. The gentleman says he is poor. His circumstances may have changed, and his finances have been straightened by some reverse of fortune; but he has been too much an honor to South Carolina to be forgotten or neglected by her. And, said Mr. S., I can assure that gentleman, that if he had been unfortunate, he never could be subjected to the operation of a *ca. sa*. No possible circumstances could produce such a disaster to a man so much venerated. His prison doors would fly open, and his manacles would fall from his limbs—not through the interference of a deity, but by the operation of public gratitude. One word more. I have always observed, in speeches upon subjects of this kind, that the blame of all the cruelty, as it is called, of the law, is thrown upon the Judges. I, for one, am not inclined to join in this cry. In matters of *meum and tuum*, the Judges have uniformly been right. I believe that the laws of England have been digested by as learned and as humane Judges, as those of any country. The law seems to me, in its great and general features, to be as wise and as humane as the fallibility of human nature will allow. Yet, here we are called upon to break up the whole system of execution laws, and adopt a new and undigested system; a system which he believed would injure the defendant for whose benefit its framers

SENATE.]

*Imprisonment for Debt.*

[JAN. 10, 1828.]

intended it. Under such convictions, he must vote against the bill.

Mr. BERRIEN did not rise, he said, to discuss the subject at this time; but having invited the aid of this honorable body, in maturing the bill, and in remedying its faults, in the spirit in which he had made that invitation, he would now avail himself of the suggestions of the Senator from South Carolina. He would, therefore, offer as an amendment to the bill, a proviso that it should not, as regards *mesne* or final process, be construed to affect the rights of the United States, in suits brought for the collection of revenue debts. In order to meet another objection, he would propose that, when the issue was made up, according to the provisions of the 6th section, execution should issue against the body of the defendant, as if this act had not passed.

Mr. COBB observed, that it struck him that the amendment proposed by his colleague did not go far enough. There were other suits brought against debtors by the United States, besides those for the collection of revenue debts. He alluded particularly to suits brought against disbursing officers for defalcation, which were the most important suits brought by the Government, and embraced a very large amount. He therefore thought an additional clause should be added to the amendment now offered.

Mr. BERRIEN said that there was no necessity for such a provision, as it was made in another part of the bill.

Mr. HARRISON said, that he objected to the amendment just proposed by the gentleman from Georgia. It would have the obvious effect to place the United States on better footing than other individuals would enjoy. Considering this principle at variance with the tone and spirit of the bill, he would never give it his assent. He was in favor of the bill in its general principles; and even with this provision he might vote for it: but, he did not wish to have it understood that in doing so, he was willing to make a reservation in favor of the General Government.

Mr. BERRIEN said that it was the practice to make a distinction in favor of the Government between debts due to it, and debts due to citizens. The whole history of the Government shewed that every endeavor was made to facilitate the collection of the revenue, until it had become the settled policy of the Government. There was a statute now in force, by which an officer of the Government was empowered to issue a distress warrant on a perfectly *ex parte* process. It would have been looked upon as highly improper to attempt to innovate upon what has become the established policy of the country; and certainly it would have been inexpedient, in offering a bill containing new principles, to interfere with any facility given to the collection of the revenue, which had become engrafted permanently on our financial system.

Mr. BRANCH said that he had a few remarks to make on the amendment proposed by the gentleman from Georgia. He certainly could not agree with him. Was it intended to do more in passing this bill than make an experiment? Was it not the moral effect which was designed to be produced? And if so, should the Senate sanction a principle at once partial and unjust? If the example were to produce any benefit, the practice of the plan proposed in the bill ought to begin with the General Government. It was not for Congress to say to the States, "Pluck the mote from your eye," and still cherish the beam in its own. Should they, like the profligate divine, say, "Do as I do, and not as I say?" If, as is said, it is the policy of the Government to assume a privilege which does not extend to other creditors, then that policy ought to be altered. Let our reform begin at home. Let Congress approve, by practice, the declaration which is made in this bill, that imprisonment

for debt is illegal and cruel. He agreed with the gentleman from Ohio, and must oppose this amendment.

Mr. VAN BUREN remarked, that, when an officer of the Government appropriated the money of Government to his own uses, the principle at present acknowledged, authorized an union of equity with law, to effect a distribution of his property. This was done to operate as a security. But now it was proposed to carry the principle farther, and to allow the United States, for debts contracted by individuals who became unable to pay it, to imprison him summarily. It is true, as the gentleman from Georgia says, that it is the policy of the Government to assume to itself preferences in the collection of its revenue. But it was immoral, impolitic, and unnatural, to allow imprisonment in order to coerce the payment of debts by persons unable to meet them. If the system now to be established, was to make a distinction between misfortune and crime, as he had hoped it would, then it was inconsistent with it to retain a clause which should still disgrace the statute book with a principle at once immoral, impolitic, and unnatural. He should, therefore, vote against the amendment.

Mr. BERRIEN replied, that, if it were true that the principle heretofore established, and acted upon, by the Government, was merely a species of security, then the argument of the gentleman from New York would be a good one. But it was not so. On the statute book would be found cases which could not apply to individuals, and could not be governed by principles similar to those applying to individual parties. He would allude to the law for the better regulation of the Treasury Department, in which it is provided, that a person failing to pay moneys due to the Treasury, may be incarcerated until discharged by due course of law. He did not defend this principle; but, in advocating this object, I lay down the proposition that this bill, which is to change the jurisdiction of the United States, may not be obstructed by any attempt at innovation in any of those long established practices which have grown into the settled policy of the country. He would not pretend to say, that under the present law there had not been instances of oppression that would have disgraced any country. He was anxious that, in attempting to afford to the People the benefits of this system, in all ordinary cases, it might not be embarrassed by any interference with the established regulations of the finances. If gentlemen were disposed to alter the policy of the Government, let them introduce a bill for that purpose, and, as far as he could go safely, he would go with them. But he would not advocate any such attempt being engrafted upon this bill, which was framed for other purposes. He wished this bill to stand on its own footing, and that it might not be embarrassed by the introduction of propositions and plans not immediately connected with it.

Mr. VAN BUREN, in reply, remarked that the gentleman from Georgia's view of the present system was perfectly consistent with his own. He acknowledged that some preference was necessary in the collection of the revenue, where the transactions were so vast and multifarious. The United States was allowed the same privilege over the body that individuals enjoyed, only that the process was more summary. But now, a new era was to be commenced. This bill was to establish a new principle, and to draw a line of distinction between the unfortunate and the criminal. This was the whole scope of the bill now under consideration. And should they stop short of this object? Should they, in mere cases of debt, where the parties were not able to pay, allow to the United States the liberty of confining the debtor within the four walls of a prison? He hoped not: for, if such was the case, it would be a libel on the bill and its advocates, and convict them of the grossest inconsistency.

Mr. HAYNE rose merely to state the ground upon

JAN. 10, 1828.]

*Imprisonment for Debt.*

[SENATE.]

which he should give his vote. At first he had thought with the gentleman from Ohio; but, upon further reflection, he rather approved the amendment. He objected to the principle and operation of the bill. He first objected to it as applied to the citizen. If he was defeated there, he was against it as it would apply to the United States, and mainly, because he believed it would diminish the revenue. An unwise rule was by its application made nugatory. And he believed not an individual would go into the Federal Courts, if this bill passed; but would, in preference, go into the State Courts: for, when he went into the United States' Courts, after the defendant had been defeated, the plaintiff could not get possession of half of the property, because it was not attachable. But the United States *must* go into the Federal Courts, and suffer the same inconveniences, which he believed would result in a great loss of revenue. He could not, therefore, agree with the Senator from Ohio.

The question on the amendments offered by Mr. BARNES, being then taken, was decided in the affirmative, Ayes 20, Nays 18.

The question of engrossing then recurred, when

Mr. ROWAN said he had not attended to the provisions of the bill in detail. He had the most unqualified confidence in the members of the committee, who had examined and approved them. He was in favor of the object of the bill—the abolition of imprisonment for debt. He was opposed to imprisonment for any civil cause.

The acts of individuals, so far as they are cognizable by the laws, are divided into civil and criminal; criminal acts are those, which are injurious or offensive to the State; to them he would confine imprisonment. It should never be inflicted by any, but the government, and by it, for misdemeanor, or crime only. He did not believe that indebtedness was either a crime or misdemeanor; and upon the supposition that it was either, he would never consent that this punishment should be inflicted, or that the creditor should inflict it. Sir, said he, the relation of debtor and creditor is an accidental one, which takes place between equals; for in our government all are equal: equally secure in the enjoyment of their lives, their liberty, and their property. This equality lies at the root of republicanism. It is natural, and the republic was not formed to destroy, or impair, but to preserve and protect it. Hence the explicit guarantees, by the Constitution, of equal rights.

Can it then be supposed, that liberty which ranks in the Constitution as it does in the intelligence of mankind, next to life, and without which life itself is scarcely worth enjoying, can, by any law, which does not violate the spirit of the constitution, be subjected to the caprice, the whim, or the malignity of those who may happen, in the ever-varying condition of human affairs, to become creditors? The object of all civil regulations is to secure private happiness, from private encroachment. To secure individuals, from the power of one another. It was to promote the happiness of all, by protecting the weak against the strong, that government was instituted. But, by permitting the creditor to imprison his debtor, you counteract and defeat the great object of the social institutions; you surrender the weak, to the strong; for wealth is power, and poverty is weakness; you deprive every man, whom accident makes a debtor, of his liberty. Instead of appealing to the constitution, and relying upon it for the enjoyment of his liberty, he is referred to the caprice of his creditor. He is told, that, instead of relying upon the strong arm of his government, for the protection of his liberty, he must invoke the clemency of that man, whom avarice, parsimony, or accident, has clothed with wealth, and, under the denomination of his creditor, armed with the power of tyranny. That if his spirits have been broken by his adversities; if, with the loss of his fortune, he has lost his self-respect, and is prepared humbly

to implore the indulgence of the more fortunate, but perhaps greatly less meritorious person, to whom he has, by the force of circumstances, become debtor, he may escape imprisonment; or that he may possibly escape, (for a while at least) by renewing his bond for the debt, with ten or twelve per cent. interest, as a moderate equivalent for his gracious forbearance.

If in the wreck of his fortune, the debtor has been left the means of bribing his creditor, or if some friend or neighbor, moved by the sympathies of a kind heart will become his sponsor for the debt, swelled by the inordinate premium for forbearance, he is graciously permitted to enjoy his liberty yet a little longer. So that the debtor is not barely in as bad a situation, in relation to his creditor, as he would have been without the aid or protection of the civil institutions; but in a much worse. In a state of nature, he could have resisted any and every encroachment upon his liberty, to the extent of his power, even to the infliction of death upon the assailant. In this he would have been justified by the law of nature; and even now, under our civil code, if any person shall attempt to imprison another, who is not his debtor, he may be resisted even to death. It is the creditor alone, who, by our law, is authorized to imprison. It is he alone, who may reverse the laws of nature with impunity; who may violate them, not only with impunity, but with the sanction and aid of the civil laws, and their machinery. The civil laws, so far from protecting the unfortunate debtor from the blow aimed by the disappointed and exasperated creditor, at his liberty, his peace, and his happiness, lend their vigour to his vengeance, and confer on deeds of private malignity the sanction of public approbation. They point the weapon of private vengeance with the venom of public scorn. Misfortune is treated as crime, even worse (as he should hereafter attempt to shew.) Calamity is aggravated by the loss of liberty.

The theory of our government derives all its captivity, (and it has much, very much) from its regard to the equal rights of its citizens, and from its seeming aptitude to maintain and preserve those rights. It proclaims their happiness to have been the great object of its institution; and as the best means of promoting that object, it guarantees to all, and to each, the same enjoyment of life, liberty, and property.

Sir, will any man say that the pledge given in the constitution for the security of the liberty of the citizen, is redeemed in the imprisonment of the debtor portion of the community, by their creditors.

Will it, can it be said, that the practice, under the constitution, conforms to its theory? Sir, we abound in political liberty, while we are destitute of civil freedom. Our political laws, our constitutions, proclaim us the freest people in the world. While our civil laws, so far from conforming, as they ought, to the nature and principle of our government, subject us to slavery. Sir, while it is our pride to have made our political law—to have framed our own constitutions, it is our misfortune, and our reproach, to have adopted a foreign code of civil law. Our political law is republican; our civil law is monarchical. We won our independence from England by our valor; asserted our freedom in our constitutions, and then voluntarily became her vassal, by adopting her laws. Sir, the most important half of the revolution remains to be achieved. We must conquer her in her code. If we do not, she will conquer us, through that medium. It is true, that, since our independence, we are not subject as a nation to her laws. But it is as true that distributively as a people, we are still subject to them; and imprisonment for debt is one, and not the least odious and oppressive of those laws. A law, however it might suit the constitution of a government consisting of kings, lords, and commons, but illy suits, he repeated, the genius and spirit of our republican institutions; a law which he considered neither more nor less than a foul blot upon

the escutcheon of our government; a blot which our interest, no less than our pride, required us to wipe off; one which he hoped would be forever obliterated, by the passage of the bill now under discussion.

Sir, let us look at the practical operation of this thing, on the condition of society. Do not one-half of our citizens, the debtor half, hold their liberty by a courtesy tenure, of the other half? It is worse than a courtesy tenure. In that, there are certain facts, which give certainly to the tenure. But in this, there can be no certain criterion. Who may be debtor, and who creditor, depends upon the ever varying condition of human affairs and human agency. A man may be creditor to day, and debtor to-morrow. We are told, from very high authority, "that riches make to themselves wings and flee away." No man knoweth what a day may produce; no man's condition is exclusively within his own control. If the liberty of the citizen were made to depend upon the constancy of mutation or change in the condition of man, then indeed it would be perpetual. But, as the law now is, no man can make a contract, or incur a liability, without endangering his liberty. He is constrained to transact his business, on the vestibule of the prison of his country.

Sir, can freedom be predicated of any society, in which any one of its members may oppress any other, who shall have been unfortunate? In which the want of success in the honest pursuits of life, shall draw after it the loss of liberty? In which the poor and the unfortunate depend for their freedom, not upon their government, but upon the discretion, or the caprice, of the prosperous and the wealthy? Sir, liberty is the wealth of the poor man; bereaved of the good things of this life, he has nothing else left, with which to console himself; he has no will to make; he has no valuables to bequeath to his children; the fruits of the toil of his life have been exhausted in raising and educating them; he has nothing but the invaluable, the inestimable boon of liberty to bequeath to them, and he should be enabled to point exultingly to the constitution, and code of his country, and say to his children, in an emphasis of triumph, The freedom which has been the solace and pride of my life, you will find there. Guard it, maintain it, vindicate it at every hazard; when you shall lose it, you will have nothing left worth preserving. Sir, I repeat, that there is, and always will be, in this and every society, a large portion of its members from whom, when you take their freedom, you take their all. What, let me ask, has the honest, but unfortunate man, who has been deprived, by some unfortunate event, or sudden casualty, of the means of meeting his engagements, left, but his liberty to reconcile him to life? What motive has he to fight the battles of his country? How can he be benefitted by her victories? Vanquished or victorious, his condition is the same. The country in which, and the government under which he lives, belongs to the wealthy, not to the poor; he can exclaim, with as much emphasis as Cato did, "this world was made for Cæsar."

Mr. President, what is gained to creditors by the incarceration of their debtors? The debtor is not employed in reducing, by his labor, the amount of his debt. He cannot be sold, hired, or disposed of for money, in any way whatever; and what is gained to the public by his imprisonment? The volume of industrious exertion, upon which the general welfare depends, from which the public prosperity results, is diminished in proportion to the number of persons imprisoned; and should the United States be engaged in war, its strength would be diminished in the same proportion; so that while the unfortunate debtor would be deprived of his liberty, and of the society of his family and friends, and while his family might be deprived, not only of the comfort and protection, which his presence gave them, but of the sustenance which his labor afforded, neither his creditor nor the public would be at all benefitted. The majesty of the government

would have been degraded, by the employment of its process, in the gratification of the malignity of the creditor. He might perhaps, by torturing the sympathies of the friends or relatives of the debtor, succeed in wringing from them the amount of his debt. But is it just to allow him to extort from their agonized sensibilities the debt of their unfortunate friend, a debt for which they never received any consideration, which they never contracted to pay, and to the payment of which, they were under no legal or moral obligation? Sir, the charities of life, and the sympathies which sweeten its most endearing relations, should not be exposed to the experiments of extortion, which the unsated or exasperated avarice of creditors might choose to make upon them. Government, instead of lending its energies for purposes so unholy, should elicit, cherish, and protect, those kindly workings of the human heart, which, as they are above all moneyed estimation, should be exempt from moneyed exactions.

Sir, we have heard of instances, in which the rights of interment were denied by the creditor to his unfortunate debtor, who had died in custody, until the debt had been wrung from the fresh, but credulous sorrow, of his surviving relatives. But, Sir, the effect of imprisonment upon debtors themselves is greatly to be deprecated. It has an humbling effect. It has a demoralizing effect. In every Republic, where the will of the people is this governing power, as it must be in all such governments, and as it ought to be in every government, care should be taken not to pollute its sources. Every individual in the Republic should feel a constant, and proud consciousness, that his will formed a constituent and justly proportioned part of the governing volume. But when he is torn from the bosom of his family, and of society, and thrown into prison, denied the power of either managing his own or participating in the concerns of the public, he is placed in an unnatural state, his faculties rust for the want of employment. He may, he must be inactive, but he cannot be idle. The means of useful or virtuous actions are denied him. The motives cease with the means. He either becomes spiritless and languid, or wicked and vindictive. If the former, when enlarged, he is useless: His mind has lost its elasticity, its spring, its pride. He is, at best, during the balance of his life, an inefficient harmless being. If the latter, he brings, when enlarged, the vices of the prison into the bosom of society, and propagates them there. He is mischievously busy, and vindictively active, during the balance of his life. The prison has lost its terrors with him; he fears it less now in its legitimate use, as a punishment for crime, than he did at first, as a confinement for debt: and he is more likely thereafter to be a criminal, than a debtor. Sir, our citizens should not be made too familiar with our prisons; the government needs for the restraint and punishment of crime all the ideal as well as real horrors of the prison.

Let it not, Mr. President, be overlooked, that, for the punishment of all the crimes which can be perpetrated, civil society has but the life, the liberty, and the property of the offender, upon which it can display its punishing energies. It inflicts death for the perpetration of treason, murder, and the other more atrocious crimes. It inflicts confinement, with or without hard labor, for shorter or longer periods, as the punishment for all the subordinate crimes; and, God knows, they are numerous and grievous enough. The government is under the necessity of economizing its criminal fund. It consists exclusively in its power over the life and liberty of the citizen. It can act upon the property of its citizens efficiently, in restraining and punishing misdemeanors and minor offences. Fines and amercements should be employed exclusively as punishments, or rather as the animadversions of government, upon all the acts of its citizens, which, though reprehensible and injurious, do not amount to crime, and are denominated misdemeanors; which are the result of



JAN. 10, 1828.]

*Imprisonment for Debt.*

[SENATE.]

frailty rather than wickedness. Civil society, therefore, cannot, without impoverishing itself, spare to creditors the power of imprisoning their debtors; and if it could, it ought not.

Sir, the more a State enhances the sanctity of the liberty of its citizens, in their own estimation; by so much the more it enhances its own power of restraining and punishing crime; and what is of no less importance, it promotes, by so much the more, a vigorous and healthy action in the body politic. Imprisonment, inflicted as the punishment of crime, loses much of its terror and its force, by the consideration, that it is inflicted indiscriminately upon the innocent, the unfortunate, and the guilty. This circumstance, while it diminishes the ignominy of imprisonment, in relation to the criminal, aggravates it most mercilessly, in relation to the debtor. The first views it with less horror, because he sees it inflicted upon the innocent; the latter abhors it, because he sees it inflicted upon the guilty. The use of imprisonment, in the case of debtors, is an abuse of it in relation to criminals. Mr. President, liberty is the jewel of a republic; it is the golden chain which connects life with property: without liberty, property cannot be acquired, or enjoyed; life, without liberty, is dull mechanism; it is respiration; it is vegetation; a condition to which no State should permit any of its citizens to be reduced, but upon the most urgent necessity; in a republic no such necessity can exist; on the contrary, there is in such a government, a necessity that such a condition should not be permitted to exist; nothing but the power of defending itself against the effects of crime can justify imprisonment, in a free government. Freedom is a mere illusion, a mockery in any government, which permits the imprisonment of its innocent citizens.

Surely, Mr. President, it will not be asserted, by the advocates of imprisonment for debt, that the mere act of being indebted, or of failing to pay a debt, according to contract, is a crime. That there is much perfidy, insincerity, and even fraud, practised by many debtors, must be admitted by every man of observation. But that all debtors, or even a majority of them, are fraudulent, must be denied by all, who are not prepared to blush that they are men. Sir, the fact, that a majority of mankind are disposed to act honestly, in their transactions, is as consoling to the philanthropist, as the fact, that there are some dishonest and fraudulent, is mortifying. The supposition that all, or that a majority of the citizens of any State, are dishonest, strikes at the root of civil society. The great compact, which binds civil society together, implies confidence in the honesty of its members. This confidence, which sustains the social fabric, which constitutes its foundation, its only basis, runs up through all its mechanism, and governs all its relations; it is matter of as much necessity, to presume honesty in the parties to an individual contract, as in the parties to the social compact. That every man shall be presumed to have acted honestly, until the contrary is proved, is a maxim of as much application and force, in the political, as the civil code; it is natural and necessary. If, upon every imputation of guilt, the proof of his innocence was thrown upon the accused, conviction would be the inevitable consequence of imputation. Indeed imputation, or rather accusation, would imply conviction. Distrust would, of course, supply the place of confidence, and society would be instantly dissolved. But man is happily so organized, that the path of his interest is the path of his duty. The maxim "that honesty is the best policy," has the foundation of its truth, in his organic structure. It has the sanction of his judgment, not less than the bias of his nature; he is naturally selfish, and led by that principle in search of his happiness: he is social in his nature, and led by that principle, to regard, in the pursuit of his own happiness, that of his neighbour; he is religious in his nature, and led by that

principle, to regulate his selfish and his social acts, by the will of his Creator, as disclosed in the volume of nature, brightened by the great torch of revelation. How absurd then is it to suppose, that indebtedness implies guilt; that the failure to pay a debt, according to contract, implies fraud? That failures are frequent, is admitted; and what do they prove? Why, that man is a frail, impotent, short-sighted being; controlled by circumstances, instead of controlling them; that his misfortunes are more numerous than his crimes; that he is oftener the victim of weakness than of wickedness. Why, then, he asked, should the catalogue of his misfortunes be swelled, by superadding to the loss of his property, that greatest of all calamities, the loss of his liberty? And why should this last and greatest evil, be aggravated by the imputation of guilt, and consequent ignominy?

Sir, I have been labouring to shew that guilt ought not to be imputed to debtors; that indebtedness is not a crime; that the failure of debtors is not, in the general, matter of choice, but of necessity: but, upon the supposition that I am wrong, in all my views, upon this subject, and that to be indebted is a crime; to whom, let me ask, does it belong to ascertain and punish the offence? Surely not to the creditor! The public interest requires that every offender should be punished; and justice requires that the punishment should, in every instance, be proportioned to the offence. Now the guilt of the debtor was incurred, either in contracting the debt, or in failing to comply with his contract. If in contracting the debt, then the creditor participated equally with the debtor, in the guilt of the transaction; for it takes two, at least, to make a contract—and being equally guilty, should be equally punished; and if imprisonment is a just punishment for the guilt of the debtor, it should be inflicted upon the creditor also;—and we know, from observation, that the moral guilt of the creditor, if there be guilt in the transaction, is frequently greater than that of the debtor. The credit is always extended in the hope of gain, and not unfrequently of inordinate gain. The debtor, in many instances, is led to contract the debt by the urgency of his wants. The creditor takes advantage of that urgency, to obtain an extravagant price for his commodity, or an inordinate usury for his forbearance; he usually pays himself, for whatever risk he incurs, in the advantage which he obtains by the contract. For, Mr. President, in almost all contracts, the advantage is on the side of the creditors; they are the wealthy, and wealth, I repeat, is power. Now, sir, upon the supposition that the debtor has, either in contracting, or failing to pay the debt, committed the crime, can the creditor be safely trusted, to inflict the punishment? In that, as in every other class of offences, there are different degrees of guilt.

If the creditor be sympathetic and indulgent, he may not imprison his debtor; if he be avaricious, and his debtor possesses the means to bribe him, (and even Cerberus can, as we are told, be soothed by a crumb,) he may forbear to punish him. The man who contracted debt, with the most fraudulent intentions, may escape punishment; may go at large and enjoy his freedom, while the strictly honest, but unfortunate debtor, who is unable, from his poverty, to bribe his creditor; or, whose creditor shall be so callous as to be unmoved by his distresses, may be torn from his family and thrown into a jail. Besides, the debtor and creditor are equal in natural and political rights; as men, and as citizens, they are equal; their relation of debtor and creditor is accidental. The idea of permitting the creditor to punish his debtor, is at war with their natural and political equality; of two equal bodies, whether in the natural, moral, or political world, neither can control the other. Punishment can only be inflicted by the sovereign. Coming from the seat of the sovereign power of the commonwealth, its effect is felt, its justice acknowledged, and its power revered; coming from the

SENATE.]

*Imprisonment for Debt.*

[JAN. 10, 1828.]

hand of an equal, its effect is lost, and its power contemned and defied. The object of all punishment is reform.—The few are punished, in all wise governments, that the many may be restrained and reformed; but what reformation has been wrought in this country, or in England, by the punishment of imprisonment for debt, during the last three hundred years? To what extent has the guilt of incurring debt been restrained, by permitting creditors to imprison their debtors, during all that time? Sir, imprisonment for debt never has, and never will, diminish, much less extinguish, the guilt (if guilt it may be called) of indebtedness. People will incur debt, whenever they can obtain credit; and credit will always be given when there is a hope to gain by it. When you can extinguish the wants of the debtors, and the avarice of the creditors, you may hope to extinguish debt, and not till then. In fine, you must extinguish society, you must extinguish man, before you can banish this guilt from the world.

Sir, if you consider the debtor as a criminal, and imprisonment as the punishment of his crime, you cannot help perceiving, that the punishment is as unavailing as it is unnatural and cruel. But, again, if it is a crime to be indebted, why deprive the debtor of the privilege of every, even the most abhorred, culprit? Why do you invert the presumption of innocence, which shields the accused from punishment, until his guilt is proved, and presume him guilty without proof? Sir, when the debtor is imprisoned upon original or mesne process; even the fact of his being indebted, is not ascertained, is not proved, nor does the law require any proof of it,—it takes the word of the creditor for that fact; he brings his suit, and directs imprisonment, if bail cannot be obtained, and it is done accordingly. Sir, is there a people on earth, having any love of liberty, any pretensions to freedom, who would submit long and calmly to such a state of things?

Again, upon the admission which has been made for the sake of the argument, that debt is a crime, the debtor has a right, under the constitution, “to a speedy and impartial trial by a jury of his peers, from the vicinage, to be confronted, by the witnesses against him, and to compulsory process, to compel the attendance of witnesses, in his behalf.” But the debtor is imprisoned without jury, without trial, without the proof of witnesses against him, and without the privilege, or power, of adducing proof of his innocence. Now, the debtor is either innocent, or guilty; if innocent, he ought not to be imprisoned; if guilty, his guilt should be ascertained and established by proof, in the course of a fair, and impartial trial, according to the constitution of his country, before he should be imprisoned; conviction should, in all cases, precede punishment; but, whether guilty, or innocent, he should not, with or without a trial, be imprisoned by his creditor.

Mr. President, we are told by some of the opponents of this bill, that they have a great veneration for the common law, and are unwilling to make the innovation upon it, which this bill contemplates; that imprisonment for debt, is a common law regulation, which has existed for ages, and been sanctioned by the intelligence of mankind, during all that time; and they urge the long continuance of the rule, as conclusive evidence of its wisdom. Sir, it is certainly true of the common law, that it is a very ancient, and a very wise system, and that its antiquity is no small evidence of its wisdom. But has imprisonment for debt the authority of the common law in its favour? Is it of common law origin? If I believed it was, I, like the gentlemen who have advanced the sentiment, should be slow to question its wisdom; I should hesitate before I consented to abrogate it; for I consider the common law the most perfect, the most sublimated system of rules, for the conduct of man, in a state of civil society, that is to be found in the history of the world; a system which defines his rights, and regulates his conduct, with a more just regard to his life, his liberty, and his property, than any other, which has ob-

tained amongst men; a system most happily suited to secure the personal liberty and promote the happiness of men, in all the conditions and relations to which they are incident, in a state of civil society: the only system which can, without the violation of modesty, exult in the boast, “that it is the perfection of reason.”

Sir, I, like the gentlemen who oppose me, claim the support of the common law upon this question; the gentlemen will pardon me, when I tell them that they labor under an illusion as to the common law doctrines, in reference to civil imprisonment; it knew of no such thing; there was no imprisonment for debt by the common law; that system left the creditor, in relation to his debtor, upon the only ground which he could justly or rationally occupy; the ground on which he had placed himself by his contract; it gave him access, by execution, to the property of his debtor, but forbade him to profane his person; it not only did not permit the creditor to tear the debtor from his family, and immure him in a prison, but it exempted the beasts of the plough from the execution of the creditor, for the support of the family of the debtor. And in this we see, not only the reason but the humanity of that wise system. Sir, it cannot be supposed that the creditor, in the contract, contemplated the body of the debtor as the fund out of which his money was to be made; he surveyed the condition of his debtor, and inferred his solvency from his possessions, not from his person. The common law rated the personal liberty of the subject above all price. One of its most favorite maxims is, “that the least corporal punishment is greater than the greatest possible amercement.” It would not, therefore, permit the creditor to take the body of the debtor, instead of his property; to violate his contract by the violation of the personal sanctity and liberty of his debtor. It would not permit the debtor, if he were so disposed, to contract for his imprisonment; still less would it sanction or enforce such a contract. Sir, the liberty of the subject, next to life, was the favorite of the common law; he could be imprisoned only for crime, and in that case, only by the sovereign power.

I repeat, Sir, that imprisonment for debt, so far from being sanctioned by the common law, was unknown to it, and reprobated by its spirit, its analogies, and its principles. The Senators from South Carolina have mistaken, if they will permit me to say so, statutory interpolations into that system, for the system itself. The antiquity of those statutory inroads upon the symmetry of that most excellent system, was well calculated to superinduce the error into which these learned Senators have fallen.

Sir, if the States in this Union had adopted the common law, the whole common law, and nothing but the common law, imprisonment for debt would have been unknown in our land, and they would have possessed a code of law as favorable to civil freedom as their Constitutions were suited to political liberty. The common law, before it was defiled by statutory innovations, might have been admired as the impenetrable *Aegis* of civil liberty. But the States, in adopting it, adopted with it the statutes of England, in furtherance (as they were miscalled) of its provisions; and the great misfortune is, that those statutes, and the judicial interpretations, or rather, in many instances, perversions of them, are mistaken for the common law itself. Sir, it was not until the reign of the third Henry, that civil imprisonment was known or tolerated in England. It had its origin, not in the intelligence of the nation, but in the power and avarice of the barons of England. It was not invoked by the reason of the people, but obtruded upon them by the aristocracy of wealth and title. The barons of that reign, obtained the passage of an act of Parliament, whereby it was ordained “that bailiffs, or stewards, who failed to account to their lords, if they withheld themselves, and



JAN. 10, 1828.]

*Imprisonment for Debt.*

[SENATE.]

had no lands or tenements, whereby they might be distressed upon by the common writ of attachment, should be attached by their bodies." Sir, I beg the Senate to observe with what caution, and under what limitations, this monster, civil imprisonment, makes its first appearance:—none but barons can imprison—and their lordships can only imprison their fraudulent bailiffs, or stewards, and them only when they shall have embezzled the money of their lords, and failed to account with them; and not even then, unless they abscond, having no lands or tenements. The reluctance with which the common law yielded to this first encroachment of the power of wealth upon the liberty of the subject, cannot escape the observation of the Senate. It is restrained in its application to a single class of debtors, and that in very special and imposing cases only. It is accorded to but one class of creditors, and when the poverty and paucity of the debtors are considered, in contrast with the number and wealth of the barons, we are led rather to admire the success of the resistance made by the common law against such an assault upon its principles, than to reproach it for yielding to the inroad. The jealousy, too, which it displayed in construing the statute, evinced its strong aversion to the odious innovation. The judges held the barons to the very letter of the act; for, if the steward had embezzled the money of his lord, and refused to account, but did not abscond, he could not be imprisoned; or, if, having embezzled the money, refused to account, and absconded, he could not, if he owned but one acre of land, be imprisoned by his lord; a concurrence of all the requisitions of the act were necessary to authorize the imprisonment. It was vain to urge that the bailiff had enjoyed and abused the confidence of his lord, had embezzled his money, refused to account, and had absconded, he could not be imprisoned if he had left one rood of land; so regardful was the common law of the liberty of the subject—so averse to violate it.

Sir, it was reserved for the power of wealth, in a more active and diffused state, to give more extended effect to this unhallowed innovation upon the liberty of the subject; the wealth of the barons consisted mainly in lands: it was as inoperative as it was unwieldy. The love of liberty with which agriculture inspires its practical votaries, was too strong to be extinguished by the sluggish power of baronial wealth; public sentiment was not prepared to sanction the perversion of the powers of the government, to the destruction of the liberties of the people. It remained for the more active power of commercial wealth to carry, at a subsequent period, the principle of imprisonment for debt, one step farther than it had been pushed by the influence of the barons. They had obtained the power of imprisoning their bailiffs only. The merchants obtained the passage of an act of parliament, in the reign of Edward the First, authorizing them to imprison their debtors. This matter, Mr. President, was got up and carried through Parliament as a tariff measure. That weak Prince seemed to have entered, most heartily, into the views of the coalition;—yes, Sir, a coalition between the barons and the merchants, to humble the proud spirit of freedom in that country. By the influence of the coalition, the Parliament taxed the liberty of the subject, to promote the spirit of mercantile enterprise, and encourage merchandize in the kingdom; that was the avowed reason for passing this law. It was in the process of taxing one interest to encourage another, under color of regulating the labor and the interests of all classes of the community, that the liberty of the debtor was sacrificed to the avarice of the creditor; the freedom of the poor to the cupidity of the rich. The law obtained by the barons against their bailiffs, backed by the concentrated power of all descriptions of wealth, had, by its secret, but unceasing operation upon public sentiment, prepared it for the enactment of the law in favor of mer-

chants; and the passage of the law in favor of the latter, still farther prepared the public mind for the passage of another law, during the same reign, increasing the power of the barons over their bailiffs. By the last law, the baron, upon the mere failure of his bailiff to account, could, without any thing more or farther on the part of the bailiff, throw him into jail, there to remain in irons, until he should account satisfactorily. But the barons and the merchants were not the only wealthy classes in the kingdom; not the only persons whose wealth entitled them to the power of imprisoning their debtors; the people had grown familiar with civil imprisonment; their veneration for liberty had abated, in proportion to the frequency of its profanation; what had at first been resisted by all, as an innovation upon the common law, and a grievous encroachment upon their liberty, was now advocated by all denominations of creditors as a remedial measure. Every creditor asserted his right to the same rigor of remedy against his debtor, that had been accorded to the barons and the merchants. The barons and the merchants had no motive to resist, but every motive to assist and second this claim. But still the great mass of the people were unsubdued in their spirit; but their love of liberty, although shaken, was not conquered. It was not until the reign of the third Edward, that imprisonment was allowed in cases of debt and detainue. It was extended by an act of Parliament, in that reign, to those actions, and thus the law stood, until, in the reign of Henry the Seventh, when, by an act of Parliament, civil imprisonment was extended to actions on the case. Before this statute none but the barons, the merchants, and plaintiffs, in debt and detainue, could imprison their debtors. But, by this statute, imprisonment was almost indefinitely extended; none, indeed, could escape after the passage of this act, but the defendants, in actions of covenant and of annuities; and they were not long indulged with this immunity; for, in the reign of Henry the Eighth, imprisonment was extended by act of Parliament to them; and thus ended the freedom of the people of England, after a struggle of more than one hundred and fifty years; a struggle as glorious as it was protracted. Mr. President, in what other country was such a conflict ever witnessed; a conflict between the aristocracy and the people of a State, continued for nearly two centuries, without intermission! The assailants never pausing in their pursuit, while any thing was left to be achieved by perseverance; the assailed never ceasing to resist, while any thing was left them to defend. Sir, when this conflict commenced, the people of England were free; their civil code was the freest and the wisest in the world; their political code was a compound of monarchy, aristocracy, and republicanism. The common law, so far as it related to personal rights, was a purely republican system, and suited the representative principle, which was the republican feature in the political, or organic law of the kingdom; such was the effect of the freedom of their civil, united with the representative principle of their political code, as to make their government practically republican, while it was, in theory, a monarchy. It was substantially a republic in the mask of a monarchy, and the strong and protracted resistance made by the people to the encroachments of the aristocracy upon their liberty, by the infliction of civil imprisonment, resulted from the harmony of the principles of the common law, with the representative feature of their government; and of both with the natural and civil rights of man. The political freedom of England, so far as it depended upon the representative principle in her constitution, still remains, but the civil freedom of that country expired when the statute of Henry the Eighth received the royal sanction; from that moment every man in England (with the exception of the nobles, who never were subject to civil

SENATE.]

*Imprisonment for Debt.*

[JAN. 10, 1828.]

imprisonment) held his liberty at the discretion of his creditors. Sir, I have thus briefly attempted to rescue the common law from the imputation of having inflicted, or sanctioned the infliction, of civil imprisonment upon the people of England. I have done this by printing to the source whence it originated, and showing the time and manner of its introduction.

Sir, the acts of Parliament, to which I have called the attention of the House, are those only which originated and successively extended the power of imprisonment to all classes of creditors and to every species of civil action. I have, Sir, for the sake of brevity, overlooked two statutes, passed in relation to civil imprisonment; not in the spirit of the acts which established it, but to mitigate the rigor of that spirit; permit me barely to refer to their import and object: they were, the first, an act requiring the plaintiff to endorse upon the process the nature of his action, and directing the officer to be governed, in the service of the process, by that endorsement, in permitting or refusing bail to the party arrested. The second was an act to restrain and punish the abuses which were practised by the officers of the law, in carrying into effect the provisions of the first. And, Sir, what were the abuses intended to be restrained and punished? And who were the officers who practised these abuses? The officers were lawyers, judges, bailiffs, &c. The abuses were their oppression of debtors, by fraud, corruption, perjury, bribery, and extortion. Sir, they are recited in the preamble to the law; lawyers Empson and Dudley obtained a conspicuous infamy, and the infamous death of the gallows, for their oppressions and their crimes, in relation to civil imprisonment in the progress of its establishment. There were other persons, distinguished functionaries of the government, to whom it is not necessary to make special reference, who also expiated on the gallows the guilt of their unholy participation in the oppression of the people. Sir, there was, as I have stated, a radical discordance between the civil and political code of England; but the civil was made, by the power of wealth and of title, to conform to the nature, spirit, and principle of the political; the spirit of royalty, of nobility, and of the aristocracy of wealth which characterized the government, was infused into and impressed upon the civil code of the country; and it was the misfortune of the United States to adopt that system after it lost all its republican simplicity, and had been polluted, in the manner I have mentioned, by the interpolations of aristocracy. Sir, the States were, when they adopted this system, in a condition not very propitious to deliberate scrutiny. They had, in common with the other subjects of the monarch, from whose tyranny they had but just escaped, become familiar with civil imprisonment; they had worn the yoke so long that it had ceased to gall them; their attention, of course, was not directed by their sufferings to the consideration of that subject; and, if it had been, they had not leisure to consider it; and, if they had possessed leisure, they were not in a condition favorable to the scrupulous deliberation which the subject required; they were but just emerging from their revolutionary struggles; they had achieved their political liberty, formed their free constitutions, and, exhilarated with the joys inseparable from their triumphs, never dreamed of oppression from their civil codes; never dreamed that, although they had conquered England, the civil code of England, which they had adopted, might reconquer them. But, Sir, that is not now our condition; we have leisure for deliberation, and are unexcited and ought to decide whether, while calmly enjoying the political liberty achieved for, and bequeathed to us, by our revolutionary forefathers, we should continue to submit to the oppressions of civil imprisonment which they could not successfully resist.

Sir, it has always seemed to me strange that we should

be so willing to adopt, and incorporate into our code, a system which was obtruded upon the people of England by the worst influences of wealth, aided by the most corrupt practices on the part of the functionaries of the government. A system that discolored the history of the times in which it was introduced, not less by the oppressions which it inflicted than by the corruptions and obliquities by which it was propagated and maintained; a system which, while it is sustained by the power of wealth, is reprobated by the reason and humanity of all mankind.

Sir, what are the benevolent associations throughout England; aye, all Christendom, for the relief of imprisoned debtors? What the daily contributions made by even the poor and the needy, to mitigate the horrors of imprisonment for debt? What but the tacit, the unceasing rebellion of reason and humanity against this wretched system? Sir, we exult in our government as the freest on earth, and yet there is not a free man within it, who may not be deprived of his freedom, whenever, by any of those innumerable casualties to which all human plans are incident, he shall be rendered unable to meet his engagements. We boast of our free institutions, and yet are continually soliciting and bestowing gratuities to relieve our incarcerated fellow citizens.

We refuse to abolish imprisonment for debt, while we are daily weeping over the miseries of imprisoned debtors. Strange insatiation!! We would pour out our blood like water, to vindicate our freedom from foreign aggression, and yet cherish domestic tyranny; as if the loss of liberty were not the same, whether inflicted by the Cossacks of Russia or by our creditors at home. How long, Mr. President, is this fatal illusion to last? When will the people awaken to a practical knowledge of their rights? When will they become convinced that no people can be free, whatever may be the theory of their government, who permit imprisonment for debt? When, Mr. President, will they learn that punctuality is not, cannot, be promoted by imprisonment? That a jail is not the best school for the inculcation of correct morals?

When, Sir, let me ask emphatically, will they learn that the fear of corporal punishment, if it operates at all, will make slaves of those on whom it operates? That it is the motive to action with the abject and slavish only? Sir, let me ask, with increased emphasis, when they will learn that the most effectual way to influence freemen is to address their pride—to appeal to their conscious self-worth?

Make punctuality a point of honor with our citizens, Mr. President, and there is nothing within the scope of their utmost energies which they will not achieve to maintain it. In that way, Sir, you will cultivate a sentiment, which, while it promotes punctuality in contracts, much more effectually than imprisonment can do, will form a guarantee for the continuance of our free institutions; and upon which the country may rely in emergencies, more than upon any physical force which can be arrayed in its favor. Sir, let us not forget here, and let it never be forgotten elsewhere, that the strength of a free government, consists essentially in moral, not in physical force.

Sir, let the civil regulations engage the affections of the people, by protecting their rights, and securing them from violence and oppression of every kind. Let them know and feel that their political condition cannot be improved by the substitution of any other form of government, and they will give perpetuity to their own. They aim to be happy, and once possessed of that form of government, and that code of laws, which conduce most to the attainment of that great end, they will support—they will perpetuate them.

But they cannot be happy in a prison; they cannot be happy under a constant liability to be thrown into prison.

JAN. 10, 1828.]

Imprisonment for Debt.

[SENATE.]

They cannot be happy unless they are free; and they cannot be free while they are liable to be imprisoned for debt. Therefore, Mr. President, it is necessary to the happiness of the people and the perpetuity of our institutions, that imprisonment for debt should be abolished. And, Mr. President, what valid objection—valid, did I say—what plausible objection can be alleged against the abolition of civil imprisonment? It is said by one gentleman that this regulation has so connected and intertwined itself with our civil proceedings, that we cannot well foresee the injuries which its repeal may produce. That, not seeing the exact extent of its repeal, he thinks it better to let it remain. He would prefer that the process laws of the States should be the process laws of the federal courts in the States respectively. In the latter sentiment I concur with him most sincerely, and shall unite with him most heartily to carry that sentiment into effect; but in the former, I cannot concur with him. While I admit that civil imprisonment has been mixed up with the process laws of the several States, to a very great, even to an embarrassing extent in some of the States, I cannot agree with him, that it is better to let it remain than to attempt its removal; nor can I concur with him in the reasons which he assigns for declining the attempt to remove it. Sir, although this bill, if it should pass, cannot have the effect to abolish imprisonment for debt in the States, yet it will deny to the General Government the use of civil imprisonment in its courts. This will be a banishment of it from the courts of the United States; and I calculate much upon the moral effect of it in the States. Sir, I cannot agree to the sentiment that an existing evil shall not be removed, lest the removal of it should produce greater; government itself is an evil, and the only one which I would not remove, lest greater should follow. The best test of a good government is, that it is itself the least evil which the people suffer, and the only one which they are obliged to suffer; and that, confiding in it, they may safely remove any, and all others. That, Sir, would be my definition of a good government—of a genuine republic. What would we say of the wisdom of an individual whose face was deformed with a wart, which threatened to become a cancer, who, instead of removing it by the knife, should permit it to remain until it had become a real cancer, and so intertwined its roots with his vital organs as to render excision impracticable? he forbore the use of the knife, fearing that its use might produce greater evils, and must expiate his folly with his life. Sir, the destroying power of almost every evil, moral, physical, and political, consists mainly, and somewhat mysteriously, in its continuity. The condition of that republic, to which the continuance of an incumbent and obvious evil has become necessary, is greatly to be deplored. Let us then, Mr. President, remove from the fair fabric of our liberty, this cancer, civil imprisonment, which deforms its aspect, and will corrode and destroy its vital structure, unless it be removed.

The only plausible ground for the toleration, for a moment, of civil imprisonment, is its alleged coercive effect upon the debtor. But that is utterly fallacious; for either he has, or he has not, property. If he has, let the creditor levy his *fi. fa.* upon it and apply the proceeds to the payment of the debt, as far as they will go. If he has no property, then its coercion must be vain, useless, and cruel; so that, in neither case, can it be necessary, but in both, must be cruel and useless. But here, sir, I may be told, that the debtor may have no property except of an equitable character, such as bank stock, bonds, &c. which cannot be seized and sold by a *fi. fa.* I reply, alter the law in that respect. It is easy to do so, and much better, and more humane, to subject the equitable effects of the debtor to the execution of the creditor than to subject his body to imprisonment.

I am, Mr. President, as clear, that the property of the

debtor, real, personal, and mixed, legal and equitable, should be subjected to the payment of his debts, as that his body should not be imprisoned by his creditor. No man, Mr. President, is a more zealous advocate for punctuality in contracts than I am; but I rate personal liberty too high to subject it to the casualties to which contracts are necessarily liable. It is not that I love punctuality less, but that I love freedom more. I would, therefore, instantly, reckless of the consequences, abolish imprisonment for debt. The evil is so much greater than any which could possibly follow its removal, that I would not for a moment hesitate to remove it. Indeed upon the supposition that the evils which are predicated would certainly follow, I would invite them, if I could not do better, by the instant abolition of civil imprisonment. For, Mr. President, who would not exchange a greater for a less evil; and any evil, which did not destroy life, would be less than imprisonment, in my estimation.

But, sir, I apprehend no evils from the passage of this bill; on the contrary, I anticipate great good. What evils are to be apprehended? None certainly that cannot be removed in like manner, by the legislative arm of the Government. And for what is the annual meeting of the Legislature, but to redress, or remove accruing grievances? Sir, this proneness in the people to bear with the ills that grieve them, rather than encounter those of which they know not, has led to the loss of their liberty, in innumerable instances. Mr. President, the people in every state of civil society, whatever may be their exterior relations, are engaged in an unceasing strife among themselves. The strife is between the wealthy and ambitious on one side, and all the balance of the people on the other: between the few and the many; the few to live upon the labor of the many, and to rule them; the many to enjoy the fruits of their own labor and to participate in the exercise of the ruling power. The wealth of every country falls eventually into the hands of a few. This wealth is, of itself, power; office is power; wealth and office associated, which often happens, is a power difficult to resist. In this conflict the many have the physical force, the few have the moral power. Sir, the few are the aristocracy, the many are the people; the people are confiding, unsuspicious, and prone to bear with things as they are; the aristocracy, influenced by the restless spirit of avarice and the ceaseless impulses of unchastened ambition, pursue their unholy purposes with a perseverance that never tires, and with a vigilance that never sleeps. The encroachments of the aristocracy are silent, sinuous, secret, and insidious. The people, busied in the honest pursuits of life, and struggling with its casualties and inquietudes, are without the leisure to detect and often without the power, and too frequently without the inclination, to resist these encroachments upon their rights; they resist only when they are agonized by oppression, and their resistance ceases usually with their sufferings; they never pursue and exterminate the cause of their afflictions. The assaultment of their rights is impalpable and continuous; such was the character of the power and of the operations which were employed for near two centuries in subjecting the people of England to civil imprisonment. Sir, it is this power, no matter under what disguise it may present itself (and it is always masked) which the people of a free government have to fear, more than all the other powers of the earth. Sir, we are told of the danger which civil liberty has to apprehend from military chieftains; such alarms are the usual stratagems by which aristocracy lulls the suspicion or diverts the attention of the people from its own insidious encroachments upon their liberty. Sir, this aristocracy is a very *proteus*; it is now a harmless civilian; at another time it is a zealous Christian, a rigid moralist, a great lover of justice; again it is a great patriot, influenced exclusively by a pure love of country and a great zeal to pro-

SENATE.]

*Imprisonment for Debt.*

[JAN. 10, 1828]

mote its prosperity and happiness ; but its most prominent characteristic is, an ardent love of the dear people and their dearer liberty. Now, Sir, all experience has proved that the love of aristocracy towards the people and their rights, is the love which the tiger bears to the kid, or the wolf to the lamb. No, Sir, it is not from military chieftains that liberty has any thing to apprehend. The danger lies in another quarter ; it is from the power of wealth, and the unholy aspirations of unchastened ambition, that she has cause of apprehension. Do you believe, sir, that one hundred thousand bayonets, headed by the most distinguished military chieftain, could have forced upon England this wretched system of civil imprisonment ? could have extorted from them, by force, the liberty which was filched from them by guile ? No, Sir, a people in a state of civil society, enjoying freedom, and animated with the genuine spirit of liberty, have nothing to apprehend from any open assault upon their rights ; it is, I repeat, from the secret, sly, insidious operations of aristocracy, their arch-enemy, that they have every thing to fear. Sir, a republic, in which there is the living and abiding spirit of freedom, has around it a zone of inviolability, a magic cincture, (analogous to that which surrounds and protects matron excellence from the approach of the licentious,) as impenetrable as adamant. Sir, such is the shielding effect of this atmospheric panoply, that neither the republic nor the matron is ever assailed, until they have given indications that they are accessible. Neither the one nor the other is assaulted until they are prepared to yield. When the people of a republic become too effeminate, or too corrupt, for self-government, they invoke, by their very condition, rule from some other quarter ; and none but a chieftain can accept the invitation, because none but such a character could vindicate his right to rule against other aspirants equally embraced in the invitation. Sir, they cannot deprive a free people of their self governing power ; they can only rule such a people when they have become too corrupt, or too effeminate, to rule themselves.

Do you, Sir, does any intelligent man, believe, that the people of Rome possessed the capacity to govern themselves, when Julius Cæsar usurped the government of that commonwealth ? No, Sir, if there had been virtue and vigor enough in the people of Rome for self government, Cæsar would not have made the attempt ; or if he had, he would have have lost his head ; not Rome, her liberty. When Cæsar was slain, did Rome resume her freedom ? No, she had lost the capacity. Sir, it was not the power of arms which enslaved the people of Rome or of England ; it was a very different and far more dangerous power—the sly, insidious, unprincipled, and unceasing power of aristocracy.

Rome, too, sir, had her civil imprisonment ; and, by the constant exercise of it, taught her people lessons of vassalage, which prepared them for the slavery which ensued. Sir, the people of this, or any other Government, will lose their reverence for personal liberty, by seeing, constantly, their neighbors or friends deprived of it. Rome was free while the sentiments of her people were in consonance with the law, which forbade stripes to be inflicted upon a Roman citizen. Sir, liberty is identified with the person of its votary ; it is inseparable from his person ; it is, of course, personal ; to preserve it, you must maintain the sanctity of the persons with whom it is identified ; to secure the jewel, you must be careful of the casket which contains it. Sir, to preserve liberty in a republic, instead of cheapening and degrading it by imprisonment for debt, the highest, the most sublimated notions of personal sanctity should be cherished and cultivated. It is the province of the real statesman to make the frailties of men, in a state of civil society, subserve the cause of their liberty, their virtue, and their happiness. Pride and vanity rank among the weaknesses of our na-

ture ; and yet, if the vanity, or the pride, of our citizen were enlisted on the side of punctuality, who can doubt of what would be the effect ? Sir, the punctuality with which gaming debts are paid, is proverbial : this punctuality is not the result of civil imprisonment ; for those debts cannot be recovered by law ; whence, then, I ask this remarkable punctuality ? Sir, it results from those proud feelings, from that nice sense of honor, which it is the tendency of civil imprisonment to blunt, to vitiate, to obliterate. Let us then cherish and promote, in society those sensibilities from which results, so felicitous, may be justly expected.

Sir, a senator from S. Carolina [Mr. SMITH] has told us that creditors are, in the general, merciful and sympathetic ; and that they do not imprison their debtors cruelly or unjustly : the wealthy, he tells us, are not tyrants. The honorable senator judges of the feelings of the wealth from his own humane sympathies. And I am willing to acknowledge, that there are many, very many instances of humanity and charity to be found among the wealthy but these can only be regarded as creditable exceptions to the indurating effect which wealth exerts upon the feelings of those who have been long in the possession of it. Sir, if you dissect aristocracy, and examine its constituent parts, you will find the classes of which it is composed, avaricious and unfeeling ; there may and will be found, in each class, as I have said, numerous and honorable exceptions ; but all classes, even their reverence where they are upon good establishments, are influenced by the same unfeeling devotion to gain and to dominion which characterized the barons, the merchants, the lawyers, the judges, and other nurslings of fortune, of whom I have spoken.

Sir, who has not read of the tithe cases, and who do not know the causes which led to the enactment of the acts of mortmain ? Sir, it is a remarkable fact, that the laws, which authorized creditors to imprison their debtors are very few, compared with those which have been enacted to mitigate the sufferings which have been inflicted upon debtors by the unfeeling rigor of their creditors. The great fire, which consumed London, reduced to poverty and destitution many thousand honest debtors ; who was the mercy, the sympathy, displayed by their creditors ? Why, instead of extending indulgence to their unfortunate debtors, and softening their calamities, by generous and charitable contributions, they threw them in prison, and continued them in confinement, until they were released by act of Parliament. Shall I refer to gentlemen to another instance of the sympathy of creditors, in the wretched assemblage of lacerated debtors, the Mons Sacer at Rome ? The history of mankind but a history of the unfeeling and oppressive conduct of creditors towards their debtors. If you want to find sympathy, look for it among those who have learned from their own sufferings to feel for the woes of others. The sympathies of the heart come to perfection only when they are bedewed by its sorrows. Talk not, then, Mr. President, of the mercy of creditors ; it is cruelty, it is ranny : I speak of it as history exhibits it : but if it were not, is it wise to have our citizens dependent upon the mercy of their creditors for their freedom ? Can any thing be more humiliating to the debtors as men, or degrading to them as citizens ?

Mr. President, let me repeat, that the strength of a State consists in the number, and its wealth in the industry, of its citizens. I have seen it stated in one of the public prints, that, during the last twelve months, there were imprisoned in the little State of Rhode Island 100 debtors. Now, Sir, upon the supposition that the remaining twenty-three States of this Union were no larger than that small State, there must have been 25,200 freedmen imprisoned within the United States, for debt alone, within the last twelve months. Suppose the price of labor:

JAN. 10, 1828.]

*Imprisonment for Debt.*

[SENATE.]

be fifty cents per day, and suppose their confinement to average only ninety days in each year, the loss is \$12,600 per day, and, for the ninety days, it is \$1,135,000: but suppose that number, upon an average, to be confined annually, and for the whole year, then the loss in each year would be \$4,540,000, and in twenty years would amount to the enormous sum of \$90,800,000. This loss is a fair drawback upon the public stock. Is it not enormous, and sustained without any competent motive on the part of the Government?—A loss which the Government inflicts, under the influence of the power of wealth, upon the poor and most meritorious portion of the community, and through them upon itself. But the mere loss, in dollars and cents, is but a small part of the evil, when compared with the loss of liberty inflicted upon 25,200 citizens; the derangement in their affairs; the agony inflicted upon their families and friends; and last, though not least, the diminution of reverence produced in the public mind, for the liberty of the citizens, by the constant incarceration of them, and the consequent tendency to vassalage. Sir, your jails are schools in which the science of slavery is taught, and exemplified by the imprisonment of debtors. Its effects are only not alarming, because they are not seen in the aggregate. Could they be exhibited at one view, they would shock the public mind, and awaken the sympathy and indignation of the whole community. The great majority of the people require but to know in order to do what is right; and if they could but see even the one-half of the misery which is daily inflicted upon debtors by the merciless rigor of their creditors, there would be no difficulty in abolishing imprisonment for debt. Mr. President, it is strange that the miseries of the imprisoned should have engaged the attention and awakened the sympathies of the wise and good in all countries, and that imprisonment should, notwithstanding, be tolerated by almost all Governments. It is surely no small argument in favor of the abolition of imprisonment, that the miseries of that condition excited the compassion, and drew forth expressions of tenderness towards the imprisoned, from the lips of him who spoke as never man spake. "I was sick and in prison, and ye visited me not," is a language which ought not, when we consider where it came, to be without its effect, in the consideration of this subject.

Sir, if barely to have devised the means of mitigating the sufferings of imprisoned debtors conferred immortality upon the benevolent Howard, in what estimation ought the creditors who inflict those sufferings to be held? And, in what estimation ought the legislatures to be held, who conferred upon creditors the power of imprisoning their unfortunate debtors, or tolerated its exercise? Sir, I feel some pride in being able to say, that the State which has honored me with a seat in this body, has washed its hands of this evil; has, by the abolition of civil imprisonment, given freedom to her own citizens, and to all who shall come within her borders.

Mr. President, what is the consistency of that legislation, which denies, under severe penalties, to the avarice of creditors, the exaction from their debtors of a cent beyond the established rate of interest, and yet permits them to imprison their debtors? How can we reconcile, on the part of legislation, this carefulness of the property, and carelessness of the liberty of the debtor? The laws against usury are as creditable to legislation, as those in favor of civil imprisonment are reproachful to it. The first secures the honest industry of the poor and the enterprising against the merciless encroachments of the rich; the latter subjects the body and the liberty of the poor to the avarice of the wealthy; as if liberty was of less value or importance than property. Sir, why is our standing army so small? why are we opposed to having large standing armies? You tell me that large standing armies are dangerous to liberty; if you mean any liberty but that of

creditors, I tell you that the caution on that subject is unnecessary: your army is reduced to 6,000, while 25,200 of your citizens have lost their liberty, and are now pining in your prisons. Sir, your creditors, the aristocracy of the country, are infinitely more dangerous to liberty than a standing army of any number. Afraid that liberty may be endangered by a large standing army!! while you arm every creditor with the power of depriving his debtors of their liberty!! Afraid of the tyranny of a large standing army, while you subject the liberty of your citizens to the tyranny of exasperated avarice and inflated wealth! You are careful to secure the liberty of your citizens against the uncertain power of arms, while you subject it to the certain, the tremendous, the resistless power of avarice; for surely that power is tremendous and resistless, which in a free country can imprison twenty-five thousand two hundred innocent, but unfortunate citizens per annum. What, Mr. President, is the practical result of all this care for the preservation of liberty? Is it not that the wealthy and the prosperous are secured in their liberty, and in the power of depriving the poor and the unfortunate of all they possess worth preserving—their liberty? Sir, the liberty of the citizens of a republic should be subjected to hazard only by their crimes. It should depend, not upon the caprice of individuals, but upon the sovereign power of the State, and it ought to cost the State the exertion of its sovereign energies to deprive its humblest citizen of his liberty. But, sir, with us, not only can any one individual deprive another of his liberty, but there is among us a single individual who can at any time deprive thousands, I might say millions, of freemen of their liberty. I mean the bank of the United States; it can furnish nearly all the money which can be beneficially employed in our commercial and other agencies throughout the United States. All who employ or use its money must be indebted for it, either to that institution or to those who are indebted for it. It is easy to perceive, not only the moral influence of that enormous creditor over its debtors, but the power of actual incarceration, which it possesses, under the existing laws. It must, or rather may, and most certainly will, exert whatever imprisoning power it may possess, and choose to exert, through the instrumentality of the United States' courts; so that a corporate person, created by the United States, may imprison ad libitum the citizens of the States who are its debtors; and thus the liberty of the States, which consists in the freedom of its citizens, may be prostrated in the imprisonment of its debtors to an indefinite extent by this institution. Mr. President, this consideration ought not to be without its weight in our deliberations upon the effect of this bill; nor ought it to be overlooked by those who contend that but few cases can arise in the courts of the United States, to which its benign provisions can apply. Sir, the cases may be innumerable, and whether they shall or not, depends, unhappily, not upon the will of Congress, but upon the will of that bank.

And after all, Mr. President, what is gained to mankind by civil imprisonment? Do we learn from the history of England, that the people were more happy, more wise, more virtuous, or even more punctual, after the introduction of civil imprisonment, than before? Not at all; so far as we are furnished with any lights on that subject, we are led to the contrary conclusion. The people were at least as punctual, as virtuous, and more happy, before, than since that period.

The aristocracy of England had motives in the stability and duration which the laws of primogeniture and the doctrine of entails gave to wealth in that country, to swell, by every practicable device, the volume of its power; they could promise themselves, in the durable enjoyment and transmission of the power which wealth confers, some equivalent, however unenviable it might be, for the sacrifices of principle and of feeling which

SENATE.]

*Imprisonment for Debt.*

[JAN. 10, 1828.]

they made to acquire it; but with us, happily, there is not even that poor incentive. They could hope, while struggling to obtain the power of civil imprisonment, that they and their children could exercise it through a long line of succession; but our constitutions have wisely cut off all hopes of that kind, by placing an irreversible negative upon the aristocratic doctrines of primogeniture, entails, and of perpetuities of every kind. Our doctrine, that the distribution, division, and mutation of wealth, is the basis of equality and liberty, ought to impress us with the folly and shortsightedness of advocating civil imprisonment; for, with us, those who, to-day, exercise the power of imprisonment, may, to-morrow, be themselves the subjects of it; so that in the lapse of a single century, the children of unfortunate imprisoned debtors, may imprison the children of the unfeeling creditors of their fathers. We ought to reflect, that while avarice and the bad feelings of the human heart prompt to imprisonment for debt, it is casualty and misfortune, it is, in short, the destinies, that prepare and furnish the unhappy subjects for the exercise of that cruel and unjust power. So that, Mr. President, upon a rational survey of the human condition, for any one century, it will be found, that the people of a Republic will, by civil imprisonment, have tortured themselves, abridged their liberty, and impaired their happiness, without having at all improved their general condition; without having become more wise, more virtuous, more happy, or more punctual. They will not have gained, but they will have lost; lost greatly; lost, to the amount of all the sufferings, and all the agonies, which had been thus uselessly and unavailingly inflicted upon them by their exercise of this bad imprisoning power. But what is greatly more to be deplored, they will have lost their veneration for liberty, which, in all Republics, is the immediate precursor of the loss of liberty itself.

But, Sir, there is another consideration which ought to have great weight in this matter, and that is, that the subjects of civil imprisonment, are generally the most useful and enterprising of our citizens. The people of every State may be divided into those who live upon their capital, and those who live by their labor, or labor for their living. The capitalists are, in the general, indolent, luxurious, and effeminate, possessing neither energy nor enterprise; they are the wealthy. The laborers, who are the poor, are hardy, resolute, and enterprising; they fell the forests, subdue the soil, and spread, under the smiles of Providence, plenty over the land; they make the roads, and cut the canals, which so essentially subserve the purposes of commerce and social intercourse; it is from their toil, and their hardihood, the commerce springs, which enriches the public coffers and sustains the Government. In fine, it is to their valor we are indebted for those victories which have thrown around the nation the halo of glory of which we are all so justly proud. Sir, they are the gunwales and knee timbers of the vessel of state; they are the bone and sinew of the state; they assert, maintain, and preserve that very liberty which is so much abused in their very persons. Sir, I do hope, and I rejoice in the hope, that the bill now under discussion, is destined to banish this monster from the General Government, and that the States will follow the example and banish it from their respective Governments; and that, hereafter, the families and relatives of unfortunate debtors will not be compelled by the rigors of unfeeling creditors, and the connivance of the law, to abhor the Government under which they live.

Sir, I fear I have fatigued the Senate; the importance of the question must plead my apology. I will sit down under the consolation, that I have been advocating the rights of the unfortunate, and under the hope that my feeble exertions in their behalf will not have been unavailing.

Mr. MACON said, that, in the eye of the law and of justice, there was no difference between the debtor and the creditor. They stood on the same ground of right, and deserved protection alike. He never could see into the justice of keeping a man in jail when he had given up all he had. If he did this, what more could be asked of him? If he is put in jail, what can he do? He can't work there, to earn a living and pay his debts, unless he happens to be a tailor or a shoemaker. He did not believe that all creditors were hard-hearted, nor that all debtors were fraudulent. They were likely to be faulty and frail, as human beings always were, but that was all.

I don't intend, said Mr. M. to keep you here long, because it is pretty near our dinner hour; although we have a little time left, because we don't get our dinners until the other House adjourns. But there are fraudulent creditors, as well as debtors, as the gentleman from Ohio said the other day about some claimants for land. For instance, how many fraudulent men are there who go about shaving notes; and I am sure, he is as bad who shaves, as he who gets shaved—I should think, worse. Then how many men are there who lend money to young people, and make a practice of cheating what may be called infants. They say, "Oh, your parents will pay, rather than see you disgraced." The gentleman from Kentucky has said, that there are 1,900 prisoners for debt in the State of New York. Well, it is said, that, perhaps, most of them are in for frauds. But suppose they are; ten righteous people might have saved Sodom and Gomorrah; and if the gentleman from Kentucky gets out ten, that his bill applies to, he'll do well. I am sorry the gentleman has seen fit to use the names of Jefferson and Sumpter, and tell how poor they were. I do not like to legislate under the influence of names. If a thing is right, let it go for such—if not, get rid of it. I know that gambling is common at the South, and so it is in every other part of the country where I have been. But the gentleman says that gambling debts are always paid. Yes; because they are debts of honor: and I believe many men would sell their wives' bonnets to pay them. It is said that they are debts of honor. Yes; because a man who refused to pay them, would be kicked out of the society of his associates, and nobody else will have him: so that he is obliged to make these debts debts of honor. But, it is said that this will operate only in the United States' Courts. Well; there is just where it is wanted. Every man is known in his own State, and has friends who will go bail for him. Our people from the South chiefly go to New York, and there they can manage pretty well—but it is not so every where. I always thought that Governments were made to be rich, and what the gentleman from Kentucky said to-day, makes me believe it. Why is it, that we can't touch Bank stock? Why, because it is held by the rich. It is a kind of lottery that they deal in themselves. Now, this bill will remedy that, because, if any man puts his money into bank stock, he will be coerced to give it up. We are not much troubled with lotteries at the South, though we have a great deal of horse-racing, and many fine race-horses. And for my part, I am willing that people who have money should bet upon them. The reason why this bill has been opposed on former occasions, was, that the gentleman from Kentucky was so very willing to please every body. And he reminded him of the man who, endeavoring to please all he met, lost his ass for his pains. I recollect he admitted an amendment to go into the bill, and I told him that he would lose it: but he was so anxious to carry it, that he wished to make friends to it by allowing all the propositions that were offered. I told him then that he would lose it, and he did lose it—and I am afraid it will be so now. I did not intend to say so much when I rose, as I know that long speeches are seldom welcome near dinner hour.



JAN. 11, 1828.]

Cahawba Navigation Company—Imprisonment for Debt.

[SENATE.]

Mr. TAZEWELL said, that he would merely suggest to the friends of the bill, that a question would naturally arise as to what was to be done with the unfortunate being who happened to be imprisoned. They had made provision that any one who should be imprisoned should be deprived of the benefit of the prison rules, and go within the walls of a prison. He felt this proposition perhaps a little more than others, because he had a few days since made some remarks on the operation of the law on his own State, and on the method of obtaining process on landed estates. But the answer of the gentleman from Georgia was, that the provision applied to all persons who so invested their property as not to be subject to execution. Against them the *capias ad satisfaciendum* was to operate. Thus, every person in Virginia to whom his predecessors have left landed property, would be subjected to imprisonment in close jail, for no other crime than for being the heirs of their fathers. They would be placed in this predicament for no crime of their own, but for the law under which they happen to live. He rose to ask the gentleman whether this was the operation they intended to give the bill.

Mr. BERRIEN thanked the Senator from Virginia for his aid, and his suggestions. It was in no idle or insincere spirit that the aid of his coadjutors had been asked. I shall take every means in my power to consider these suggestions. All the attention I can give them, they shall claim from me. But I must state, that the object aimed at by the friends of this bill in its plan and details, is to relieve all but those who fraudulently withhold their property from their creditors. He felt disposed to give full consideration to the condition of the Virginia landholders, and it should be a subject of his closest investigation. But, as the hour had arrived, he would now move an adjournment.

FRIDAY, JANUARY 11, 1828.

## CAHAWBA NAVIGATION COMPANY.

Mr. VAN BUREN, from the Committee on the Judiciary, reported a bill granting the assent of Congress to an act of the Legislature of Alabama, incorporating the Cahawba Navigation Company, without amendment.

Mr. KING remarked, that, in explanation of this bill, he would merely say, that the Legislature of this State, considering it incumbent on them to obtain the assent of Congress—in which he, [Mr. K.] did not agree with them—to improve the waters within its limits, had instructed him to introduce this bill. The waters of the Cahawba were not now navigable, and it was highly desirable that the obstructions in that stream should be removed. It was therefore proposed to raise a toll upon the navigation, for the purpose of defraying the expense.

Mr. CHANDLER said that he did not know upon what ground the consent of Congress was asked.

Mr. KING further explained, that the Cahawba was a small stream running through Alabama, the navigation of which was necessary to enable the citizens of that State to transport their cotton to market, and bring back the necessary articles of merchandise. The State wished to know whether they had a right to levy a toll for the improvement of this stream, and to obtain the assent of Congress to the enterprise.

Mr. VAN BUREN said that the same bill passed the Senate last year, but did not pass the House. It involved no new principle. The compact between the United States and the new States had restricted the latter from levying tolls on the streams within their limits; and it had been customary, from time to time, to give the assent of Congress to the collection of a toll on waters not previously navigable, to defray the expense of the improvement of their navigation.

The bill was then ordered to be engrossed.

VOL. IV—5

## IMPRISONMENT FOR DEBT.

The unfinished business of yesterday was then taken up, and the bill to abolish imprisonment for debt being under consideration, on the question of engrossing for a third reading—

Mr. BERRIEN moved an amendment to the sixth section, so as to make the provisions of that section operate not merely prospectively, but upon cases of actual imprisonment; which was agreed to.

Mr. EATON moved an amendment to the 7th line of the 10th section, by adding, after the word "female," "or male of the age of 70 years or upwards."

Mr. TAZEWELL referred to the fact, that, under the existing laws, the plaintiff, after obtaining judgment, acquires a lien on the estate of the defendant; which lien has precedence of those subsequently obtained, and entitles the plaintiff to be paid before those creditors who afterwards obtain judgment are paid. But this bill takes away the lien, and reduces the plaintiff, after he has encountered all the costs and trouble of a suit, to the same level with all the other creditors. It was, therefore, obvious that the bill, in this respect, required alteration, at least in phraseology.

Mr. BERRIEN said that the Senator from Virginia would not have made this objection, had he fully contemplated the provisions of the bill. The case presented was this: A vigilant creditor prosecutes a suit, and compels the debtor to an assignment of all his property, and then the negligent creditors, without cost or trouble, come in, sharing rateably in the fruits of the first plaintiff's vigilance. This is the objection. But this is not the intention of the bill. The bill does not take from the plaintiff his lien on the estate of the defendant, nor does it take from him his priority in the distribution of that estate. This construction, Mr. B. said, would be found correct, on reference to the provisions of the bill.

Mr. TAZEWELL did not think that the Senator from Georgia had put a right construction on the words of the bill. The lien, he said, which was acquired by the judgment, was barred by the assignment.

Mr. BERRIEN further explained.

Mr. TAZEWELL was not satisfied as to the correctness of the construction of the Senator from Georgia. Of what use was the execution against the estate after the assignment was made. The property no longer belonged to the debtor, but to his creditors. That is the proper construction, and will be the effect of the bill, unless its phraseology be altered.

Mr. BELL rose to suggest that, in many of the States, the judgment did not give a lien on real estate.

Mr. BERRIEN said that the bill adapted its provisions to the existing state of laws in the Union.

Mr. JOHNSON, of Kentucky, observed, that the bill left the State laws where it found them. Those laws would regulate the lien given to creditors by judgments.

Mr. MCKINLEY said he found, by the 4th section of the bill, a provision for filing interrogatories, with a view to elicit disclosures as to the value of the defendant's property. But he did not perceive that these disclosures were to lead to any beneficial end. No order or proceeding with regard to the property was to be the result of the information obtained through the interrogatories. The property being discovered through this process, was left without any provision as to its distribution. The inquiry, therefore, as to the value, condition, and place of the defendant's property, appeared to him to be nugatory.

Mr. BERRIEN said, the inquiry made by the Senator from Alabama was natural, considering that, in the State where he resided, all property, real and personal, was subject to execution. In some States lands were subject only to be *extended*; in others, they were liable both to extent and sale. If, upon inquiry, by means of the interrogatories, it is found that the plaintiff has no concealed

SENATE.]

Imprisonment for Debt.

[JAN. 11, 1828.]

property, he is exempted from the operation of the *ca. sa.*; but if it be found that he has property, and seeks to withhold it, the operation of the *ca. sa.* revives as to him. The result of the interrogatories, then, will be, that, in those States where land is subject to execution, the party can take out execution against it, if the defendant has any; and in those States where land is exempt from execution, the party plaintiff may take out an execution against the body of the defendant. In regard to personal property, also, the plaintiff, after the discovery of the property, may have recourse to it, or, if it be withheld, to the body, which he may commit to close confinement. The plaintiff, therefore, in case of the discovery of property withheld by the defendant, is remitted to his original remedy, as if this bill had not been enacted.

Mr. McKINLEY was not satisfied with the explanation. If the plaintiff incurs the expense and trouble of a Chancery suit, to ascertain whether the defendant has property, is it proper that the proceeding should there stop? Ought not the creditor to have the power of securing, in some way, the debt due to him? How many debtors, after final process, find means to evade their debts, and retain their property? The interrogatories were in the nature of a bill of discovery; and he was in hopes that they were intended for the double purpose of securing the rights of the creditor and the debtor.

Mr. BERRIEN intended, when up before, to add, in answer to the Senator from Alabama, that, if the bill provided that all property discovered by the courts of interrogatories should be given up to the plaintiff, it would conflict with the laws of those States where lands are not subject to execution for debt.

Mr. TAZEWEILL should not, he said, say any thing in relation to the effect of the bill on those creditors who have gone through with its double process. He had now risen to offer an amendment to the bill, by striking out the 9th section, which provides "that in all cases where the body of any person shall be subject to imprisonment by the provisions of this act, such person shall be deprived of the benefit of prison bounds, and kept in close custody until discharged by due course of law." He had already stated the effect which the provision would have in one State, Virginia; and gentlemen from other parts of the country would apply it to the States which they represented. The effect of the provision in Virginia would be to incarcerate every landholder sued in the courts of the United States. To inherit land in a State where land was exempted from execution, was made a crime; and the debtor landholder must go into close confinement.

Mr. BERRIEN trusted that the motion would not prevail. The principle of the bill is to secure to the honest debtor exemption from imprisonment. Let us take a case and see how the bill will apply to it. A debtor has land in a State where land is not subject to execution; he keeps his property in this manner invested, in order to debar the creditor from his claim; and the plaintiff is then, by this bill, remitted to his original remedy by a writ of *capias ad satisfaciendum*. Then comes in the 9th section of the bill, providing that the debtor shall be kept in custody till he shall make an assignment of his property for the payment of his debts. Is it his fault that he is the inheritor of lands? No; but it is his fault that he withholds them from his creditors. If the debtor was fraudulent, it was argued on all hands that he should be coerced by imprisonment. Where property was not secured in lands, it was sometimes secured by covering the title; and did not concealment or cover of property present a case of fraud? In all these cases the present laws enable a debtor to keep his property, and take the benefit of the prison bounds. He insisted that it was right that debtors, being able but unwilling to pay their debts, should be coerced by close confinement, whatever may be the laws of the States. The insolvent law of Virginia had, he believed,

been recognised by the Circuit Court of the United States, sitting in that State, as that law had been enacted prior to the formation of the Constitution of the United States. The prison bounds in Virginia, therefore, extended to fines issuing on process of the United States' courts, which was not the case in other States.

The only means of enforcement is close confinement. In the cities, particularly where, with money, society and amusements could be found within the bounds, imprisonment is nugatory to the rich. They may, with thousands in possession, live in ease and luxury, in a merely nominal confinement. This bill not only mitigates imprisonment for debt, in cases where the debtor is honest, but it has the further effect to render imprisonment more efficient, in cases where that process is properly used.

Mr. TAZEWEILL said, that the bill purported to mitigate or abolish imprisonment for debt; and also to render such imprisonment infinitely more severe. It made the inheritance and possession of land criminal, and punished it as such; and, perhaps, (if it was so, he should like to have it avowed,) it has the further purpose to force a repeal of the ancient laws of the State which he represented.

The gentleman from Georgia says, that, after judgment is pronounced against the landholder, he ought to sell—this might do in a State where a large amount of money is circulated, and where there is a great demand and ready sale for land; and such was, perhaps, the case in the State of Georgia: if it was so, he was glad of it. But such, he assured the gentleman, was not the case in Virginia, nor in any other merely agricultural country that he ever heard of. But who, he would ask, would purchase the land under such incumbrances as the bill imposed on it? It is to be sold subject to all the claims of all his creditors; and who will buy before the amount of these claims are ascertained and fixed? In the first place, the debtor, under this law, though guilty of no fraud nor folly, is imprisoned, and denied bail; he would relieve himself by the sale of his land, if he could sell it, but that necessarily requires time; and, moreover, nobody will purchase the land, for reason of the lien on it. His anxiety for the preservation of faith in contracts was as great as that of the Senator from Georgia. *Fides servanda est*, was a maxim which should prevail in all public and private transactions. Personal liberty was valuable; but it would be purchased at too dear a price, if acquired at the expense of good faith. He asked for the ayes and noes on his motion to amend.

Mr. BERRIEN rose to make a single suggestion. If a defendant have property not liable to execution, but bound by the judgment, it is said that he will be subject to close confinement, unless he sells or assigns his property. This difficulty did not in fact exist. If the property was sufficient to meet the debt, it could be sold; for what would hinder purchasers from taking it at a fair price, in which the liens should be included? Whenever he relinquishes his property to his creditors, that moment he is free. If he does not relinquish it, the plaintiff is restored to his original rights.

Mr. VAN BUREN said, that we owe it to the country to dispose, without delay, of this subject, which, for six years, has consumed so much of our time. In the first discussion on this subject, it was contended that the rights of the creditor were impaired by the provisions of the bill; it is now said of the same bill and provisions, that they give too great a power to the creditor over the debtor. Now, Sir, how stands it? The provision objected to, is, in my opinion, the most salutary contained in the bill, and both debtors and creditors would probably concur in the opinion. The provision draws a distinction between debt and crime. It subjects no one to imprisonment except those who, having the ability, want the inclination to pay their just debts. The bill provides that no one should be imprisoned on *mesne process*, except those who are



JAN. 11, 1828.]

*Imprisonment for Debt.*

[SENATE.]

fraudulent. Suspicion of debt is not made punishable, and on what principle of humanity and equity can you punish a man on mere suspicion of any crime? The final process is also objected to. What is that process as it stands? The creditor may confine the debtor till the debt is paid, or till he is discharged by course of law. The bill confines the debtor until he has surrendered, for the benefit of his creditors, all his property: and can you confine him any longer, except as a punishment?

There has been a time when debt was punished; but, in this age, and in this country, no one attempts to justify imprisonment for debt, except as the means of coercion to payment. But what avails coercion, after the property of the debtor is given up? The legitimate object of final process is then attained by the bill. He would also contend and show that this object was more fully attained, than by the existing laws. At present, in every different State, wide limits were secured to persons committed on final process. In the State of New York, the jail bounds extended to the limits of the county. The rich and fraudulent debtor, therefore, goes on the liberties; and lives in ease and independence, wantoning on the property of his creditors. He may, perhaps, for a little while, lay aside his coach, but not always. He was not excluded from society, nor from any luxury which money could procure, and he supposed none of the disgrace of confinement. I say, then, said Mr. V. B., that the present law for imprisonment for debt does not apply to fraudulent debtors. One object of the bill is to extend the rigors of confinement to them, and to relieve the honest debtor. It puts the dishonest debtor within the four walls, and keeps him there till disgrace, mortification, pride, and interest, shall compel him to disgorge his ill-gotten wealth. To every case of fraud this provision applies; to the disbursing officer, who is guilty of a double breach of honesty, as an officer and a man; to the executor, who has betrayed the most sacred trust that can be reposed by man in his fellows; to the attorney, who has been faithless to his profession, and to the confidence of the community. If the Senator from Virginia had confined his amendment to the particular case of landholders in Virginia, he would not have opposed it. But he has pushed it to an extent which would destroy one of the best features of the bill. I have, said Mr. V. B., in my mind's eye, many cases wherein creditors are suffering all the evils and distresses of honesty, while their debtors are luxuriating in wealth, within prison limits. There was no wish to apply the provision to Virginia landholders, and he would vote for their exemption, if, as it had been said, it bears harshly on them. He saw, however, no difficulty likely to arise from their case. They could sell or assign their lands, and thereby become entitled to the benefits of the bill. If, after judgment is obtained, they keep their property invested in lands, with a view to defeat the claims of their creditors, the provision would apply to them.

Mr. HAYNE had not, he said, the slightest wish to prolong the discussion. He rose merely to state a fact. The Senator from New York says that the provision of the 9th section has no other object than to punish frauds. Now, said Mr. H., if I do not show him that he is mistaken as regards this fact, I will abandon the whole question. The provision is, "that in all cases where the body of any person shall be subject to imprisonment by the provisions of this act, such person shall be deprived of the benefit of prison bounds, and kept in close custody until discharged by due course of law." In all cases this clause is to operate. What are the cases? Disbursing officers. Are all these who are indebted to the Government fraudulent? We have ourselves passed laws for the relief of many of them from their debts to the Government. Merchants, who owe revenue debts, are all these fraudulent? Their property is exposed to the winds, waves, and the ravages of fire, which oftentimes disables them from meet-

ing their revenue bonds. Other cases mentioned were, perhaps, properly qualified as fraudulent. But there is another large class of persons to which the clause applies, who are guilty of no fraud; he meant those who keep their property so invested as to prevent its liability to attachment or execution, after judgment is recovered against them. The gentleman from New York, in reciting this clause, used the words "with a view" to prevent, &c. Those words did not appear as a qualification in the bill. If a landholder in Virginia becomes liable to the clause, the gentleman from New York says he may sell his lands. But this cannot always be done immediately, if, indeed, it can be done at all. In Virginia, as well as in other Southern States, lands have been offered for sale over and over again, without finding any bidders. In case the landholder fails to sell, he must go, without bail or mainprize, into close prison.

Mr. VAN BUREN explained, and replied to the Senator from South Carolina.

Mr. JOHNSON, of Kentucky, spoke briefly in opposition to the amendment. In trying to please every body, he said, the committee would please nobody. He believed that the bill, in its original form, was more efficient, both for debtors and creditors.

The question was then taken by ayes and noes, on Mr. TAZEWELL's amendment, and decided in the negative, as follows:

YEAS.—Messrs. Chase, Ellis, Harrison, Hayne, Hendricks, Noble, Robbins, Ruggles, Tazewell, Thomas, White, Wiley.—12.

NAYS.—Messrs. Barton, Bateman, Bell, Benton, Berrien, Boulogny, Branch, Chambers, Chandler, Cobb, Eaton, Johnson of Kentucky, Johnston of Louisiana, Kane, King, Knight, McKinley, McLane, Macon, Marks, Parris, Ridgeley, Rowan, Seymour, Silsbee, Smith of Maryland, Van Buren, Williams, Woodbury.—29.

Mr. COBB rose to offer an amendment, but said he would give no pledge to vote for the bill, even if the amendment was adopted. He moved to strike out from the first section the words, "But if the court shall be of opinion that the said allegations are not well founded, it may make an order, to be entered on record, discharging the said bail or security from his or their suretyship." The object of the amendment was, he stated, to relieve the plaintiff from the delay, expense, and embarrassment, of trying the issue on his allegations. The trial would necessarily be inconclusive; for though the judge might decide one way, the jury, on the main issue, might decide in another way. The bill, he said, provided for several trials in the same cause, some of them on collateral points. The prospect of so much delay and embarrassment would prevent a plaintiff from prosecuting the most plain and just action.

This amendment was opposed by Messrs. JOHNSON of Kentucky, KANE, VAN BUREN, and BERRIEN, and supported by Mr. WOODBURY.

The question being taken on the motion, it was decided in the negative.

Mr. NOBLE wished to have time allowed him to examine the bill further, with a view to ascertain its bearing on the Western States. He was under the impression that it would destroy all commercial confidence in the West, and that it was a bold and alarming innovation on the laws, usages, rights, and interests of the Western people. The benefits of the bill were, in his opinion, entirely visionary. It would have no tendency to mitigate the evils resulting from Imprisonment for Debt, but would destroy credit and confidence. He should therefore resist it. He would stand in opposition to it if he stood alone. Notwithstanding the abuse which had been heaped upon him by the public press, on account of his opposition to this bill, he should still exert his efforts to prevent its passage. Regardless of consequences, he should

SENATE.]

*Columbian College.*

[JAN. 14, 15, 1828.]

withstand the popular current, and discharge his duty. He moved that the bill be postponed to Tuesday next, and made the order of the day for that day.

Mr. JOHNSON, of Kentucky, did not hear the reason, he said, which the Senator from Indiana gave for the postponement. Those near me inform me that he wishes to be heard in opposition to the bill. I shall with great pleasure listen to the arguments of the gentleman on the subject of the bill. He does not often detain the House in speaking, and, in respect to my willingness to hear him, I would be content to comply with his request for the postponement. I was not aware that the gentleman had been abused in the public prints on account of his opposition to this measure. If he has been misrepresented and abused as he complains, I assure him that I lent no aid to it.

The reasons which the gentleman has given for his hostility to the bill appear to me to be contradictory. In one breath he says that the bill will not abolish imprisonment for debt, and, in the next, he says it will destroy commercial confidence. The gentleman objected, too, to the title of the bill, as differing from its character. I shall be very glad to hear his argument on the title of the bill. While he denies, however, that the bill will abolish imprisonment for debt, he declares that it is destructive of the rights of creditors, although it is not to operate on any existing contracts. He wished to give the gentleman an opportunity to express his views; but, as the time which he proposed is distant, I shall vote against his motion for postponement.

Mr. NOBLE replied, that he was happy to learn that, though the Senator from Kentucky was so sensitive on the subject of his bill, he was willing to listen to arguments in opposition to it. His views were not so contradictory as the gentleman supposed. He believed that the bill would help the Western States, poor as they had always been; and the case of the 1900 debtors in New York, who were not to be relieved by the bill, would show that it did not abolish imprisonment for debt. The Senator from Kentucky thinks, however, that I have asked for too long a time. I ask, said Mr. N., only for four days; whereas the gentleman has taken six years. The Senator from Kentucky hoped the bill would be decided on, because it was his hobby. He, thank God, had no hobbies. He stuck to the people. The people asked no favors from the Government. They had not asked for this bill. The gentleman had often, on this floor, expressed his jealousy of the federal power, and his apprehensions that it would swallow up the States. If he gets this bill through, he will find that the States will swallow up the general Government. He should press his motion.

Mr. SMITH, of Maryland, said that he did not understand that the Senator from Indiana intended to offer any amendment. In that case he may suffer the bill to pass to the next stage, and take an opportunity to express his views on its third reading.

Mr. NOBLE replied, that he had an amendment to offer. He would move that on mesne process the debtor should be discharged on making a surrender of his property, and on final process he should be discharged on making a surrender of his property.

Mr. JOHNSON, of Kentucky, said those were the very provisions of the bill as it stood.

Mr. CHANDLER moved to lay the bill on the table. On division, 22 rose in the affirmative, and 22 in the negative. The Chair voted in the negative.

Mr. BERRIEN said, he hoped the Senator from Indiana would allow the bill to go its next stage, as he had declared his opposition to the whole bill, he would not care to amend it: besides, the amendments suggested by him are distinctly the main provisions of the bill. If, however, he insisted on its motion, he should vote with him.

Mr. NOBLE considered, he said, that he could not withdraw his motion. He wished time to examine the bill in all its bearings, and he should propose amendments which would go to simplify it, and rid it of its complex and heavy machinery.

The question on the postponement of the bill to Tuesday was taken, and carried in the affirmative.

The Senate then adjourned to Monday next.

MONDAY, JANUARY 14, 1828.

The Senate spent nearly the whole of this day's sitting in the consideration of Executive business.

TUESDAY, JANUARY 15, 1828.

COLUMBIAN COLLEGE.

The bill for the relief of the Columbian College, in the District of Columbia, was taken up.

Mr. CHANDLER said that he was uninformed as to the object and character of the bill, and would be glad to hear some explanation of it.

Mr. JOHNSON, of Kentucky, had hoped the vigilance of the Senator from Maine would supercede the necessity of making any explanation on this subject to him. The bill had, for several sessions, been before the Senate, and had often been fully explained. Its object was to relinquish to the Columbian College twenty-five or twenty-six thousand dollars, with interest, amounting to twenty-eight or thirty thousand dollars, being a debt due from the college to the Government. The relinquishment would relieve the college of great embarrassment, which would otherwise bear it down; involving in its destruction great loss to individuals and a total loss of the debt due to the Government. One portion of the debt was contracted by the Rev. Luther Rice, agent of the college, with the Secretary of the Treasury, for two houses, situated on Greenleaf's Point. Mr. Rice thought he could turn the property to advantage, and he purchased it, giving a lien on it to the Government for security. The Government will therefore get back the property in the same condition in which it was sold. The other part of the debt became due by the assumption, on the part of the college, of a debt which Mr. Thomas L. McKenny owed the Government. Mr. J. was not well acquainted with the particulars of this transaction, but he was informed that the arrangement proved to be very prejudicial to the interests of the college; inasmuch, as, for a trifling consideration, it was made responsible for a large debt. He would now show, how the passage of the bill would materially benefit the institution, and how its rejection would ruin it. The institution had been founded by voluntary contributions. Its early receipts did not realize anticipations, and its expenditures, which were based on the supposition that the college, in its first years, would have been 100 students, considerably exceeded those receipts. The debt which the college owed to individuals, was about one hundred thousand dollars, exclusive of the debt to the Government. The creditors had agreed to take \$75,000, and to give up their claims, relying upon the honor of the institution to pay the other portion when it was able. To pay this sum of \$75,000, the college had \$25,000 in stocks, and could raise \$50,000 more by individual contributions. This sum had been subscribed, payable on the condition that the claims of the Government and of individuals against the college, should be relinquished. If, however, an attempt be made to enforce the payment of the debt, the exertions of the friends of the college would be paralysed. He hoped that no opposition would be made to the bill. It would prop up a seminary which would be fruitful of advantages to the cause of education, without in any way impairing the rights of the Government, or calling upon it for a single cent: for, if the Government pushed its claims, those claims must be lost, as well as

JAN. 16, 1828.]

Columbia College.

[SENATE.]

the claims of the private creditors. Congress, too, was the Legislature for the people (he might call them unfortunate people, for they had no political rights,) of the District of Columbia; and if Congress did nothing to promote the literary institutions of the District, it would not do what the State Legislatures had done in each several State. The proposition to relieve and re-establish the institution by this cheap and easy boon, would not, he trusted, find a dissenting voice.

The Congress had been called upon to extend this relief, by the memorial of a number of individuals whose characters were as respectable as the object which they proposed was laudable.

Mr. CHANDLER was, he said, friendly to the college, which he hoped would succeed; but he was opposed to the means by which the bill contemplated to relieve the college. He objected to this bargaining, which, it appeared, had been going on between the Government and the college. He also objected to the principle that the college, as a party to these bargains, could hold the Government to them, if they proved advantageous, and be released from them if they proved disadvantageous. He doubted not that the gentleman from Kentucky was fully informed as to the facts, in which respect the gentleman had an advantage over him; but he must, however, take leave to protest against what he conceived to be the principle of the bill.

Mr. SMITH, of South Carolina, was, he said, in the dark as to the merits of the transactions alluded to by the gentleman from Kentucky; he should, therefore, move to recommit the bill to the Committee on the District of Columbia, with a view to have the facts reported.

Mr. JOHNSON, of Kentucky. They had been reported.

Mr. SMITH would then be glad of an opportunity to read the report. He would like to know something of the bargain for the houses, and how the Government became a dealer in houses; and he would thank the gentleman to inform him where he could find the report.

Mr. EATON said that the committee had not made a detailed report of the case this year; but there was one last year, and there had been one nearly every year for the last three or four years. He did not think it necessary, therefore, to go into the merits of the case fully. The only question was, whether the Government should relieve the college from a disadvantageous bargain. The facts were, briefly, that some years ago the Government had unavailable funds in the Cincinnati Bank. A part of these funds, which, it seems, were ultimately lost to their holders, were disposed of by the Government to an individual for the two houses in question, on Greenleaf's Point. Mr. Rice, the agent of the college, purchased the property, giving the Government a lien on it for security. But the contract proved to be a very unprofitable one to the college. Its benefits enured to the Government; for it got security for its unavailable funds, and still holds a lien on the property. In the second contract, Col. Thomas L. McKenney, an officer of one of the Departments, owed a debt to the Government, which was assumed by the college, and Col. McKenney was to pay the debt to the college in instalments, payable from time to time; but it seemed that the college never received but \$1000, though their liability to the Government still remained. The institution was formed by private funds without the aid of Government. It was objected to it, that it was sectarian; but, though sectarian in its origin, it was not so in practice. The subscribers to the relief of the college would not invest their funds while this debt was hanging over it. These subscriptions would be paid only in case the college should be able to obtain a discharge from its creditors. It was left to Congress to determine whether, by relinquishing the debt, to re-establish the college, or, in character of a creditor, to break it down.

Mr. SMITH, of South Carolina, moved the postpone-

ment of the bill to Friday next, with a view to examine the case; which motion prevailed.

WEDNESDAY, JANUARY 16, 1828.

The bill to authorize the purchase of sites, and the erection of Custom Houses at Newport, Rhode Island, and Mobile, Alabama, and for the repair of the Custom House at Newburyport, in Massachusetts, was read a second time.

Mr. WOODBURY stated, that the peculiar situation of the ports in question, made it necessary that this appropriation should be made. As to Newport, it had been shewn that there was no fire proof building in the place that could be hired for a Custom House, and hence it was considered necessary for the United States to build. As to the commerce of Newport, the committee had proof before them that, for several years, the amount of the duties had been \$60,000 per annum. As to Mobile, those stores which had hitherto been considered fit for hiring, for this purpose, had been consumed in the late conflagration; and those which remained were not considered suitable. The duties collected at Mobile, had, for several years past, averaged nearly \$60,000. Hence a Custom House was more needed there than in many ports where they have been established. All that was required in relation to the Custom House at Newburyport, was to repair the building, which had been obtained from a person indebted to the United States, and for which only a small amount of rent was paid. If required, this building would not only afford accommodations for a Custom House, but the remaining portion might be rented. In some ports the rent of the building was paid by the officers; but in the ports, named in this bill, the rent was paid by the United States.

Mr. ROBBINS made some explanations, as was understood, in relation to the Custom House at Newport: when the bill was ordered to be engrossed for a third reading.

The bill declaring the assent of Congress to the renewal of several acts of the Legislature of Maryland, was read a second time.

Mr. SMITH, of Md. said, in explanation, that, prior to the adoption of the constitution of the United States, the Legislature of Maryland had passed several acts granting certain rights to the port of Baltimore, for the improvement of the harbor. After the adoption of the constitution, those acts had been renewed by Congress, and this is the object of the present bill. The grant was two pence on the ton, which amounted to about \$3,000; while \$18,000 had been appropriated by the citizens of Baltimore to deepening the channel, for which purpose no assistance had ever been asked of Congress, while other cities, similarly situated, had frequently received its aid.

The bill was ordered to be engrossed.

The bill for the relief of the surviving officers of the Revolution, was read a second time.

Mr. WOODBURY said, that as this was a bill of considerable importance, both in point of principle, and the amount of property, he should move its postponement until Wednesday week, and that it be made the order for that day; which was agreed to.

#### IMPRISONMENT FOR DEBT.

The special order of the day on the bill to abolish Imprisonment for Debt, then occurred.

Mr. NOBLE, after some remarks in opposition to the details of the bill, proposed the following amendments:

Strike out, in the 5th section, after the word 'rendered,' to the word 'costs,' and insert the following:

"A schedule of his or her whole estate, and take the following oath, which the clerk is hereby empowered to administer: I, A. B., do solemnly swear, or affirm, (as the case may be,) profess and declare, the schedule now delivered and filed, by me subscribed, doth contain, to the best of my knowledge and remembrance, a full, just, true,

SENATE.]

Imprisonment for Debt.

[JAN. 16, 1828.]

and perfect account, and discovery of all the estate, goods, and effects, unto me in anywise belonging, and such debts as are unto me owing, or to any person in trust for me, and of all securities and contracts, whereby any money may hereafter become payable, or any benefit or advantage accrue to me, or my use, or any person or persons in trust for me; and that I, or any person or persons in trust for me, have no lands, money, stock, or any other estate, real or personal, in possession, reversion, or remainder, of the value of the debt or debts with which I am charged in execution, or owing to others, and that I have not, directly or indirectly, sold, lessened, or otherwise disposed of, in trust, or concealed, all, or any part of my lands, goods, stock, debts, securities, or estate, whereby to secure the same, to receive or expect any profit or advantage thereof, to defraud or deceive any creditor or creditors to whom I am indebted in anywise however. Which schedule, being so subscribed in the presence of the clerk of the court, shall remain with him, for the information of the creditors of such defendant or defendants."

And at the end of section 9, add sections 10, 11, 12, and 13, as follows:

"Sec. 10. The lands, tenements, and hereditaments, which shall be contained in such schedule for such use, right, and interest, or title, as such defendant shall then have in the same, which he may lawfully part with, reserving to the wife of such defendant her right of dower therein, and also all goods and chattels whatsoever in such schedule contained, shall be vested in the marshal of the district where such lands, tenements, hereditaments, goods, and chattels, shall lie or be found; and such marshal is hereby authorized, empowered, and required to sell and convey the same to any person or persons whatsoever, at public sale, for the best price that can be got for the same; and the money arising by such sale, shall be by such marshal paid to the creditor or creditors at whose suit such defendant may have been arrested. And after the delivery of such schedule, and the taking of said oath, it shall be lawful for said clerk, by his order, under the seal of the clerk, to command the marshal or jailor, in whose custody such defendant may be, forthwith to set at liberty such defendant; which order shall be accordingly obeyed, and shall be sufficient to discharge and indemnify such marshal or jailor against all escape, escapes, action, or actions whatsoever which shall or may be brought or prosecuted against him or them, by reason thereof. And if any action shall be commenced against such marshal or other officer, for performing his duty in pursuance of this act, he may plead the general issue and give this act in evidence.

"Sec. 11. When any defendant shall be discharged pursuant to this act, and the schedule subscribed and delivered in by such defendant, shall contain money due to such defendant, or of goods, chattels, and estates, or estates to him belonging, or in the possession of any person or persons for his use, in that case the clerk of the court with whom the schedule is directed to remain shall immediately issue a summons against each of the persons named as debtors in such schedule, and against such others as are therein said to have possession of any goods, chattels, or estate of the property of the defendant, reciting the sum of money he or she is charged with, or the particular goods, chattels, or estate said to be in his or her possession, and requiring him or her to appear at the next court, and declare on oath whether the said money, or any part thereof, be really due to such defendant, or whether such goods, chattels, or estate, or any of them, be really in his or her possession, and are the property of such prisoner; and if the person so summoned shall fail to attend accordingly, or to show good cause for his non-attendance, it shall be lawful for the court to enter judgment against every such person for the moneys, goods, chattels, or estate, in such schedule mentioned, together

with costs of suit; and if such person so summoned shall appear and be sworn, judgment shall be entered for so much of the money, goods, chattels, or estate, as he, she, or they, shall acknowledge to be due, or to be of the property of such defendant, and in his, her, or their possession, with costs as aforesaid; which judgment shall be entered in the name of the marshal of the district, who may thereupon proceed to levy execution, as in other cases, and to dispose of the money, goods, chattels, or estate, so recovered, in the same manner as by this act he is directed to dispose of other effects.

"Sec. 12. And be it further enacted, That, where any such garnishee shall not acknowledge the whole money to be due, or all the goods, chattels, or estate mentioned in the schedule to be of the property of the defendant, and in his possession, the marshal, or such defendant, shall be at liberty to claim the residue by legal process; and the former judgment as to such garnishee shall be no further bar in such process, than for so much money, or such goods, chattels, or estates, as the garnishee is thereby ordered to pay and deliver.

"Sec. 13. And be it further enacted, That the marshal shall be allowed to retain, out of the effects of such insolvent defendant, before the distribution thereof, and before the payment of the amount of the judgment to the plaintiff or plaintiffs, all reasonable expenses in recovering such money, goods, chattels, and estate as aforesaid, for proceeding against a garnishee, as shall be judged reasonable by the court. And after such expenses are paid as aforesaid, and the judgment as aforesaid to the plaintiff or plaintiffs, all the residue of the proceeds of the insolvent defendant's estate, shall, under the order of the court, be distributed rateably among the creditors of such defendant or defendants."

Mr. EATON proposed the following, as an amendment:

"Sec. 10. And where any male of the age of sixty years and more, or where any female shall, at the passing of this act, be in confinement for debt, or in the bounds upon surety for the prison rules, they shall, on the fourth day of July next, be discharged from the said imprisonment, if confined; or, if under bond to keep within the prison bounds, they and their securities shall be released and discharged from the stipulations and liabilities contained in any bond given for said prison bounds: *Provided*, if the creditor shall, on or before the first day of July, make oath, before the clerk authorized to issue executions, which shall be retained on the files of his office, that he verily believes the debtor has concealed or disposed of his goods and effects, with a view to defraud his creditors; or has covertly so disposed of them, as that they cannot be reached by ordinary process of law; a notice of which said proceedings shall be served on the debtor, and be traversable in the mode herein before provided for, then, and in that case, the party imprisoned or in the bounds, shall not be discharged, in virtue of any of the provisions of this act, until said traverse shall be acted upon.

"Sec. 11. And be it further enacted, That in all cases where the administering of any oath shall become necessary, if the witness or person offering to swear, shall have any scruples of conscience, it shall be lawful for him to affirm; which said affirmation shall have the same effect, and, if false, be subject to the same pains and penalties which appertain to the taking a false oath."

Mr. BERRIEN did not purpose, he said, to discuss the amendments, nor to go fully into the subject of the bill.— But he thought that the manner in which the bill had been discussed, by reference to particular amendments, was not the most favorable mode to promote the success of the bill. He should, at this time, content himself with suggesting some few ideas, which, in his opinion, were decisive in favor of the bill, in opposition to the amendments. The bill provides that after a judgment

JAN. 16, 1828.]

*Imprisonment for Debt.*

[SENATE.]

or decree is obtained by the plaintiff, the defendant may relieve himself by making an assignment of all his property for the benefit of his creditors, and provides a mode for testing the fairness of the assignment. In lieu of this, the amendments substituted a provision, vesting in the creditor at whose suit the judgment or decree is obtained, an absolute property in the defendant's effects to the amount of his claim, and then divides the remainder ratably among the other creditors. This was the precise subject already discussed on the objection of the gentleman from Virginia, [Mr. TAZEWELL,] made under a strong impression as to the effect of the bill. The amendments provided no mode of testing the validity and fairness of the assignment, and afforded opportunities for fraud. Try the principle by applying it to a case. Suppose A to be indebted to certain persons: B, who may or may not be a creditor, is suffered, by collusion with A, to obtain a judgment and conveyance of his property. A then takes the oath, and his creditors are cheated. This would not happen under the provisions of the bill. The amendment of the Senator from Indiana further proposed to substitute an arbitrary and summary process for the right of trial by jury. The allegations of fraud are to be tried and decided by a judge instead of a jury. It seems to me, said Mr. B. that the amendments will fail of their intended effect, and that they have not been deliberately considered by their movers. What protection does this tribunal, proposed by the amendments, offer to the debtor? If he comes at the summons, he is deprived of the right of trial by jury; if he does not come, he is to be considered as contumacious, and judgment is to be forthwith entered against him. For what purpose was this amendment? To prevent the practical operation of the 5th section of the bill. Among the many arguments relied on, in opposition to the bill, was one which had ever been urged against reform—the dangers of innovation. Mr. B. did not fear innovations. To guard against their danger, it was only necessary to consider existing laws or institutions, in comparison with the improvements proposed. In this case the obligation was imposed upon us to consider the existing law, and the practicability and expediency of the proposed substitute.

The suggestion then, amounted only to this, that we should consider the practical effect of the measures which we adopt, and, as he must be permitted to say, it applied to every exercise of legislative power, as well as that now under consideration. It surely was not intended to be maintained that the fear of change should arrest our march in jurisprudence, and rivet upon us forever the errors of our ancestors. No one was prepared to advocate civil imprisonment in the abstract. The fears of many were alarmed by the suggestion that the evil was affiliated with our laws, and could not be rudely cut off, without deeply wounding those laws themselves, and the bare possibility of such a result, in their opinion, put an end to the argument. He, therefore, begged gentlemen to point out the precise provisions of the bill to which they objected. If they concurred in the principle, they had a right to call in question the practical operation of the bill; but let them not denounce it, in general terms, as an innovation. In Mr. BARRIEN's opinion, an undue importance had been attached to the bill, both in and out of Congress. The effect of this had been to increase the opposition to the measure. The bill was extremely limited in its operation. Few debtors would come within its scope. It was true that, within the sphere of its operation, it takes from the creditor the engine of oppression and extortion, but he would fearlessly assert that it also greatly added to the means of recovering payment of debts, where there was property in the hands of the debtors. He would ask, what is the principle on which the rights of creditors rest? Imprison-

ment for debt was given to creditors, as a punishment for withholding property, or as a means to enforce the surrender of concealed property. In punishing debt the law confounds it with guilt; as a punishment of fraud then it is ineffectual and improper, for its exercise is capricious and indiscreet. The bill asserts a limit beyond which the power of the creditor shall not go. If imprisonment be used as a means of coercing a fraudulent debtor, the propriety of applying such coercion to any particular case must depend on the proof of the fraud. If fraud be not proved, the principle does not apply, for it is not reasonable to imprison those who have not concealed property. Take then imprisonment for debt as you will, you will find that the rights of creditors go far beyond the principles on which they are based. Does this bill secure creditors from fraud, and withhold from them the means of oppression? If so, it secured to creditors all the rights to which they were entitled, and restored the exercise of them to proper limits. In mesne process, unless you have reason to apprehend that the defendant intends to abscond or withdraw from the jurisdiction of the court, you have neither right nor motive to arrest him. If you charge crime, the party is arrested but not committed. The magistrate is bound to look into circumstances, and if the charge be not supported by proof, the party is entitled to a discharge. Why should the law make debt, and even the suspicion of debt, more criminal than murder? The bill, therefore, required that the plaintiff, before he could hold the defendant to bail, should make oath that the defendant is about to leave the country, &c. and should give reasonable proof of the fact. This was no new principle. It had always been extended to those who were charged with crimes. But it was said that there was a second trial, a second series of oaths, allegations, and issues. Whenever there is doubt, said Mr. BARRIEN, the law gives the benefit of the doubt to the citizen defendant. The citizen was not, by any principle, bound to prove his liberty, but his accusers were bound to prove their right to deprive him of his liberty. Unless, therefore, gentlemen are prepared to deny this principle, they cannot object to the provisions of the first section.

The remaining section, which it was necessary for Mr. B. to animadvert upon at this time, was that which regulated the mode of proceeding after judgment. The existing law authorizes execution either against the body or the property of the defendant. The bill gives a process to the creditor, and another to the debtor; the objects of both of which are to secure the creditor in the possession of the debtor's property, if he has any, which he refuses to surrender; and, if he has none, to secure the debtor in his right to personal liberty. In one process, the creditor may mean that the defendant has concealed property; the creditor appears before the court to contest the allegation; and, according to the result, the debtor is imprisoned or not. In the other process, the debtor may make an assignment of his property, and the creditors may appear to contest the fairness of the assignment; and, according to the result, the debtor is liable to imprisonment or not. In either case, if the debtor proved fraudulent, the plaintiff resorts to his original remedy. But the debtor who is proved to be fraudulent, is deprived of the benefit of prison bounds. The objection to this part of the bill is made upon an assumption that public opinion will interpose itself between the creditor and the debtor, and restrain the former from oppressing the latter. It is conceded that the imprisonment of an innocent debtor is cruel and unnecessary, but it is attempted to exempt the principle conceded from any practical operation, by an assumption that the moral influence of public opinion was so powerful as to prevent such imprisonment. Gentlemen say there is no case in which honest debtors are imprisoned.

SENATE.]

Imprisonment for Debt.—Navy Lieutenants.

[JAN. 17, 1828.]

Mr. B. was as free as any one to concede that the conventional and moral laws of society were more powerful than statutory enactments; and he would put the issue on the fact, whether public opinion was exercised on this subject to such an extent as to prevent any abuses of the law of imprisonment; and, if it was found that there was, or was likely to be, a single case which required the interposition of the law between the avarice of an unfeeling creditor and the liberty of an honest debtor, he would advocate, to the whole extent of his ability, the passage of this bill.

It was not necessary for him to inquire whether the number of debtors entitled to relief would be greater or less than had been supposed; for if there should exist any occasion for the operation of the bill, it would be with him a sufficient reason for adopting it. But, any one who had long been engaged in the practice of the law, knew that cases of imprisonment, even of the most honest and deserving men, were not rare; and it was known too, to the profession, that persons are often sued in order to force them, by the difficulty of getting the necessary bail, to a compromise, and to the payment of a smaller sum. Writs were also used to force the friends of the debtor to relieve him from his debt, and the danger of a jail. Even when individuals had given up all their property, and paid nearly all their debts, having, perhaps, given a preference to endorsers, or some other creditors, in conformity with established usage, he was thrown into prison with the expectation that some one of his friends or connexions would pay the debt. An appeal was often made to the father by a *ca. sa.* against the son; and the last resource of the wife was extorted from her by a *ca. sa.* against her husband. Mr. B. thought that all creditors could not be restrained in the exercise of their rights by moral considerations. They would extend their means of coercion, from the debtor to those of his connexions, to whom he is near and dear. In Mr. B's opinion, the legal and moral operation of the *capias ad satisfaciendum* ceased with the debtor; and, to extend it further, with a view to operate on others, was inconsistent with the object of the process, and with the rights of humanity.

It was also objected to the provisions of the bill, that their operation would be attended with trouble to the party plaintiff. The "complicated machinery" of the bill had been much dwelt upon as an argument against it. This objection he would meet on the same principles with which he had met the alleged "innovation" of the bill on the established laws.

The machinery of the bill was the provisions adopted to carry into effect the principle of the bill. If any of the provisions were unnecessary or inefficient for this object, let them be pointed out, and altered or expunged. But the industry and vigilance of the opponents of the measure, had failed in detecting such provisions. The objection is not to the machinery but to the consequences resulting from it. Take this proposition: no debtor who has honestly surrendered his property should be imprisoned; every body grants it. But it is said that some debtors have property locked up in *choses in action* and bank stock, and therefore the *ca. sa.* must in every case be retained.

Mr. B. denied the consequences. A vast majority of those who come within the provisions of the bill had no bank stock, nor *choses in action*, or other property concealed or withheld. This argument is refuted by stating it. It asserts a right to use the *ca. sa.* against all, because there is propriety in using it against a few. In regard to this case, the bill pursued that middle course which had always been found to be the safest course. Truth and propriety were ever found between extremes. The bill gave the usual process to the creditor, on condition that he proved a fraudulent intention on the part of the

debtor. This was the head and front of the bill's offending. It goes so far as to secure the creditor in his *just* rights, and no farther. On these views Mr. B. was content to rest his vindication of the bill from the objection that its *machinery* was complex.

Another objection to the bill had been urged by the Senator from South Carolina, Mr. HAYNE, that the writ of *ne exeat*, as used in the State of South Carolina, was abolished by the bill. Here Mr. B. showed that, under the laws of England, and those of the States, so far as he knew, excepting the State of South Carolina, the *ne exeat* was a prerogative writ, and, out of Chancery, was applied only to two cases, to wit; alimony and accounts in which Chancery and common law were concurrent. With a few more remarks, showing that the bill pursued that middle path, which equally respected the just rights of creditors, and the personal liberty of debtors, Mr. B. was content to submit the bill to the decision of the Senate.

Mr. SMITH, of S. C. considered that the amendments offered by the Senators from Tennessee and Indiana, embraced some important principles, and he therefore hoped that time would be given for their consideration. The eloquent and able argument just delivered by the Senator from Georgia, in which many new points had been introduced, also rendered it necessary that the opponents of the bill should be heard before the final vote on it was taken. He would move that the bill be laid on the table till to-morrow, not with a view to delay it a moment after 12 o'clock.

The motion was negatived, ayes 17, noes 18.

Mr. SMITH, of S. C. was ready to give his views in opposition to the bill now, if he was compelled to do it. But the lateness of the hour, and the exhausted state of the Senate, induced him to move an adjournment. If the motion was not sustained, he would commence his remarks.

THURSDAY, JANUARY 17, 1828.

#### LIEUTENANTS IN THE NAVY.

The bill to increase the pay of the Lieutenants of the Navy, who have served ten years and upwards, as such, was taken up for consideration.

Mr. HAYNE said, that the bill was best explained by the memorial of the officers; which he read. Mr. H. then remarked on the difference between the pay of the Navy Lieutenants, and that of the officers of corresponding rank in the Army, showing that the pay of the latter was beyond all due proportion larger than that of the former. The Lieutenants of the Navy, many of whom had been 18 or 20 years in the service, and who had families dependent on them for support, received but 751 dollars a year, including rations. The bill proposed to add 211 dollars to their pay, so as to make it altogether, 962 dollars; which left it still \$183 40 less than that of a Lieutenant of the Army. About ninety Lieutenants would come within the provisions of the bill, and the additional appropriation required to give them each 211 dollars in addition to the sum at present received by them would be \$18,990.

Mr. CHANDLER opposed the bill in a few words.

Mr. BRANCH would like to hear a reason for the discrimination made by the bill in favor of those Lieutenants who had served ten years and upwards. Many Lieutenants, who had served a shorter time as Lieutenants, were equally worthy of the proposed increase of pay. Some Midshipmen, though not less deserving than others, of promotion, had been kept back, and, of course, were not now Lieutenants of ten years' standing, though they well deserved to be. This system of partial legislation was replete with mischief.

Mr. WOODBURY, in reply to the Senator from North Carolina, explained the principles on which the Commit-



JAN. 17, 1828.]

*Lieutenants in the Navy.—Imprisonment for Debt.*

[SENATE.]

tee had framed the bill. The memorial prayed an increase of the pay of the Lieutenants, Midshipmen, and Surgeons. The Committee was not willing, however, to go the whole length; and they singled out that class of officers whose length of service, and situation in life, seemed most to require some additional pay. The Lieutenants of the Navy did not receive, and ought not to receive, so much nominal pay as the Army Lieutenants. For the Navy officers have prize money in time of war, which, in the course of 20 years, would give to each officer a considerable sum. The class of Lieutenants which had been selected by the Committee, were advanced in life, and had formed connexions which imposed on them expenses far exceeding the limits of their small salaries. The passed Midshipmen were already allowed an increased salary. The Committee had not, however, gone into the whole subject; if they had, the case of the surgeons would also have been considered.

Mr. SMITH, of Maryland, referred to the memorial as coming from all the Lieutenants; and he could not see the propriety of giving a preference to one class of them. The Army and Navy officers, he said, were not placed on a footing of equal advantages. The cadet was four years supported and educated at West Point, and then commissioned in the Army. The Midshipmen, on the other hand, were for eight or ten years supported by the pittance of nineteen dollars a month.

Mr. S. without derogating from the merits of those Lieutenants who had served for ten years, insisted, that other officers of the same grade were quite as meritorious. The Midshipmen, he remarked, were also highly deserving. Before they could be passed, they were obliged, in their examination, to give satisfactory evidence of moral excellence, of their seamanship, and of their acquaintance with Naval science. He considered that the proposed distinction would be injurious to the service, and moved to strike out the words "ten years and upwards."

Mr. HARRISON regretted, he said, that any distinction had been made between the lieutenants. The same officers, he thought, should receive the compensation, for they performed similar duties, and underwent similar hardship. The Senator from New Hampshire had said that the lieutenants of ten years' standing were growing grey in the service; so are the midshipmen, said Mr. H. without any but a very distant prospect of promotion.

The Senator from Maine [Mr. CHANDLER] opposes the bill for the reason that he apprehends from it future evil to the service. Mr. H. invited the gentleman to give a more distinct and direct objection to the measure. There was no appropriation of public money for which he voted with more pleasure than for the naval service. He felt anxious that the Navy should be maintained; he feared that, unless promotions were accelerated, or the pay increased, officers of talents would be compelled to abandon it. He would vote for an additional compensation to all the grades referred to in the memorial. Our naval officers bore as high a character for intelligence, gallantry, and urbanity, as those of any country in the world, and they received a smaller compensation. In reply to the remark that fell from the Senator from New Hampshire, [Mr. WOODBURY,] that those midshipmen who passed an examination received additional pay, Mr. H. said that the passed midshipmen formed a distinct and separate grade of the service. He hoped the amendment proposed by the Senator from Maryland would be adopted.

Mr. CHANDLER said that there was no evidence of a scarcity of officers to serve the country at the compensation now allowed. When that was the case, it would be time to think of raising their pay.

Mr. EATON said that, before he should vote for the bill, as it stood, he must hear some reason for the preference given by it to one class of Lieutenants. Under the

present and the former practice of the Navy, officers were promoted, not in regular succession, according to their several terms of service, but by favoritism. For a signal proof of this, he called the attention of the Senate to the list of Navy Lieutenants which he held in his hand. The individual who stood first on the list was the example to which he referred. Several Lieutenants had been promoted over his head to be Masters Commandant. Was it fair, then, that those promoted at a certain time should have a preference to those who had been as long in the service, but had not been so highly favored by the Government? The qualifications of the junior Lieutenants were, in most cases, admitted to be equal to those of the Lieutenants who preceded them; and their services were as efficient. But the only question before us, as to any grade or class of officers, was—is it proper to increase their pay? He had no objections to raise the pay, if it was insufficient; and he, for one, was of the opinion that their pay, in reference to their services, and to the pay which we allow for services of other descriptions, was too low. As one illustration of this, he would refer to the fact, that a messenger of the Navy Office, whose chief business, he believed, was to carry letters and papers to and from the Post Office, received seven hundred dollars—within fifty-one dollars of the sum which we at present allow to a lieutenant of the Navy. Was this a fair graduation of salaries? At home, our officers are entitled to live in comfort; and, when abroad, should be enabled to support, in their style of life, the dignity and independence of their station. They were, in foreign ports, frequently employed as negotiators, and in the transaction of other business, which brought them into communication with officers of other navies, and of foreign Governments; and it is well known, that, with their small salaries, they could not, without great inconvenience, reciprocate the civilities which they received. Mr. E. did not wish to encourage extravagance in our naval officers; but, if a messenger was entitled to seven hundred dollars, surely those who sustained the honor of their country, as far as that honor was connected with the naval service, were entitled to an increased compensation.

Mr. JOHNSON, of Kentucky, was apprehensive, he said, that the discussion which had commenced would occupy a great portion of the day, to the exclusion of the bill for abolishing imprisonment for debt, which was the unfinished business of yesterday. He was anxious that the bill should be decided on at an early day, in order that, if it passed, it might go to the other House, with a prospect of being acted on there during this session. He, therefore, moved the postponement of the bill under consideration, with a view to take up the bill for abolishing imprisonment for debt.

The motion was withdrawn, at the request of Mr. BERRIEN, who said that he desired to submit the follow resolution.

*Resolved*, That the bill be recommitted to the Committee on Naval Affairs, with instructions to report a bill which shall provide for the increase of the pay of the Lieutenants in the Navy, having regard to the compensation of officers of corresponding rank in the Army: and, also, to provide for the additional compensation of Surgeons in the Navy.

Mr. JOHNSON, of Kentucky, then renewed his motion, and the bill and resolution were postponed until tomorrow.

#### ABOLITION OF IMPRISONMENT FOR DEBT.

The bill to abolish imprisonment for debt was taken up as the unfinished business of yesterday.

Mr. SMITH, of South Carolina, opposed the bill, in a speech of some length. He could not suffer the bill to pass to the next stage without accompanying it with his objections. His objections were multifarious, and he should

SENATE.]

Imprisonment for Debt.

[JAN. 17, 1828.]

only give a few of them. The challenge had been thrown out by the Senator from Georgia to the opponents of the bill, to indicate any redundancy in its "machinery"—an expression originally drawn from the remarks of the Senator from Virginia, [Mr. TAZEWELL.] He would therefore undertake to show what he considered as the complicated and objectionable machinery of the 1st and 4th sections. In the 1st section, Mr. S. then proceeded to point out and comment on nine provisions, embracing all the leading objects of that section; and in the 4th section, he indicated seven or eight provisions, as being, in like manner, exceptionable. If there was not here a superabundance of "machinery," he would like to know where it could be found. If any one could see aught that was desirable in these provisions, it was something invisible to him.

Mr. S. also referred to other parts of the provisions of the 3d and 4th sections, which, he said, were wholly inexplicable, and the meaning of which was inscrutable. The most difficult and abstruse law treatises, even those on Executory Devises and Contingent Remainders, were comprehensible to the studious inquirer; but it would baffle the ingenuity of man to gather from those provisions to which he referred any distinct idea. The 9th section provided, he knew not why, that debtors of the age of seventy and upwards should be exempt from imprisonment. If an old man had property, and withheld it, he was as fit a subject for the *ca. sa.* as a younger man. Females were also exempted, wherein, he said, the Committee had displayed much gallantry and much wisdom. Here Mr. Smith proceeded to show that females were oftentimes invested with peculiar privileges by our laws. In the State of New Jersey, they had been indulged in the privilege of exercising the elective franchise. The laws of the same State formerly provided for the sale, at public auction, to the highest bidder, of the Bankrupts: and there was no law excluding the ladies from becoming purchasers.

As to minors, there was no law in any State of the Union which subjected them to imprisonment for debt. We are told that the minor is credited with goods, and when he becomes of age, he is sued, and his father is forced to relieve him by the payment of his debts. But this was not the case with prudent fathers; but with those who indulged their sons in cards, billiards, dogs, and horses.

If a father suffered a son to lead an extravagant life, and to run in debt to the poor and industrious mechanics, that father is morally bound to discharge such debts. Is it the tailor, the shoemaker, the baker, or the butcher, who is oppressed and imprisoned by the rich? No; the complaints of the violation of personal liberty come from those who for years have preyed upon the mechanics. We were told that the banks and shavers ought to be restrained from inflicting injuries on their debtors. Mr. S. would not have ventured on the subject of Banks, had it not been introduced into the debate. They had broke the community, and were breaking themselves. He could not discover any provision in the bill which restrained them in their usances and exactions.

It was said that a Southern merchant, who visited New York for purposes of trade, is exposed to the danger of being arrested for a debt which he owes at home, and of being imprisoned for want of bail; which, among strangers, he cannot obtain. Many (I know the fact, said Mr. S.) go to New York for the very purpose of being thus arrested, and of procuring a discharge under the insolvent laws of that State. Debtors fly from the mild laws of South Carolina to the milder laws of New York. No State was more indulgent to debtors than the State of New York. After ten days, they could get the benefit of the act. The prison bounds of New York extend to the limits of the several counties. Surely there was no violation of personal liberty there.

Mr. S. here noticed the argument that the United States'

Courts had now too much power over personal liberty. Was this bill to check the growing powers of those Courts? He would not take from the courts any constitutional powers, and he would add nothing to those powers.

Mr. S. was persuaded that the Senator [Mr. JOHNSON] who introduced this bill, did it from the purest motives. But such was his anxiety to get the bill through, that he had consented to a number of amendments, which, with the original provisions, made the bill a perfect "round robin." The debtor was first held to bail, then relieved; held to bail again, and again relieved; and then comes another, a third trial. To complete the remedy which the bill afforded to the defendant against the plaintiff, it wanted only a provision, that if, on the third trial, the plaintiff was cast, he should be himself imprisoned, without bail or mainprize. Mr. S. then adverted to the case, so often referred to in the debate, of the 1,900 debtors in the New York jails. Some of these persons had been committed, it was said, for the debt of twenty-five cents. These were probably drunken and riotous persons, who had been committed for fines, by the lowest corporate authorities. He would not believe that the liberal and enlightened policy of the State of New York would suffer a citizen, an honest and worthy citizen, to be imprisoned for the sum of twenty-five cents. So far, indeed, had the laws for the collection of debts been relaxed in that State, that the Legislature had been compelled to interfere to prevent the mischiefs resulting from that relaxation. Mr. S. was not disposed, after so much had been said on this subject, longer to occupy the time of the Senate in discussing it; and he briefly adverted to the criminal character of fraudulent debtors; to the mildness and sufficiency of the State insolvent laws, and to the fact that within his knowledge, no fair-dealing debtor had ever been oppressed. In conclusion, Mr. SMITH said that fancies and fashions sometimes took a run among the people, and prevailed for a season over reason and good sense. They were often pregnant with mischief to society, and were always difficult to check. The French Revolution had its origin in laudable motives; but the tide rolled on, gathering strength as it rolled, 'till it had nearly overwhelmed Europe, and brought it under the dominion of a single man. This bill originated in philanthropic and popular motives; and, impelled by the sanction of this House, it may carry its principles to an extent, which will prove destructive of the very foundations of Commerce and Society.

Mr. ROWAN rose, and spoke at considerable length, in reply to Mr. SMITH, and in favor of the bill.

Mr. SMITH of S. C. rejoined at some length.

Mr. NOBLE also made some remarks in support of the amendments offered by him yesterday.

The question on the amendment offered by Mr. NOBLE was then taken by yeas and nays, and decided in the negative, by the following vote:

YEAS—Messrs. Cobb, Hendricks, Noble, Ruggles, Seymour, Smith of S. C. and Willey—7.

NAYS—Messrs. Barton, Bateman, Bell, Benton, Berrien, Boulogny, Branch, Chandler, Chase, Eaton, Ellis, Foot, Harrison, Hayne, Johnson of Ky. Johnston of Lou. Kane, King, Knight, McKinley, Macon, Marks, Pariss, Ridgely, Robbins, Rowan, Sanford, Silsbee, Smith of Md. Thomas, Van Buren, White, Williams, Woodbury—34.

The question then recurring on engrossing the bill for a third reading, it was decided in the affirmative, by the following vote:

YEAS—Messrs. Benton, Berrien, Boulogny, Branch, Eaton, Foot, Harrison, Hendricks, Johnson of Ky. Johnston of Lou. Kane, King, McKinley, Macon, Marks, Pariss, Ridgely, Rowan, Sanford, Silsbee, Smith of Md. Van Buren, Williams, and Woodbury—24.

NAYS—Messrs. Barton, Bateman, Bell, Chandler, Chase, Cobb, Ellis, Hayne, Knight, Noble, Robbins, Ruggles, Seymour, Smith of South Carolina, Thomas, White, Willey—17.



JAN. 18, 1828.]

*Imprisonment for Debt.*

[SENATE.]

FRIDAY, JANUARY 18, 1828.

## IMPRISONMENT FOR DEBT.

The bill to abolish Imprisonment for Debt came up on its third reading, and, on the question of the passage of the bill—

Mr. BELL said he was opposed to the passage of this bill and would present to the Senate, very briefly, the reasons which would induce him to vote against it. It was always with reluctance that he consented to change a system of legal provisions which had been a long time in operation, because experience and observation had taught him that the advantages expected from such changes were seldom attained, and that unforeseen evils and inconveniences invariably resulted from them. He would therefore withhold his assent from such innovations, unless where he could clearly see that great advantages would be attained, or serious evils be obviated by them. He had given considerable attention to this subject, but had been unable to discover any such reasons to justify the innovation which this bill, should it become a law, would make in the existing laws of the States.

He was aware that persons whose sensibilities are easily excited by real or fictitious tales of distress, imagine they see great oppression and injustice in the operation of the existing laws authorizing imprisonment for debt. But no practical evil had resulted from them, as now modified in the several States, so far as they had come under his observation. If cases of hardship and oppression have occasionally occurred in their operation in some of the States, this bill will afford no remedy, because it cannot control the operation of State laws or State courts. It is not even pretended that a single instance of oppression has occurred under these laws, in suits brought in the Courts of the United States. And in these Courts alone can your laws have an operation. The State which he in part represented, had so modified its laws on this subject, that debtors cannot be imprisoned, either on mesne or final process, for small debts. But its Legislature had thought it a wise and correct policy to permit imprisonment for debt in other cases, as a means of coercing payment from fraudulent debtors, and it often produces this effect. Under these circumstances, he could not give his consent to impose upon the citizens of that State, a law which he believed their own State Legislature would not enact or approve. He would leave legislation on this, and on all other merely municipal concerns, to the State Legislatures; to whom, he thought, they properly belonged, and with whom they may be most safely trusted. The State Legislatures understand the situation, circumstances, and wants of their own citizens, and what municipal regulations will most conduce to their interests, better, far better, than we do. He did not wish to see two different systems of law in relation to the rights and liabilities of debtors and creditors in operation in different Courts within the same State. It cannot fail to produce great confusion and great injustice.

This bill has a very fascinating and popular title; but whatever title may be affixed to it, it is, in reality, in all its important and operative provisions, an insolvent law, and, as such, contains several very objectionable provisions. The proceedings under it cannot fail to be very dilatory and very expensive, two of the worst qualities that can belong to a system for the administration of justice.

By the provisions of the bill, three several trials in the same suit may be had before it is in the power of the plaintiff to obtain the benefit of the final process by which he is to recover his debt. The defendant, when arrested on mesne process, may demand and obtain a trial on the question, whether he is a debtor, or whether he intends to leave the State. When this question is decided, he may again contest the justice of the plaintiff's

claim, and have a second trial in the ordinary course of judicial proceeding. If judgment is rendered against him, and his property is supposed to be secreted, or so invested that it cannot be levied upon, the plaintiff, by alleging these facts, may require a third trial, and a judicial decision of these questions. After these repeated trials, and this protracted and expensive litigation, the defendant, by an assignment of his property to the Clerk of the Court, for the benefit of his creditors, may liberate himself from imprisonment.

When the plaintiff has pursued the fraudulent debtor through all his windings, and by a most tedious and expensive process has compelled him to make an assignment of his property for the benefit of all his creditors, the plainest principles of common justice require that the plaintiff should first have his costs repaid him out of that common fund which his unaided exertions have secured. But such is not the provision of this bill. The property assigned is to be ratably distributed among all the creditors, "saving to any creditor any lien which he may have acquired, or any priority to which he may by law be entitled."

The bill does indeed secure to the prosecuting creditor all his costs in those States where judgments operate as liens on the defendant's property, and it seems to have been framed on the supposition that such was the law in all the States.

This is an incorrect opinion. Judgments do not operate as liens, either on the real or personal estate of the judgment debtor in any of the New England States.

Shall we pass a law which refuses to the prosecuting creditor in those States the same measure of justice which it affords to him in all the other States? Can you suppose that they will approve a law thus unequal in its operation, and partial and unjust as it respects them. The bill requires them to change their entire system of laws, in relation to the effect and operation of judgments, before they can obtain the same measure of justice which it affords to the other States. This feature of the bill admits neither of denial nor justification.

The bill provides that the proceeds of the defendant's property assigned to the Clerk of the Court, shall be ratably distributed among the creditors, under such rules for collecting the same, and for calling in the creditors, as the Court shall prescribe. This is a vast and most objectionable transfer of legislative power to the Judges of the Courts of the United States.

These assignments will often consist of debts due to the insolvent from citizens of his own State, and there will be outstanding claims against him in the same State. It will be necessary to resort to some judicial tribunal for the adjustment of both; but we look in vain to this bill to ascertain what tribunal it shall be.

We transfer to the Judge the legislative power of prescribing rules for collecting the debts, calling in the creditors, and, I suppose, ascertaining by adjudication the amount of their respective claims.

How is this to be done? Is a commissioner with judicial powers to be appointed to collect the debts and liquidate the claims? or, is this to be done by the District Courts, or by the State Courts? The bill gives us no information on the subject. The legislative power vested in the District Judge, seems to be broad enough to authorize him to prescribe any of these tribunals to perform these duties.

Have we the constitutional power to authorize a District Judge, or any Judge of a Federal Court, to decide in a civil action between citizens of the same State? We certainly have no such power, unless in the single case where the parties claim lands under grants from different States. This case is an exception to the general rule, founded on very wise and obvious reasons. It was never the intention of the Constitution to permit the Federal

SENATE.]

*Imprisonment for Debt.*

[JAN. 18, 1828.]

Judiciary to adjudicate between the citizens of the same State. This power of prescribing rules for collecting the debts of the insolvent, calling in his creditors, adjudicating upon their claims, and distributing the property among the creditors, is a power of no ordinary magnitude; it may involve not only the rights and property, but even the liberty of the citizen.

He could not consent to transfer a legislative power of this magnitude to any Judge.

If we look beyond the title of this bill, we see that in all its important provisions it is an insolvent law.

Has the Constitution invested Congress with the power to enact a law of this character? He believed it has not. No article of the Constitution has been pointed out from which this power can be derived, nor does it contain any such article.

It is true, that the Constitution gives to Congress the power to pass uniform laws on the subject of bankruptcies. This is the only clause of the Constitution which, upon any rational construction, invests Congress with the power of constituting a tribunal to decide between citizens of the same State. And if we have power to pass this bill, it is because it is, within the meaning of the Constitution, a bankrupt law.

It will hardly be contended, that, by passing this bill, we have established a uniform system of bankruptcy throughout the United States. If that is not its legitimate character, it will be passed without any constitutional authority.

There are several other objections to the provisions of this bill, but he would not take up the time of the Senate by stating them. Those which he had already stated presented, to his mind, insuperable objections to the bill.

Mr. CHAMBERS said he was a member of the committee which reported the bill, and he greatly regretted his absence during the discussion of it. Being, however, in favor of the bill, he begged leave briefly to offer his views in regard to it, and to throw out some suggestions in answer to the arguments just advanced by the Senator from New Hampshire. Mr. C. denied that the bill was an innovation: it was in accordance with the improvements of jurisprudence which had of late years been made in every State of the Union: it was in unison with the spirit of the age. In the State of which the honorable member who last spoke was a representative, imprisonment for debt had been abolished in all cases except those where property was fraudulently withheld. This was the very substance and object of the bill before us. But the gentleman objects to the delays incident to the provisions of the bill. He would be happy to hear and to act upon the suggestion of any feasible mode of lessening the delay, or of rendering the results more certain. That the system was perfect, he did not believe; nor was perfection to be attained by the first experiment. In law, as well as in other departments of science, a system could be formed only by long and careful observation and experiment. There might be imperfections in the details of this law, but if its principle was good, those details would soon be corrected. Mr. C. was not surprised that a wide difference of views should exist in this body as to any measure of a legal character: for the systems of jurisprudence prevailing in the different States were widely different. It was not to be expected, therefore, that gentlemen would at once relinquish their prejudices, and concentrate their views. He, like the Senator from New Hampshire, had been brought up a lawyer, and was attached to the particular legal usages to which he had been accustomed. A compromise of conflicting opinions was necessary in regard to the details of this bill; and compromise, he remarked, was the basis of our Constitution and of all our legislation. The Senator from New Hampshire objected to the introduction into his State of a new system of laws. Will this consequence

result from the bill? That discrepancy exists already to a greater degree than it will when this bill has become a law. At a period when legal science was less improved than at present, it was difficult to make the State laws correspond with each other, or to conform the laws of the United States with them. In all the States, efforts, some of them successful, had been made to secure the personal liberty of debtors; and the sanction of the United States was now proposed to be given to those efforts. Constitutional difficulties had been urged; but Congress was specifically vested with power to regulate the process of the Federal Courts. In cases where there were a number of claimants to a fund placed for distribution, according to the provisions of the bill, in the hands of the Federal officers, there were other Courts in which these claims could be prosecuted by the several claimants, besides the United States' Courts. The bill gave to the United States' Courts the charge of the distribution of the property after it had been adjudged to the creditors.

Mr. C. saw, therefore, none of the difficulties which formed objections to the bill with other gentlemen. Mr. C. was unwilling, and he thought it improper, that the creditor should be the sole judge of the measure of coercion which should be applied to the debtor. He was, himself, in favor of taking this power entirely from the creditor, and of vesting it in other and more impartial hands. He believed that the bill was called for by public opinion, by the improvements of the age, and by every freeman whose liberty was jeopardized by debt.

Mr. BERRIEN regretted, he said, but he did not complain, that the Senator from New Hampshire had postponed his objections to the bill to a time when the Senate was exhausted by constant and long continued debate on the subject. The Senators opposed to the bill had, in its earlier stages, been pressed to bring forward their objections to it. He hoped he would be excused in making a very brief reply to the argument of the Senator from New Hampshire. The first objection of that gentleman was, that the bill would introduce a system into the several States discordant with the jurisprudence of those States. He would ask the gentleman to reconsider this argument, and say whether the evils which he predicted would result from the bill. The State tribunals are regulated by the State laws; and it belongs to the Legislature of the Union to establish tribunals for carrying into effect the laws of the Union. The gentleman's complaint is then directed to the system under which we live. The discordancy to which he objects exists in the Constitution of the country. The process of the United States' Courts was, by the act of 1789, made to conform to the process of the several States, as it at that time existed. But the process of the United States' Courts no longer conforms to that of those States which have altered their laws in this respect; and, of course, the law of '89 does not extend to those States which have since been admitted into the Union. A discrepancy must, therefore, necessarily exist between the process of the Courts of the United States and of the several States.

To the objection urged against the title of the bill, it was not necessary for him to reply: for the title formed no essential part of the bill, and did not, in any way, control its provisions. If it was considered inapt, he would consent to its modification. It was said that the bill was an insolvent system. So it was, to a certain extent: but the whole force of the bill was not spent upon that object. He would agree that the bill was an act to relieve from imprisonment, or the danger of imprisonment, those debtors who made a full and fair surrender of their property, and to render more efficient the existing laws for the coercion of fraudulent debtors. It was also objected by the gentleman from New Hampshire, that the provisions of the bill delayed the administration of justice.

JAN. 18, 1828.]

*Imprisonment for Debt.—Judicial Process.*

[SENATE.]

He was not about to travel again through the arguments which he formerly urged against this objection. But he would take occasion to remind gentlemen, that the delays of justice between citizen and citizen was a part of the price which we paid for justice. The Senator from New Hampshire assumes that the framers of the bill took it for granted that judgments were, in every State, a lien on the property, real and personal, of the debtor. The assumption was gratuitous. The laws of the States remained unaffected by the provisions of the bill. The gentleman was alarmed by the vast delegation of power to the District Courts—a power to decide between the claims of citizens of the same State to the property assigned by the debtor. But the bill, he averred, gave no such power. It provides only for the distribution of the property assigned, after the claims of that property had been adjusted and decided by the proper tribunals. The laws existing provided for this case. If the cause of action came within the laws of the United States, the action would be brought in the United States' Courts; if not, it would be brought in the State Courts. The bill was said to be an insolvent law; and he had already admitted that, to a certain extent, it was. The Senator from New Hampshire doubted whether it was competent to the United States to enact an insolvent law. The constitutional power, he thought, could not be doubted. Judicial power is granted by the Constitution—and is Congress to be restricted in the method of exercising that power, by such scruples? He wished the bill might be charged with the faults that really belonged to it, and not with those for which it was in no way responsible. Insolvency, said Mr. B. is a part of bankruptcy, and if we have a right to regulate the greater subject, we have a right to regulate the less. The Supreme Court had decided that we had this right. Is this bill, concluded Mr. B., which has such large claims on the Government, and from the moral effect of which so much is hoped, to be sacrificed to a doubt, whether we have a power which was never denied to us before?

Mr. WOODBURY said, he asked the indulgence of the Senate a few minutes in reply to the remarks of his colleague, concerning the operation of this bill upon New Hampshire. He had not heretofore entered into the debate upon its merits, and certainly, at this late stage, should not in that way trespass. Was the passage of the bill an unusual or unwarranted stretch of power in the General Government? Had New Hampshire, or any other State, a right to complain that the Legislature, for the confederacy, when the Constitution was silent, should prescribe particular forms of process for its own Courts, and alter them as experience and reflection should dictate? It must be done from necessity. It had been done ever since the organization of the Government; and during the last quarter of a century an act of Congress had existed, without complaint, which allowed private debtors committed under process from the Courts of the United States, to be discharged from imprisonment after a surrender of their property. New Hampshire had not been aggrieved by the exercise of this power, though in substance operating as an insolvent system: because she had in substance, under a form in some respects milder, a similar system of insolvency; or, in other words, a similar system of abolishing imprisonment for debt. Mr. W. said, if he believed the present bill would prostrate the rights or trench deeply on the accustomed privileges of her people, he would oppose its passage as cheerfully as he now supported it. But, in truth, the great principle of the bill is now the great principle in the system of his own State. The difference existed mainly in details; and though he disliked some of the details of the present measure, that great principle was too laudable and humane a one to be sacrificed for form. It was a principle in accordance with the spirit of the age and the genial

influence of Christianity. What is the difference? In New Hampshire no debtor can be imprisoned, either on meane or final process, unless the demand exceed \$13 33. That goes still further than the present bill to abolish imprisonment for debt. In all cases over that sum, debtors can be held to bail on meane process. So they may by this bill. The only difference is, that an oath and other formalities are required here, and not there. But there, in practice, not one debtor in five hundred is committed to prison on meane process. How stands the difference on final process? In New Hampshire, every debtor can be discharged from prison in fifteen days, on a full and fair surrender of his property. By this bill he can be discharged on such a surrender and notice before final process issues. But there in practice the surrender is usually made before the *capias* is served; and then the debtor is not committed; but whenever he is in fact committed, the detention continues only fifteen days, and has not, for many years, exceeded thirty days, unless the debtor wants further time to adjust his concerns previous to his disclosure. The principle, then, both there and here, is, that the debtor shall not be imprisoned after an honest surrender of his estate; while there, as well as here, if the disclosure be proved dishonest and fraudulent, the debtor must remain in prison. In both cases, the fair and upright debtor is not to be treated as a felon, while the deceiver and knave are to be kept confined till they disgorge their ill-gotten gains. In this last provision, the present bill is an improvement on our system, as the confinement is restricted, as it should be, in cases of fraud, to the prison walls, instead of the limits of the jail yard. The other slight differences between the two systems, relate entirely to detail. It is not pretended, by my colleague or any body else, that either of them is, in form or substance, a bankrupt system. But the system of New Hampshire is, in essence, an insolvent system, as much as this bill; and this is no more unconstitutional in regard to debtors committed under process from the United States' Courts, than that is as to debtors committed under State process. Both Governments have an undoubted right to regulate their own process, and that is the only power exercised by the present bill. The lien of the creditor does not, it is true, exist there as to either personal or real estate, till a seizure or levy; but the operation of this bill neither injures nor benefits the people of New Hampshire in that particular—they are left as before. Indeed, the whole operation of the bill there, if it differed materially from the principle of her present system, would be very limited, as it affects only process from the United States' Courts, and those are so few, that not five persons in a year, in the whole State, would probably avail themselves of its provisions.

The Yeas and Nays being called for by Mr. VAN BUREN, on the passage of the bill, it passed by the following vote:

YEAS—Messrs. Benton, Berrien, Boulogny, Branch, Chambers, Eaton, Foot, Harrison, Hendricks, Johnson, of Ky. Johnson of Lou. Kane, King, McKinley, McLane, Macon, Marks, Parris, Ridgely, Sanford, Silsbee, Smith of Md. Van Buren, Williams, Woodbury—25.

NAYS—Messrs. Barton, Bateman, Bell, Chandler, Chase, Cobb, Dickerson, Ellis, Knight, Noble, Robbins, Ruggles, Seymour, Smith of S. C. White, Willey—16.

So the bill passed.

#### JUDICIAL PROCESS.

The bill to regulate process in the States admitted into the Union since the year 1789, was read a second time.

Mr. WHITE said, he thought the bill susceptible of improvement. I move you, sir, (said he) that it be amended by striking out the word "now," in the ninth line, and inserting in its place, the words "or may be." By this alteration the Federal process, in each of the States ad-

## SENATE.]

## Judicial Process.

[JAN. 18, 1828.]

mitted into the Union since September, 1789, will, as to its kind, the matter upon which it is to operate, and the manner of its execution, conform to the process used in the courts of these States respectively, not at the time of the passage of this bill, alone, but in future. As the bill now stands, we adopt for the Courts of the United States the process of these new States; and the rule of process thus settled, will remain permanent, notwithstanding any changes which may be made in the process of the State tribunals. The consequence will be, that in a short time, in some, if not in all of these States, we will have one rule for Federal process, and another for State process, in the same State. This, in my judgment, ought not to be. Whatever is a safe and convenient process, to bring a defendant into a State court to answer to a demand set up against him by a citizen of the same State, and whatever process may be used in the State Courts to compel satisfaction of the judgment recovered in such case, will probably be the most safe and convenient process to be used in the Federal courts sitting in the same State. This was my impression at the commencement of the session, and the arguments used on the bill "to abolish imprisonment for Debt," and especially the argument of the gentleman from South Carolina, not now in his seat, on the motion made by him to recommit that bill, confirmed this impression. I voted against the passage of that bill, not because I am opposed to abolishing Imprisonment for Debt; but because I then believed this was the bill, by virtue of which that object would be attained, as far as justice to the creditor would authorize. Uniformity in the process to be used in the Federal Courts in the new States, is not intended by the bill, as it now stands. If it passes in its present shape, we will have at once nine different rules, disagreeing each, perhaps, with all the others; but in each the Federal rule and the State rule will be the same in the same State. This will be, in my opinion, as it should be, at the commencement; but as soon as any one of these States by its legislation changes its rule of process, without my amendment, we will have two rules essentially different, in the same State: the one for the State, and the other for the Federal Courts. This, in my opinion, ought never to be. Therefore I have proposed the alteration. With it, there will always be harmony between the State and Federal process, in the same State; and whether they agree or not, with the process used in any other State, is of no importance whatever. The Legislatures of the respective States will always be more competent to decide what is the most suitable process to be used within their limits, than the Congress of the United States. I put it to every gentleman to say, whether a man living in Maine would be as competent to decide what species of execution ought to be used in Tennessee or in Louisiana, as the same man would be, if he had resided a considerable time in those States, and was legislating for the sake of doing justice between debtor and creditor there? He certainly would not be. That which would be a very suitable process in one of those States, when their habits, their modes of dealing, and the species of property which they owned, were duly considered, might be, and often would certainly be, an inappropriate and ruinous process of execution in the others, when these things were materially different. If a non resident citizen, or an alien, has always, in any State, exactly the same measure of justice meted to him in the Federal Courts, which a citizen of the State would be able to obtain against a citizen of his own State, he obtains every thing which, reasonably, he can desire.

In new States, where the circumstances of the people are continually changing, it will invariably happen that execution laws will be changing likewise; and that which is a good execution law now, in a State, may in a short time be found very unjust, as it relates to debtor and creditor, and require an amendment from the Legislature. When-

ever this change is effecting by State legislature, for the benefit of suitors in the State courts, suitors in the Federal court, held in that State, ought to have the benefit of it.

Harmony between the Federal and State processes, it appears to me, is essential to the happiness of the people. A citizen of one State has a demand against a citizen of another State, for a sum of money, and sues for it in the Federal court, where he recovers a judgment. This debtor has a demand against one of his neighbors for the same, or for a larger sum, for which he sues, as he must do, in his State court, and recovers a judgment. Suppose the legislature of that State to have abolished imprisonment for debt, some time after the passage of the bill now before you, would it not be thought exceeding hard, that the one might be imprisoned by federal process to enforce payment, while the man thus imprisoned could not use the like process to procure a fund sufficient for his release? Adopt my amendment, and we will continue the harmony with which we commence without any farther legislation by Congress. Reject it, and in a short time we must legislate again, or discord will be produced, and with it heart-burnings and discontent.

A majority of us appear desirous to abolish imprisonment for debt, so far as safety to creditors will permit. Adopt my amendment, and you will, without farther trouble, continue this work of abolition to every extent it ought to be carried. The Legislature of each State must necessarily better know than we can, whether the character of the citizens, and the kinds of property they own, are such as will enable them, with justice to creditors, to blot from their legal codes the *capias ad satisfaciendum*. If they deny it in the State Court, it will be denied in the Federal Court likewise, and thus Imprisonment for Debt will be abolished in some States, where it can safely be done. In other States, where from the character of the citizens, and the kinds of property they own, the Legislature believe the *ca. sa.* cannot be discontinued without doing injustice to creditors, there, as it must be continued as to the State tribunals, so let it be as to the Federal.

I do not see that there is any reasonable ground for apprehension upon my plan. It can but rarely happen that the Legislature of any State will ever make laws on the subject of process to be used in the State Courts, which the Congress would not approve of, as a rule for the process of the Federal Court in the same State. We have, in the first place, the integrity of character of the members of those bodies. In the next place, they cannot disregard the interest of the creditor or the debtor who are suitors in their Courts; and we all know that much the largest proportion of debts sued for, of necessity, under our systems must be sued for in the State tribunals. Again: if, at any time, an unconstitutional law should inadvertently be passed there is the judiciary to check the mischief; and, in addition, Congress will always have the power to legislate upon this subject, and never will fail to exercise it, if any excess in State legislation should make it necessary.

I am unwilling, Mr. President, to weary the Senate, or fatigue myself, by longer addressing you at this time. The debates upon the other bill have, as I think, fully explained this subject, and I now claim the benefit of them in favor of my amendment.

Mr. VAN BUREN said that it was with reluctance that he differed with his friend from Tennessee, especially on a subject on which the experience of that gentleman was so much greater than his own, and still more in relation to a matter in which the new States had not received their share of benefit. It was proposed by this bill to place the States admitted into the Union, since the year 1789, upon a better footing than the others. It was his opinion that it could not be done in justice; neither was it possible to effect a system such as the gentleman contemplated. On a former occasion he had ob-

JAN. 21, 1828.]

Judicial Process.

[SENATE.]

timed the opinions of gentlemen from all the States in the Union, and there were no two that agreed; which would serve to show the difficulty, if not impossibility of any such plan. Congress could not pass any such law without interfering in some way. Therefore, the law was formed so as to take a middle course. It was impossible to give up all the power of the Federal Courts without involving the country in confusion. That power ought to be limited to the utmost; but it ought to exist. This act, if passed, would enjoin upon the United States to conform to the laws of the States, not only as they were, but as they might prove to be. The object of the law of '89 was to preserve the rights of persons coming into court—so far that act went. But it could not be expedient to submit that the laws, which each State might pass from time to time, should govern the Federal Courts. If Congress gave up the law of the United States to the different States, they ought to know what system they agree to, and not, by doing so, subject the jurisprudence of the country to everlasting change and uncertainty. He would suppose a case. A suit might be pending between an individual and the United States, and during the pendency of the cause the State Legislature might pass an act interfering with its decision, and calculated to stop proceedings until the next Session of Congress. Such interferences would overturn the rights of the Federal Courts. He was the last person who would give to the Federal Judiciary rights to which it was not entitled. He was, on the contrary, as much convinced as any man, that more danger to the powers of the States had been exhibited in the "signs of the times," during the last six years, than ever before. But he would sustain nothing that would go to overturn the legal and legitimate power of the Government, which ought to be guarded and preserved.

On motion of Mr. HARRISON, it was ordered that, when the Senate adjourn, it adjourn until Monday.

MONDAY, JANUARY 21, 1828.

The unfinished business of yesterday was then taken up, and the bill to regulate process in the States admitted into the Union since the year 1789, being before the Senate, the question recurred on an amendment offered by Mr. WHITE, to strike out the word "now," and insert the words "may be."

Mr. VAN BUREN observed that, on Friday the Senator from Tennessee [Mr. WHITE] happened to be on the floor, explaining his views on this amendment, when he [Mr. V. B.] entered the Senate—and he supposed, from the tenor of that gentleman's observation, that his amendment was, in its scope, co-extensive with the argument on the bill to abolish imprisonment for Debt, to which he alluded. I was, said Mr. V. B. in error; and the motion of the Senator from Tennessee, I now learn, does not attempt to take away the supervision of the Supreme Court of the United States but to adopt the laws of the several States in the Circuit Courts, under the supervision, as formerly, of the Supreme Court. The amendment would, perhaps, secure some provisions in favor of those States which they could not otherwise attain; and he had no intention to oppose the bill or the amendment, under their present aspect.

Mr. WHITE said that it was so far from his wish or design to press his bill upon the Senate, that he should not now urge it if the members had scruples as to its expediency. Though he was anxious for the passage of this bill, he did not wish to urge it against the judgment of any member, without giving ample opportunity for investigating its merits. He thought this measure of great importance to the New States, whose situation was peculiar, and had been desirous of being clearly understood upon it. But he was so unfortunate as to have been entirely misapprehended in the few remarks he had made on Friday. If any account was ever given of the few ob-

servations with which he thought it his duty to trouble the Senate, he hoped he might be represented fairly, and that they might be given to the public in the same manner as they were given to the Senate. He imputed, in saying this, no blame to any one. But such was the situation of the Reporters, under the present arrangement, that he believed it was not possible for them to comprehend the remarks of the members. He had been made, in a report in a newspaper printed in this city, to offer an amendment to regulate process in the States hereafter to be admitted into the Union. He might have been misunderstood by others, as he had been by the gentleman from New York, [Mr. VAN BUREN] also. It was hardly necessary for him now to explain that the interpretation was an erroneous one.

Mr. BERRIEN remarked, that he hoped no gentleman felt desirous of pressing this bill, as it was highly to be wished that its provisions should be fully examined before it passed. It would be improper and impolitic to decide hastily upon a question of importance equal to that of this measure. Its design seemed to be to draw a broad line of distinction between the States admitted into the Union previous to the year 1789, and those admitted since that period. The result would be, that the new States would have the power to regulate process by Legislation, from time to time, subject to the supervision of the Supreme Court of the United States, while the old States would enjoy no such privilege. Why not, if this is a salutary provision, equalise, in this respect, the condition of the different portions of the country? In the old States no right existed to regulate process from time to time, by legislation. At first view, without having given the subject much consideration, it appeared to him an unequal and partial measure. He, therefore, wished an opportunity might be had to examine the subject farther than he, as yet, had enjoyed an opportunity to do. And to this end he would move to postpone it to some certain day, or to lay it on the table.

Mr. WHITE remarked, as nearly as our Reporter could hear, that he had no objection to the motion made by the gentleman from Georgia, and would accede to his proposition.

Mr. JOHNSON, of Ky. said, that he considered it his duty to oppose the bill, unless it provided to correct the usurpations which had been exercised by Circuit and District Judges in Kentucky—in fixing upon the State, execution laws, under the title of rules of Court. He would vote for the bill, if he understood that it provided to regulate the process of the United States' Courts by the laws of the States. He had thought, that, if Congress had confidence in the States, and believed that they could be trusted, the Federal Courts might be guided by the laws of the several States. There never did exist, since the creation of the world, a greater system of usurpation than that which had been practised in Kentucky, by the assumption of Judges, to pass execution laws. [He here alluded to the laws of Draco and Solon; but our reporter could not catch the manner in which they were introduced.] He cared not whether the laws adopted by the Judges were good or not. That was not the question. Whether good or bad, if forced upon the people in a tyrannical or unconstitutional manner, he should always raise his voice—he was going to say he should raise something else; but he would not—against them, in duty to himself and his constituents.

Mr. KANE said, that he should regret the postponement of this bill for a single day, and he hoped the gentleman from Georgia would not press a postponement. It was true, if the amendment of the gentleman from Tennessee prevailed, it would establish different regulations in the old and the new States. But this did not present an objection to the bill, of a serious nature; for, that distinction might easily be removed, by a modification of the

motion, so as to make the operation of the principle general throughout the whole Union. He felt disposed to concur in the amendment of the gentleman from Tennessee, and would cheerfully offer a motion to modify it, according to his suggestion. He did not believe that the framers of the law of 1789 had taken up the laws of the different States, then forming the Union, and entered into an examination of them, to aid in framing that act. Such a labor was not to have been expected. Had they examined those laws, and decided that they were all good and proper, they would have decided on the most palpable inconsistencies. Was it not more rational to conclude, that the national Legislature of that day had more confidence in the integrity of the States, than was felt by Congress at the present time? And if they did feel that confidence in the States, why should not the laws of the States, so far as it would be expedient, be now adopted? The present law, he thought, went far enough: it gave the Circuit Courts power to alter and amend the laws of process, passed by the State Legislatures; and to the Supreme Court of the United States, power to supervise and overrule them. It appeared to him sound policy that the Federal Courts, as far as they should agree with their rules, should be governed by the laws of the States. Wherever those laws were in hostility to their rules, it was in the power of the Courts to amend and correct them. If the amendment of the gentleman from Tennessee prevailed, he would engage to introduce an amendment to make the application of the principle general to all the States. It was necessary that, in some shape or other, this bill should pass, more especially for the new States, which were, by the operation of adverse circumstances, deprived altogether of Circuit Courts.

Mr. VAN BUREN said, that, if possible, this bill ought now to be decided upon. It was a measure which had long occupied Congress, this being the second or third session in which it had been discussed. The bill passed the Senate in its present form, two years since. The course now proposed was a middle one, and he saw no objection to it. It did not go the length desired by the gentleman from Kentucky [Mr. JOHNSON.] It did, certainly, as was stated from the gentleman from Georgia, [Mr. BERRIEN,] establish two different rules. This objection, however, would be removed, if an amendment could be introduced to make its operation equal in all the States. As to the State which he in part represented, he thought it would be acceptable, and considered as in no way interfering with the established Judiciary. He hoped that it would now be decided, in order to save time, and to satisfy those who were desirous of the passage of the bill.

Mr. JOHNSON, of Kentucky, spoke at some length, expressing a belief that it was never the intention of Congress that a member of a Court should have the power to pass process acts, make execution laws, or change the system of process in any of the States.

Mr. BERRIEN said that he had not the slightest objection to the progress of the bill. For himself, however, he desired a fuller inquiry into its merits and bearing. The gentleman from Illinois had certainly proposed an important alteration in the amendment, which he had declared himself ready to offer. But, however simple the question might be, still it was a question, and required the greatest deliberation. If they were to do away the inequality of its operation, and give to the old States the same provisions that were extended to the new, a difficulty remained. The power extended by the bill to the Federal Courts, was entirely illusory. Laws might be enacted to regulate processes, but they might be altered by the Supreme Court, and no limit was placed to this power of alteration. He thought that, if the system was adopted at all, the Supreme Court ought to be invested with a supervising power, with limitations—in the first place, from altering the march of suits, so as to make their progress more rapidly

than the laws of the States allow; and, secondly, restricting the Judges of that Court from altering the principle of those laws in relation to final process. These objects he had in view in moving to postpone the bill, in order to give time for investigation. He concluded by moving to lay the bill upon the table; but suspended his motion at the desire of

Mr. McKINLEY, who rose merely to make a suggestion. He should be glad to delay the consideration of the bill. In the present form he should object to it, but if investigated further, he might agree to its adoption. His present impression was, that the powers proposed to be granted to the Courts could not be conceded without danger. He coincided in opinion with the gentleman from Kentucky, that the question was not, what were the intentions of the framers of the law of '89, but what were its effects? He should vote for a postponement.

Mr. WHITE observed, that it was true, as has been said by the gentleman from New York, that the operation of the principle would be unequal; but as a modification had been mentioned, he would say nothing further on that head. With deference to the desires of the gentlemen from Georgia and Alabama, he wished that the question to postpone might not be taken until that upon his amendment had been decided upon. It would in no way interfere with any delay that might be thought desirable, or with any other amendment that might subsequently be suggested. He thought the whole subject one of great importance; but he could not perceive how the general question on the bill could interfere with his amendment. Should it be adopted, he should willingly go the whole, and would vote for a modification by which the provision would be extended to the old States, as they were called. The only reason why the amendment offered by him did not extend over the whole ground, was, that he did not consider himself authorized to make any proposition for altering the condition of those States in which the system of jurisprudence had long been established. For that reason he proposed only to cover the nine States admitted into the Union since '89. These were his motives. If the question was taken, he should not oppose laying it on the table. He wished, however, that the question should be taken first on the amendment; which would not debar the gentleman from Kentucky or Alabama, from subsequently inquiring into the expediency of granting the power of supervision to the Supreme Court. If, however, the gentleman from Georgia persisted in laying the bill upon the table, he would acquiesce.

The question being then taken on the motion of Mr. BERRIEN, the bill was ordered to lie on the table.

#### LIEUTENANTS IN THE NAVY.

The special Orders of the Day then occurring in their order, the bill to increase the pay of the Lieutenants of the Navy, who shall have served ten years, was taken up.

Mr. HARRISON moved the postponement of the bill (being the next in order) for the gradual reduction of the duty on Imported Salt, on account of the absence of a Senator, who took an interest in the proposed measure; but, before any question was taken on his motion, he withdrew it, at the request of

Mr. MACON, who moved that the Senate now proceed to the consideration of Executive business; which was concurred in, and, after remaining in secret session for a short time,

The motions of Messrs. SMITH of Maryland, and BERRIEN, being under consideration—

Mr. HARRISON said, that the more he reflected on the subject, the more he was convinced of the propriety of the amendment. On investigation, it was found that there were eighty-six who would be entitled to the advanced pay, in case the bill passed as it was reported, while there were sixty-four who had served seven years,



JAN. 21, 1828.]

*Lieutenants in the Navy.*

[SENATE.]

and thirty-six who had served five years, and who would be excluded from the benefits of the provision for an equal number of years. The operation of the bill would, therefore, in his opinion, be hard and unequal; as it would be perceived that there were a number of lieutenants who would not be entitled to the increase, and yet who had served nearly as long as those who would have the benefit of this bill. Many junior officers were employed in the same service, and placed on an equal footing with those who were a few years their seniors; and the result would be, that, when they were in ports together, they would not be equal in respect to pay, and the one would be able to enjoy comforts beyond the reach of the other. This would be peculiarly galling to the younger officers, in cases where they should happen to mess together. All such causes of discontent and complaint ought, if possible, to be avoided; and he felt assured, if the bill should pass, its partiality, in this respect, would be severely felt. There could not possibly be devised a plan more certain to depress the spirits and wound the pride of a spirited officer, than this. Mr. H. said, he had determined to vote for the bill as it was reported. But he should, upon further reflection, do it with great reluctance, and only under a conviction that nothing better could be obtained: and he gave his friend from Maine fair warning, that, should the proposition to amend the bill not succeed, so as to include all the lieutenants of the Navy, in the proposal for an increase of pay, he would not cease to urge it with all his efforts, and would bring forward a proposition to that effect, until the junior officers should be placed upon the same footing as those who had served a longer term of years.

Mr. WOODBURY said, that he should not have expressed himself further upon this subject, had he not been misunderstood. It was considered by the committee, that, after long services in the Navy, at that time of life when the judgment was matured, and the officer likely to have formed connexions which would increase his expenses, it was merely equitable that he should receive an increased compensation. In the Army, after having served for such a space, an officer was entitled to a brevet rank, by the mere force of time. There was no such advancement in the Navy, and this additional compensation would supply, in a measure, its place. It was said that there were individuals as meritorious among the junior officers as among those who had served longer. This might be, and probably was, often the case. But, in the Army, no such principle as this was acknowledged, as an officer there received his brevet rank merely on account of the length of his services. The principle, on the contrary, was the same in the Navy as in the Army. A midshipman, for instance, was, after having served for a certain number of years, entitled to a warrant as post midshipman. This was given him by the force of time alone. He could not even be examined until a certain time had passed. So, in the English Navy, the surgeons were entitled to a certain increase of pay after a certain time of service, and depending on nothing else. The committee, however, did not rely entirely on theory, in relation to this subject. They had received a letter from the Secretary of the Navy upon this topic, in which he recommended that an increase of pay should be given to lieutenants who should have performed ten years of faithful service. This letter was not communicated to the committee until after they had reported this bill, with which it accorded exactly, and shewed that the views of the Department corroborated fully those taken by the committee. Since this bill had been before the Senate, a memorial from the surgeons of the Navy had been received, which was now under the consideration of the committee; and he thought it a distinct subject which ought to be allowed to stand on its own merits.

VOL. IV.—7

Mr. HAYNE said that the proposition of his friend from Georgia, to recommit the bill, with the design of providing for the surgeons of the Navy, was, he thought, premature. The whole subject of the medical department of the Navy was now before the Committee on Naval Affairs. It was very desirable that measures should be taken to induce men of talents and high character for science to go to sea in that department. The subject of compensation, it was true, would be a matter of grave consideration; but that did not embrace all the objects which the committee, in forming their plan on this subject, had in view. They had, therefore, reserved that subject to be provided for by a separate bill. As to the present bill, he wished it to pass for the benefit, and in consideration of the merits, of the lieutenants alone. And, while he was up, he would say a few words in relation to it. I agree, said Mr. H. with my friend from Ohio, that the present pay of this valuable class of officers is inadequate to their comforts or their services; and I do not agree with my friend from Maryland, in the motion which he has made. To the bill as it was reported, I will allow I had some objections. But I think that the increased compensation should not extend to all. To the elder officers it was due, in order that they might have the means of living according to their rank. The committee were of this opinion, sustained by that of the Department. So far he disagreed from his friend from Maryland, that he would not accept that gentleman's proposition, unless he should be convinced that the bill, as reported, could not be obtained. He thought, with the gentleman from New Hampshire, that, throughout the Navy, the pay ought to be arranged according to the time of service. His own opinion was, that the pay ought to be progressive; so much after five years' service; an increase after ten; and so on. He should be in favor of giving an increase of pay which would always induce the officers to perform their duty with zeal and fidelity. This would be done most effectually by fixing an advance of pay at a certain period, to be the reward of faithful services. He did not doubt that all performed their duties now; but he would ask, whether it could be supposed that an officer who had served twenty years had no more claim to gratitude and reward from his country, than one who had served only five years? It was not doubted that time and service would have ripened their talents. Time also generally changed their condition. Becoming older men, they naturally formed connexions, and probably had wives and families to support. It is true that, for a young officer, the pay is sufficient. I say, therefore, said Mr. H. that a necessity does not exist to increase the pay of all the lieutenants in the service. But, if it is allowed that the present pay is sufficient for the younger grades, I contend that it ought to be increased as a longer term of service fixes their character and increases their usefulness. In the Army, if length of service did not entitle the officer to an increase of pay, it gave him an advanced rank; and he believed, that, from the increased expense to which they were exposed at home and abroad, the older officers were entitled to further pay. But, if he could not get that, he was willing to take up with the proposition of the gentleman from Maryland.

Mr. CHANDLER did not need the warning voice of the gentleman from Ohio to convince him that the measure would be persevered in. Mr. C. had expressed his belief before, and he now repeated it, that this was only one step towards a general system of high pay. No doubt it would be followed up until every officer in the Navy would share in the increase. The brevetted officers of the Army had been referred to. But he believed it would be found that they had no increase of pay in consequence of their brevets, unless they were given a separate command. If it were necessary that the pay of some of the

SENATE.]

*Lieutenants in the Navy.*

JAN. 21, 1828.

older lieutenants should be raised, he did not see why the increase should also be given to the younger officers. If, however, the Senate should think differently, he should merely content himself to vote as he saw fit. But he believed the gentlemen who had charge of the bill were mistaken in their views in endeavoring to assimilate the pay of the Navy and Army.

Mr. HARRISON said, that the idea of the gentleman from New Hampshire was a mistaken one in relation to the brevet rank of the Army. Brevetted officers received no additional pay except in some particular instances. He knew an officer who received, during the last war, the brevet rank of major, and who never to this day received a farthing above his captain's pay. It was a grade which did not necessarily bring with it any additional emolument. The idea of it, in the English service, from which our Army borrowed it, was, that it was a part of a progressive promotion; and, during our late war, it was principally employed as a token of honor bestowed on officers who had distinguished themselves. As to our Naval officers, he would remark, that their situation required that they should support the appearance of gentlemen. When they go abroad, a comparison must take place between them and foreign officers, which is much to the advantage of the latter. They ought to be placed on the same footing, and be able to equal in appearance, and return the courtesies shewn them by foreigners. They had lived for many years on hope, and they began to fear that hope deferred was always to be their lot. He entirely agreed with the gentleman from Tennessee, in his remarks of yesterday, as to the comparative duties and pay of the officers of the Navy and other persons in the public employments. He believed they were deserving, and trusted their deserts would not any longer be neglected.

Mr. McLANE observed, that he was in favor of increasing the pay of these officers, but averse to doing it according to the time of service. It was admitted, on all hands, that the disparity between the pay of the Army and Navy was very great; and it was not pretended that that of the Army was too high. He did not suppose that, in fixing the pay of the officers of either, it was intended to remunerate them for actual services—that was impossible—but to cherish those men whose devotion to their country would be proved in the event of another war. The principle on which they acted was of a higher nature than to admit the supposition that their services and fidelity were to be bought for a price. The object, then, of the bill was to support these men honorably and liberally in time of peace, whose lives were to be risked, in case of a war, for our defence. Now, sir, said Mr. McL. if the officers of the Army do not receive too much, why should we not advance the pay of those of the Navy? I look upon the Navy as the most important arm of our national defence; and we ought to cherish it in the prospect of its future services. I do not intend to disparage the Army, nor am I insensible to its merits, or forgetful of the many brave officers it has produced. But I must say, that, from the peculiar situation of the country, the Navy is the most important branch of our war establishment. Yet this important branch of service is comparatively neglected. The officers of our Army are brought up in the Military Academy, and are then introduced at once into actual service. The young Naval officer must, on the contrary, educate himself from his own books, and depend on his limited opportunities for improvement. And, when he has toiled through all these difficulties, left in a manner to himself, and arrives at a higher grade, what does he receive? A sum, even if this bill should pass, much less than the pay of the Army officer, who has been educated at the expense of the Government. But it has been said, that he has a chance of sharing prize money. That, certainly was not the case during a peace; and, setting that consideration aside, he would repeat that this was not the

principle on which they should be treated. They should be cherished and encouraged in a time of peace, so as to create the materials for efficient defence in war. Prize money was the reward of their own gallantry. It cost the country nothing, and was essentially the property of the captors. What is the object of sustaining these individuals in peace, at all? It is, that, when war comes, their gallantry may be at our disposal. What are you now asked to do? To raise their pay to an equality with that of the officers of the Army. And why should this increase be confined to those who have served ten years? To me, said Mr. McL. that class seem rather less entitled to it than the junior officers. The former have arrived at a point nearer promotion, if their services have been meritorious, and will sooner be made captains; while the latter have a long series of years before them of hard service, with little prospect of immediate promotion. If the object was to cherish the Navy, we ought, at least, to make the officers comfortable, and give them a genteel subsistence. These were the grounds on which he should vote for the bill; and, wishing to see the Army and Navy placed on an equal footing, he was in favor of the motion of the gentleman from Georgia, to recommit.

Mr. WOODBURY observed, that it was immaterial to him what course the bill took. As to that portion of the motion of the gentleman from Georgia, which related to the pay of the surgeons, he thought it superfluous, as the subject was about to be reported upon by the Committee on Naval Affairs; and he understood their object to be, to change the whole system. As to the proposition to place all the lieutenants on the same footing, as to pay, he would observe, that there was this difference between the officers of the Army and Navy: The rank of those in the latter service was the same in their separate grades. It was not so in the former: a captain, for instance, whose commission bore a certain date, and who has served a certain number of years, ranks as a major by brevet; yet the pay of a captain does not increase according to his brevet rank. But he apprehended that the Senate could not consider the proposition to advance the pay of all the lieutenants without revising the whole system; and, if that was done, regard ought to be had to the recommendations of the individual at the head of the department. And he had already confined his recommendations to the lieutenants who had served ten years. He, therefore, was in favor of the bill as it stood. The gentleman from Ohio had mistaken him, Mr. W., in supposing he was of opinion that the brevet rank entitled an officer to an increased pay. He had only intended to argue that it was a distinction which operated as a stepping-stone to promotion, and was confined by the mere force of time. The gentleman from Ohio being a military man, he had not thought it necessary to explain minutely his views on this head.

Mr. BERRIEN said, that the clearness with which the gentleman from Maryland [Mr. SMITH] had treated this subject yesterday, obviated any necessity on his, Mr. B.'s, part, to say much upon it. But, as to his proposition, he would say one word. A number of the lieutenants of the Navy had presented to the Senate a memorial, appealing, not to the generosity, but to the justice of the country, in a manner which ought not to be neglected. The bill now before the Senate had come from the Committee without a report. By this bill, the prayer of the petitioners was not granted; it was passed by, and a distinct proposition made, in such a manner as to cut off a large number of meritorious officers, in the same grade, from a participation in the benefits to be conferred by the measure. It was not his object to oppose the bill, but to obtain a recommitment, in order to ascertain whether the lieutenants of the Navy had not been raised to a rank requiring the performance of a duty, and the assumption of a responsibility, for which they had not been rewarded, and for which their present pay was inadequate. It had been



JAN. 22, 1828.]

*Lieutenants in the Navy—Cumberland Road.*

[SENATE.]

shewn that they were placed on a different footing from officers of the same rank in the Army; but it had not been shewn why this disparity should exist. What, he would ask, is the object of pay to those who serve in the defence of their country? Is it to tender a certain amount of purchase money for certain specific services? Or is it to enable these officers to enjoy the intercourse of polished life? He thought we need not go so far, but stop at the simple declaration that it was given as an expression, on the part of the Government, of the value of their services. The object of his motion was to inquire, whether their rank ought to place their compensation on an equal footing with the lieutenants of the Army; and, if so, that it might be given to them. The committee had reported a bill by which the increase of compensation would only be given to those who should have served a certain number of years; yet it was not shewn that this would place them on the same footing with the captains of the Army. No one would doubt the truth of the remark of the gentleman from Delaware, that the Navy ought to be cherished. It was his own sentiment also; and, from that feeling, he was desirous of inquiring into the merits of their case, in order that they might be placed in a situation equally advantageous with that enjoyed by their equals in rank in the military service. As to that portion of his motion which related to the surgeons, he had not the slightest objection, since the explanations that had been made by the gentlemen from New Hampshire and South Carolina, so to modify his proposition as to leave that subject to the specific consideration of the committee. But he was still desirous of pressing the other portion, as the motion of his friend from Maryland did not meet the whole object which he, Mr. B., had in view.

Mr. HAYNE said, that this proposition was different from that of his friend from Maryland. He had not been prepared to meet it, because, until now, he supposed that, apart from the subject of the surgeons, the two motions were similar. The object of the gentleman from Georgia was to equalize the pay of the lieutenants with that of the captains of the Army. He would merely state the effect of this measure. The addition of pay, should this motion prevail, would be twenty dollars per month, while the bill proposes to give only ten. On the relative expediency of these propositions the Senate would decide. The pay of a captain of the Army was now 1,081 dollars; that of the lieutenant of the Navy, with the increase proposed by this bill, would be 960 dollars; so that there still remained a distinction between their pay of 121 dollars. Whether it would be proper to go so far in the increase of the compensation of the lieutenants, he would leave to the Senate, contenting himself with this explanation.

The question was then put on Mr. BERRIEN'S motion, as modified by him, and it was rejected without a division.

The motion of Mr. SMITH, of Maryland, to amend the bill by striking out the words "who shall have served ten years as such," so as to make the increase of pay applicable to *all* the lieutenants of the Navy, was agreed to.

Mr. CHAMBERS said, that he acquiesced in the propriety of the remark of his colleague, that all the officers of the same grade ought to receive the same pay. He would now submit an amendment which would, he thought, equalise the compensation of the officers of corresponding rank in the Army and Navy. He would move to insert in the first section these words: "and, after ten 'years' service, each lieutenant shall receive an additional 'sum of ten dollars per month, and one additional ration 'per day.'" If this amendment were adopted, it would make the emolument of the lieutenants of the Navy who had served ten years, the same as that of a captain of the Army. It needed not to be stated to the Senate, that the services of these officers were arduous in the extreme, and that their rank exposed them to expenses which their

present compensation would not enable them to bear. He hoped that the Senate would agree with him, that such long services and deprivations merited the increase which he proposed to give them.

Mr. CHANDLER said, that, if he understood the gentleman, his intention was, first to raise the pay of all the lieutenants ten dollars per month, and then to raise it ten dollars more at the end of ten years' service. He was entirely opposed to the proposition.

The motion of Mr. CHAMBERS was then negatived without a division, and the bill was ordered to be engrossed for a third reading.

TUESDAY, JANUARY 22, 1828.

## LIEUTENANTS IN THE NAVY.

The bill to increase the pay of Lieutenants in the Navy was read a third time.

Mr. MACON made a few remarks upon the bill, in the course of which he observed, that it was not a time to increase the expenditure of the Government, as, in the part of the country where he resided, money was never scarcer, nor times harder, than now. He had observed, that it was always a good time to raise compensations, but never a good time to reduce them. He should say no more than that he should vote against the bill.

The question then occurring on the passage of the bill, the Yeas and Nays were asked by Mr. BATEMAN, whose call being sustained, the bill passed by the following vote:

YEAS—Messrs. Barnard, Barton, Bell, Benton, Bouigny, Branch, Chambers, Chase, Eaton, Ellis, Foot, Harrison, Hayne, Johnson of Ky., Johnston, of Lou., Kane, King, McLane, Marks, Noble, Ridgely, Robbins, Rowan, Sanford, Silabee, Smith of Md., Tyler, White, Willey—29.

NAYS—Messrs. Bateman, Chandler, Cobb, Dickerson, Hendricks, Macon, Parria, Ruggles, Seymour, Smith of S. C., Thomas, Williams, Woodbury—13.

## CUMBERLAND ROAD.

The bill making appropriations for the completion of the Cumberland Road from Bridgeport to Zanesville, in Ohio, and to cause a survey to be made of the route of the same, from Zanesville, to the Seat of Government in the State of Missouri, was taken up.

Mr. HENDRICKS did not suppose that it would be necessary, or that the Senate were disposed, to go into an argument on the principles of the bill. To press such remarks at this period would be needless and impolitic. It had been the policy of the Commissioners to let parts of the road remain in an unfinished situation; and this bill provided for the completion of twenty-three miles, terminating at Zanesville, which had been left in this condition. He did not think it necessary to argue upon the obligation of Congress to give this appropriation. That, he believed, had been fully established on former occasions. It was now necessary that the work should progress speedily, as the road, to a certain extent, had been made, and in its partly finished state would suffer damage, if the work were not gone on with.

Mr. CHANDLER inquired what amount of the two per cent. on sales of public lands had been applied to the construction of this road.

Mr. RUGGLES said that it would be difficult to answer the question. In 1807, the law had passed, authorizing the application of two per cent. on the sales of land, to the construction of the road. This two per cent. on the actual sales made in Ohio, had already been absorbed, and a large sum besides. But he did not consider Congress restricted in this matter. It was a great National work, and had been acted upon as such, and appropriations had been made to carry it on independently of the two per cent. The road had now gone beyond the Ohio river, and was progressing towards the State of Missouri, into which it would in a few years penetrate. To stop, seemed now out of the question. The Commissioner of

SENATE.]

Cumberland Road.

[Jan. 22, 1828.]

the Land Office had made a statement of the amount of the two per cent. on lands in the State of Ohio, which would be about two millions when all the lands were sold. When this sum would be realized, he did not know. It was not his computation, but that of the General Government. The law had been passed to carry on the work to Zanesville: and this appropriation was only to complete what had been begun under that law. He did not suppose there would be any opposition to an appropriation for such an object—as the time for opposing it, if ever, was at the first agitation of the measure. The greater portion of this great national work was completed, and would only require some care on the part of the Superintendent. It had been done in the best manner, and was covered with stone not over four ounces in weight; the surface had become consolidated, and made a firm and durable road. There was a balance of the work, of about twenty miles, from Bridgewater to Zanesville, yet to be completed, and, for that, this appropriation was to be made. The labor must be done gradually, as, if the stones were immediately covered with earth, they would settle and make holes. For this reason, Congress had, formerly, made such appropriations as the different stages of the work required. But it was now necessary to provide a sum sufficient to complete the road, and to cover all the little repairs that would be required. This section of the road was through a clay soil, and was very difficult to be worked upon, so as to form a solid and permanent work. The advantage of the road would be found to be very great; and one fact might be mentioned in relation to its effects as felt by the Government itself. Formerly, on this route, the mail contractors received eighty dollars a mile, while at present, they contract to carry the mail for thirty dollars—making a saving of fifty dollars. He hoped the bill would not meet with opposition that would require an elaborate debate upon it; and the time of the Senate might be spared.

Mr. CHANDLER was not satisfied with the answer given. He wished to know how much had been received and expended, that they might know what to depend upon hereafter.

Mr. BRANCH made some remarks in opposition to the bill, and reflected on the manner in which appropriations had been distributed among the several States.

Mr. COBB said he had once discussed this subject; and he had no desire to do it again: But he could not refrain from noticing a document which lay on the table, and which gave an enormous sum as necessary for the repairs of the road. It stated that it would cost *only* four hundred thousand dollars if repaired on the M'Adam's system. If what had been done, already, required so large a sum for repairs, was it not incumbent on the Senate to consider what the repairs of the road, when extended to the Seat of Government of Missouri, would cost? And also the continual charge, for repairs, of the projected road from Maine to New Orleans. Now, sir, said Mr. C., what enormous amounts will it not require to keep these great works annually in repair. Why do not the friends of the whole system establish toll gates, and make those who travel upon the road pay for it? As it is now, we, after having made it, are obliged to support it, ourselves. If the friends of the project have it in their power to make the road, why not make use of their power to pay the expenses of its repairs? Congress has been going on for years in its lavish expenditures on this object; and now the effect of its extravagance was beginning to be made manifest. Mr. C. said he hoped an inquiry would be had into the estimates and expenditures for this object; and he believed it would be found that the latter had, in every instance, exceeded the former.

Mr. HARRISON said, that he would not take to himself any portion of the imputation of uncharitableness, which had been alluded to by the gentleman from North

Carolina, because he had never refused to vote for any appropriation, for purposes similar to this, let them be in what part of the Union they might. Let any rational project be brought forward, and he would cheerfully vote for it. The gentleman from North Carolina seemed to blame the Western States, because internal improvements had not been made in his State. But, said Mr. H., we could not originate any measure of the kind, because we did not know the localities. In all these questions it was necessary to inquire whether the work was, or was not, a national one. Let that question be decided, and he believed the gentleman from North Carolina might be sure of the aid of all the Western members. The State of Ohio was now constructing a great National Canal, to which she looked for highly beneficial results. She did not derive any great benefit from the Cumberland road, and had not asked much aid. The United States at large would derive more good from it by far, than his State, or indeed the Western States separately. It was a national object, highly valuable to the General Government, under many considerations. It enhanced the value of the public lands, and accelerated the progress of settlements upon them. It was, also, one of the great links by which this country was bound together. Had the gentleman from North Carolina known the country before the road was commenced, and seen it latterly, he would have been at no loss to feel the importance of this work. Formerly, when a person went to the Western country, it was looked upon as though he had cut himself off from the world. Instances frequently occurred of aged individuals who went early to the West, returning to visit their friends before they died, who never expected to see them again. All this was now changed; the communications had become frequent and easy; and not only old family connexions were renewed, but new alliances were frequently formed, having a tendency to unite with a kindly feeling the distant portions of the country. My friend from Georgia, said Mr. H., says that we of the West are the cause of saddling the Government with a vast expense for the construction and repair of the road. In reply, I can only say, the advantages are equal to the expenditure. He did not think it necessary to argue the constitutional question, which he agreed with his colleague had long since been settled: and in conclusion, he would again assure his friend from North Carolina, that he would give his cordial aid to any measure which should be proposed for the benefit of that State.

Mr. BRANCH made some further observations in opposition to the general principle, and remarked, that he hoped the question would be discussed on its proper grounds—the constitutionality of such appropriations; and expressed a hope that the time would come for stopping the progress of this tremendous exercise of power.

Mr. SMITH, of Maryland, said he never had supposed that Congress took upon itself the right of making internal improvements, or had aided any project not authorized by the States, as was intimated by the gentleman from North Carolina. On the contrary, he recollected that a gentleman from Virginia had formerly brought forward a resolution that each State might make such internal improvements, within its own limits, as should be deemed expedient; and that, in those cases, if the Government of the United States had any funds to spare, they might be applied to aid those States in carrying their projects into execution. In pursuance of this resolution, said Mr. S. we have gone on and subscribed for stock in various works of internal improvement; but never without the consent of the States. The Cumberland road was commenced during the administration of Mr. Jefferson; and Congress had gone on, appropriating for its progress, until it had nearly arrived at Zanesville. The work had been done in a most substantial manner, and was not surpassed any where—certainly not equalled in the United

JAN. 22, 1828.]

Cumberland Road.

[SENATE.]

States. And now a small appropriation is wanted to complete it as far as it has gone; and are we to stop short? Why, sir, it is a great national work, which will be spoken of in the history of our country, as one of the means which a wise Government made use of to draw together the distant sections of this vast nation. But it is argued that the two per cent. on the sales of public lands will not cover the cost of the road. And suppose it will not; are we to relinquish a great national work on grounds like these? Certainly not. And while this complaint is made, Congress is taking the very course to prevent the construction of the road out of the two per cent. by giving away the lands all over the Western country, and thus taking the surest means of destroying that fund. If this system of donations is stopped, the means afforded by two per cent. on the sales of land may prove adequate to the work. But, otherwise, it certainly cannot. Much has been said about the expense of keeping the road in repair. But, if it is so great a burthen, why not give it up to the States through which it runs? Maryland passed an act agreeing to take the road, if the United States would cede it to her. But Congress refused to cede to her the 30 miles that runs through her territory; and since Congress was averse to giving up the road, he hoped they would allow it to progress. The expenditure was nothing in comparison to the object.

Some gentlemen, said Mr. S. have complained that their States have received no benefit from the system of internal improvement. Well, sir, some things are useful to some parts of the country and not so to others. The West do not want fortifications, while the Atlantic States do. And two fortifications are now erecting in the State of North Carolina. It is true that these works cannot come under the term of internal improvement; but they are something. And did not Congress give a sum of money, a year or two since, for the Dismal Swamp Canal? I know that the gentlemen from Virginia spoke and voted against it; but I dare say they chuckled when it succeeded in spite of their constitutional objections. Congress had also subscribed to make a Canal from the Chesapeake to the Delaware; indeed they had given to every portion of the country, where it was wanted, their assistance; and doubtless would act favorably on the project presented yesterday, by the gentleman from Alabama. [Mr. S. here enumerated several other works, among which was the deepening of Savannah river, to which Congress had lent its aid.] And so we have gone on, to clear harbors, make roads, canals, &c.—and shall we now stop, and refuse to complete less than 30 miles of the Cumberland Road? He would not believe that work was to end here. He knew that North Carolina wanted assistance. She had an iron bound coast, and he was glad that she was about to become a commercial State. He did not hear the speech of the gentleman yesterday, [Mr. BRANCH] but that gentleman showed him the memorial of his People, previous to presenting it, and he [Mr. S.] told him that a bill drawn up upon it, would pass the Senate. To every part of the country, where it was needed, improvement ought to be extended, and he [Mr. S.] should never withhold his vote where it could be beneficially used.

Mr. MACON said that the powers of the Government were limited. But by implication and construction you go on and make the Government harder and harder to manage, and create jealousies and heart-burnings among the People. The Government is now a very complicated machine, and every new power, makes it more complicated. If he was not mistaken, there was a gentleman present, who proposed a road in the Cherokee Nation. Every thing now is national or anti-national. Formerly, they were divided into Federal and anti-Federal. And, said Mr. M., I suppose this will be a Federal road, because it is made by the Federal Government. The gentleman from Maine has alluded to the two per cent. on sales of

lands, which was to have been applied to the construction of this road. But that was when the lands were at two dollars an acre. Since that time, they have been reduced to \$1 25; and there was another bill before the Senate, which proposed to reduce that still lower. Besides, we are continually giving those lands away. I remember, said Mr. M. the gentleman who formerly introduced the bill to fix the price at the present minimum; he said he would go no farther—that gentleman has since been a minister to a foreign court, and is now unfortunately dead. But so we go on, doing more and more to make the Government a complicated concern, and still going astray from its original design. It had been said by gentlemen who supported this bill, that the constitutional question had been settled. But he thought it would never be settled until it was fixed. And when that time came, by common consent, there would be no more talking about it. How long was it before Congress granted the money for the Delaware Canal? The debate upon it was long and obstinate—sufficiently so to show that the constitutional principle was not so fully settled as some gentlemen supposed. I always thought this road made by unconstitutional means. And I don't agree on this head with the gentleman from Kentucky, who complains of the operation of the Courts in his State. On that point I go with him. He, like all of us, disputes the powers of Congress, where they go against him. I never doubted, said Mr. M. that a good road was a good thing. I say amen to that. I am willing to give the two per cent. to the States, to make their roads; and then I wish to have done with them. I don't want that Congress should have any thing to do with such works as this in the several States. Let them do them themselves. I have often heard of great National works, and that they were free from tolls to all the People of the country. I know it is a very pleasant thing to travel over a fine road for nothing. But I should like it better had it cost the Government nothing; but been made by the enterprise of the States. He believed that, in former times, People had less change to pay their tolls with than they have now. I don't believe that we can bind the country together by legislation, unless we adhere to the Constitution. And the more you stretch the Constitution, the more you create heart-burnings among the different States; because the People never will believe that they are treated alike; and they can't be, in a country so large as this is. What is to be the result of this straining of the Constitution? Look at your table; nearly ready to break down with applications for the extension of our supposed powers to roads, canals, and every description of works. Let Congress adhere to the true meaning of that instrument, and they will get rid of these difficulties. Here you see a great and rich State coming forward, with a petition, and stating that they are poor and want assistance. This is always the strain. I read all these documents, or, if I leave out any, they are the petitions and memorials of the manufacturers. Sir said Mr. M. we are in the fair way to destroy this Government, and to ruin the country. Such will be the case when the infringements upon the Constitution have gone a little farther. I wish to adhere to its letter and its spirit. Let me say that a vote against any assumed power does nothing. The only case which I know, that was settled in the negative, was the secession law. I am nearly done; and I did not mean to have said a word on the subject, and I do not believe I should, if an allusion had not been made to the Constitution. If you go on in your present career, and destroy the Government, what will your State Governments do? They will set about looking up another secession law, and then consolidation will follow. The Federal Government has established gaming shops. I mean the banks and lotteries; and in these and other games, our liberties and our Constitution are likely to be gambled away.

SENATE.]

Cumberland Road.

[JAN. 22, 1828]

Mr. TYLER expressed the hope, on his rising, that the Senate would experience no alarm at the circumstance of his having taken the floor. He did not rise to go into a constitutional discussion. He rose only to tender to the gentleman from Maryland [Mr. SMITH] who had just addressed the Senate, his thanks for the remarks he had made, and to correct him in one particular. He begged leave to premise, that there was no member of that body whom he held in higher respect than the gentleman from Maryland. If I had been for the first time engaged in the investigation of this subject with a view to arrive at satisfactory conclusions, the gentleman would have convinced me, [said Mr. T.] of the inexpediency, apart from the unconstitutionality, of exercising this power to make roads and canals. The gentleman, sir, has visited the representation on this floor, of many of the States, and sustained by the Honorable Senator from North Carolina [Mr. BRANCH] has represented them as yielding to the allurements presented in some local scheme. He has portrayed them as voting for the exercise of this power, whenever the State they represented was interested in the scheme proposed. He has paid his respects, among others, to my honorable colleague, [Mr. TAZEWELL] who is not now in his place, and while he does him the justice to admit, that he voted against the appropriation of \$150,000 to the Dismal Swamp Canal, represents him as chuckling and rejoicing at the fact of its passage. [Here Mr. SMITH explained.] I should be happy, could I believe that I misapprehended the gentleman. I am certain that the gentleman intended no disrespect to my colleague. Far from it. He felt it his duty to express the thorough conviction, that no local benefit or temporary expediency could ever lead that gentleman to do other than regret, what, in his conscience, he should believe violatory of the Constitution. Gentlemen might represent, in as brilliant colors as they might please—paint with the most glowing pencil, the benefits of any scheme, (and he knew that all the treasures of rhetoric had been employed in embellishing this usurpation over roads and canals)—and yet, sir, if it was unconstitutional, it was inexpedient. The preservation of the Constitution was the height of expediency. That instrument was the charter of American liberty; destroy it, and that liberty was gone; sap it by gradual encroachments, and its destruction, in the end, is rendered as certain as if it was assailed by the bayonet.

But, sir, apart from this, the gentleman has satisfied me of the utter inexpediency of exercising this power. Is it true, that it operates so powerfully on Senators even, selected, as they are presumed to be, for their gravity, their wisdom, their attachment to the Constitution, their elevation, above the mere ephemeral policy of the hour, their indifference to the agitations of party; is it true, that this allurements of State interest causes them to embrace it without stopping even to glance at the Constitution, the charter of their rights, and those of the States? If it be so, it is time to arrest this monstrous evil. Gentlemen, after this, in vain will present to my acceptance, arrayed as it may be in all the finery in which their imaginations can clothe it, this power, however fair they may represent it. I shall only be able to regard it as an old wrinkled hag, corrupted and corrupting. Sir, said Mr. T. all will concur in the importance and necessity of guarding against the accumulation of patronage in the Executive hand. That patronage will never fail to be exercised for ambitious and time-serving purposes. I mean, sir, to make no charge against the present Administrators of the Government; I seek to awaken in the discussion of a grave question, no party-feeling; I should thereby only disappoint my own object. Will the members of this body continue longer to exercise a power which, according to the showing of the gentleman from Maryland, may be used so directly as a bribe upon the several States? If

it can operate here, surely it is not presuming too much to suppose that it may exercise its influence elsewhere. What an electioneering weapon do gentlemen thus place in the hands of this government!

Virginia has been, over and over again, reviled, and efforts have been unceasingly made to ridicule her for her advocacy of principles at war with the latitudinarian principles of this day. And yet, Sir, what fruit has been the result of a departure from the cause she has untiringly maintained? May I not boldly challenge an investigation into this subject? Congress incorporated the Bank of the United States. It was done from the best of motives, I admit. The war left us with a flood of paper money, which there was no inclination, and but little ability, to redeem in specie. The great object of incorporating this bank, was to use it as an instrument to bring about specie payments; and yet, in this the country was wholly deceived. It was used as the instrument of speculation and stock-jobbing. I have a personal knowledge upon this subject, arising from the fact of my having been deputed, along with others, on a committee appointed by the other House, to investigate its actual condition. The report of the committee will justify what I say. It stood on the verge of bankruptcy; and the government, no longer relying upon it to accomplish the object of its incorporation, had to coerce the payment of specie, by a resolution requiring all duties and taxes to be paid in specie. It had parted with the great body of its resources, and injudiciously deputed an agent to England to procure specie, which was no sooner procured than it was again wanting. Its operation has served, in an eminent degree, to cripple the state institutions, without affording any corresponding benefits. I cannot, sir, part from this subject without paying to Mr. Cheves the tribute which is due to him for his after management of that institution. He has thereby justly acquired for himself the character of one of the most enlightened financiers. His self-denying policy, and thorough understanding of banking principles, has given to the bank the power and influence it now so unhappily enjoys. He said that he did not mean to dwell longer on this subject. He would pass on to that which gave rise to this debate. The gentlemen from Maryland and from North Carolina had given a picture of its practical operation, which admitted of no addition. Thus, Sir, the door was fairly opened, and this government threatened, as on the Missouri question, to assume a new attitude. Forgetful of its actual powers, it sought to usurp the powers of the people themselves, in the efforts here made to fasten on the people of Missouri a Constitution which they did not approve. Thus is it always with power—ever accumulating, and ever seeking fresh pretexts for its enlargement. Mr. TYLER disclaimed all intention, in any thing he said, to awaken an unpleasant emotion in the breast of any one who heard him. He would not question, that gentlemen, with whom he at that day differed, were actuated by as honest views and convictions as governed himself. His motive in adverting to this topic, could not be misconstrued. He did it to show the dangers of construction, the evils which had sprung from adopting the commentaries of modern politicians, in place of the plain wording as the instrument itself. But, Sir, what can I add to what has fallen from the venerable gentleman from N. Carolina? [Mr. MACOX.] He has shown, most satisfactorily, the evils by which we are now surrounded. Local interests are consulted; and, hence, your table is loaded with memorials, speaking a language which thrills to the heart of the patriot, wherever uttered. The power to lay and collect taxes, duties, imposts, and excises, for objects specifically enumerated in the Constitution, has been tortured from those objects, and devoted to the purpose of advancing sectional interests. Thus, Sir, has the Government succeeded in awakening a spirit at war with the permanency of our institutions. This is a feeling

JAN. 22, 1828.]

Cumberland Road.

[SENATE.]

engendered, which has the effect of arraying State against State, and brother against brother. These are the bitter fruits of latitudinous construction, to counterbalance which, no good, however great, will ever be found to be sufficient. No, Sir, nothing can atone for an alienation of feeling on the part of the People towards one another and towards this Government. I must believe, then, that the gentleman from Maryland is mistaken, in ascribing to my colleague secret pleasure in the enactment of the law making an appropriation to the Dismal Swamp Canal. My colleague could not have esteemed that as a boon, which assisted in sapping the foundations of this Government. I will answer positively for Virginia, in relation to this subject. Her constituted authorities would have rejected, without one moment of hesitation, the largess, had it been offered to them, and they would have been sustained in such rejection by the People. Let our mountains still uplift their untamed peaks to the clouds—let us have to wade through the mire of our roads, and brave the mighty floods of our streams, in the best way that we are able—yet we will not barter the Constitution of this land for any boon which may be offered; in violation thereof, we will not be tempted to countenance a temporary expediency, for that great, and prominent, and safe policy of preserving the Government, as it came from the hands of those who made it, and, thereby, of perpetuating the blessings of liberty to our posterity.

I owe you an apology for having occupied your time thus long. When I rose, I had no intention of saying so much; but I throw myself upon the importance of the subject for my apology. He could urge much more upon it, but he had probably said too much already. Let this Government avoid all interference with the internal affairs of the States. Let it revolve in its own orbit, leaving the State Governments to revolve in theirs, and no imagination, however vivid, can paint the glories which await us as a nation—but, let it go on, as it has of late gone on, addressing itself to local interests and feelings, and thereby engendering feuds and animosities, and our destiny may easily be foretold.

Mr. SMITH, of Md. said he did not intend to impute inconsistency or want of principle to the Senators from Virginia, in the course they had taken in relation to the Dismal Swamp Canal. He merely intended to imply that, although the Dismal Swamp Canal would benefit their State, such was their ideas of the Constitution, that they would not advocate it.

Mr. MACON said, that this system, thus far, had shewn how much the great men who projected it, were mistaken, in their ideas of making its effects uniform throughout the country. Such a thing could not be. Gentlemen were mistaken altogether, if they thought that, by making laws, they could bind the people together. When any part of the country believes that it has not its fair share of this power, it becomes discontented. And if ever the country was ruined it would be from this cause.

Mr. BENTON said that this bill provided for the completion of a section of road already begun; as a mere question of expediency he should suppose that the Congress ought to finish what had been commenced. He saw no necessity for drawing into this discussion the question of the powers of Congress to make Internal Improvements; because this road had been in progress for a quarter of a century—and because it was made under a compact which had induced every successive Congress to approve it, and make appropriations for its continuance. As to the question whether Congress had this right, it was easily settled. It is said that two per cent. was reserved from the sales of lands for the completion of this work, and it was argued that no appropriations ought to be made beyond the amount arising from that provision. But, on the other hand, the friends of the road contend that Congress was bound by a strong moral obligation to complete the work. Such an obligation

rested on every land-holder to make roads, by which access could be had to them. And the best roads had generally been made by the owners of land either to them or through them. Now, said Mr. B. in the States through which this road is to run, after it crosses the boundary of Ohio, the United States is the sole land-holder, and is bound, both by interest and by equity, to make a road, to render these lands accessible. There were other considerations which imposed this duty on the General Government, which would not be operative on an individual landholder. The United States is paying no taxes on her lands; and is exempted altogether from the necessity of making improvement upon them; and besides, the advantage derived from this great work had been much greater than the expenditure. At the time at which the compact was entered into by the United States and the Western States, it was found that donations of lands were really, instead of donations, exorbitant sales—because the increase of the taxes was very great. The United States derive great advantage from the accession which the population of those States were rapidly gaining, and which was much increased by the roads which the people of the States were continually making by their own labor. These roads and bridges were made to improve the access to the lands of the United States, and in the whole plan the General Government was largely the gainer. Thus it will be seen, that the labor and enterprise of the people of the West on their plantations, roads, bridges, &c., are redounding to the interest of the United States: for, whenever a project is started for a road or a canal through the public lands, their value becomes immediately enhanced in a very considerable degree. I think, said Mr. B., that sufficient has been said to show that the United States is bound to make this road, both on considerations of justice and policy; and that this bill stands upon the very best footing.

Mr. COBB would trouble the Senate with but a few remarks. The gentleman from Maryland has observed, among other improvements, that something had been done for the Savannah river. As I voted for that appropriation, while it is well known that I am not a friend to the system, I deem it proper to explain my motives. The object of that appropriation was, to remove obstructions placed in the Savannah river, during the Revolution, to defend the City from the enemy. In this case, then, there was an obligation, on the part of the government, to make this appropriation and I think I can point to a similar object in Maryland, in which the aid of the General Government was obtained. During the late war certain vessels were sunk in the harbor of Baltimore, to prevent the British flotilla from attacking the city; and he believed that, since the peace, these vessels were raised at the expence of the Government. He did not mention this to find any fault with it. It was as it should be. And why? Because the Government had assumed the right to obstruct the harbor for the common defence: and was bound, when they were no longer necessary, to remove those obstructions. And, therefore I think, said Mr. C. that there is no difference between cases of Baltimore and Savannah. Now, Sir, said Mr. C. to take up the subject before us, I did think, and I do still think, that there is a great distinction between this and other objects of Internal Improvement. In the House of Representatives, on a former occasion, a resolution had been introduced against the objects of Internal Improvement. Another resolution was offered, and which succeeded, which gave the power to the United States of making appropriations in aid of projects commenced by the different States. To him the power of appropriation appeared much more dangerous than the other. He should say nothing further upon the general question; but he could not see one tittle of reason in support of the right of an individual State to grant a power to the Federal Government which was

SENATE.]

*Pensioners.*

[JAN. 23, 1828.]

not to be found in the constitution. And giving to Congress the power of appropriating money, was far more dangerous than to admit the original power itself of the General Government to make Internal Improvements, independent of the will or permission of the States. In this respect he agreed entirely with the gentleman from Virginia, who had, a short time since, addressed the Senate. The power to raise money and appropriate it was not less important than it was restricted: and every exercise of it ought to be strictly within the terms of the grant in the Constitution. This was a subject of great jealousy when the Constitution was adopted. The most populous States were jealous of every power of which they divested themselves in granting them to the General Government; and it was expressly declared, that every power which was not given to the General Government, by the Constitution, was retained by the States, and could not be wrested from them. It is scarcely necessary, [said Mr. COMB] that I should go into a further detail of my opinions upon the constitutionality of this question. They have often been declared before, and have now been presented to the Senate in a manner merely incidental, as I probably should not have opened, my lips had it not been for the remarks, which I have already noticed, of the gentleman from Maryland.

Mr. SMITH, of Maryland, observed, that he did not know whether the sinking of the vessels at Savannah, during the Revolution, had been done by the direction of the General Government, or whether those obstructions had been placed there by order of the State authorities. He recollected, however, that the Legislature of Georgia passed a law, many years since, levying duties on the tonnage entering the harbour of Savannah, to be applied in clearing out the obstructions to the navigation of that river. And he also recollected, that, when the act of Congress passed, the Legislature of Georgia repealed those duties. He agreed that, both in the instance mentioned by the gentleman from Georgia, of the hulks sunk in the harbour of Baltimore, and also in the case of Savannah, it was perfectly proper that the proposition, for the removal of those obstructions, should be made by Congress. [Mr. S. then stated some circumstances relative to the removal of the vessels sunk in the harbor of Baltimore, which were inaudible to the Reporter.]

Mr. BRANCH then made a few remarks in opposition to the bill, and expressed a desire that the constitutional question should not, in any similar case, be lost sight of. In regard to the hulks in the river Savannah, he observed that this obstruction took place previous to the adoption of the Federal Constitution: and that their removal was more incumbent on the General Government, than the completion of any plan of internal improvement that came within his knowledge.

Mr. EATON said he did not think there was time to argue a constitutional question at this late hour. Whether Georgia had received too much or too little from the General Government, he did not pretend to say. He wished to consider this subject more thoroughly than he had time to do now, and he therefore moved an adjournment.

WEDNESDAY, JANUARY 23, 1828.

## PENSIONERS.

The bill from the other House, making appropriations for the payment of the Revolutionary and other pensioners of the United States, which had been reported by the Committee on Finance, with an amendment, having been taken up—

Mr. SMITH, of Maryland, said, that he had been ordered by the Committee to move to amend the bill, so as to strike out the appropriation of \$236,000 in addition to the unexpended balance of \$564,000. But, after the bill had been reported, some doubts were entertained by the

Committee whether the unexpended balance of the sum appropriated ought to be considered in the appropriation for this year. In order to receive satisfactory information on the subject, a letter had been directed to the Secretary of the Treasury, who had in reply transmitted a report of the Chief Clerk of the Pension Office, by which it appeared that the sum spoken of as an unexpended balance, was that sum which should have been expended in 1828, and which would be paid over to the pensioners in 1829, in the same manner as the Navy fund was disposed of. It was, therefore, considered by the Committee, that the 564,000 dollars remaining in the Treasury, was not, in reality, an unexpended balance; but that it would be called for in the course of the year 1829. He thought the subject would be better illustrated by the letter of the Secretary of the Navy, than by any other means. [The Secretary then read the letter.]

Under these circumstances, it would be seen that the Committee would have been justified in reporting the bill without an amendment. But, on further consideration, it appeared doubtful whether a sum, not expended out of the appropriation of 1827, could be applied on that to be expended in 1828. The statement of the Clerk of the Pension Office was, that, if all the pensions came in during the year, it would require \$1,200,000 to pay them. The Committee thought it better to bring the question before the Senate; and, as the Department was ready to take the responsibility on themselves, they were willing to let them have it.

Mr. BRANCH made some remarks, in which he explained why he differed from the Committee.

Mr. HARRISON said, that he had been informed by the Secretary of the Treasury, that an unexpended balance had been increasing for the last two years, until it amounted to \$564,000, and that it would probably be sufficient for the expenditure of this year. He thought, with the gentleman from North Carolina, that the expenditure should not be larger than was necessary.

Mr. SMITH, of Maryland, said, the matter was before the Senate for its decision. For the information of the gentleman from Ohio, he would ask the reading of the letter of the Secretary of the Treasury. [The letter was then read by the Secretary.]

Mr. PARRIS said, that he did not see how the balance could have been accumulating, as had been observed by the gentleman from Ohio. He [Mr. P.] understood that, after two years, all unexpended balances were carried to the surplus fund. He thought with the Committee, that it would not be safe to depend on the balance alone; and he would state the effect of doing so. Suppose certain pensioners should apply, who had not claimed their pension in 1828. They cannot obtain it afterwards. At any rate, he would not alter the measure so as to cause the least inconvenience. Congress was only the pursers to deal their stipend to these men, and they must have it. The case was a very simple one. By adding the unexpended balance of last year, the nominal amount was swelled; but it had nothing to do with the real appropriation. It appeared that the unexpended balance remained in the Treasury for the payment of those distant pensions, which had not yet been claimed, and which were scattered through distant parts of the country.

Mr. McLANE said, that he thought, with the gentleman who had just sat down, that the form of this bill was not material, as regarded its operation on the Treasury. The only object that could be had, in this matter, was, to pay promptly the old pensioners who would apply, and for whom the appropriation was made. They ought not to be put to inconvenience. Before another year, they might be beyond the reach of the necessities which their pensions would supply. If they do not apply, it is still in the Treasury; and the policy had always been observed of allowing it to remain there, for their use, when



JAN. 23, 1828.]

*Pensioners.—Cumberland Road.*

[SENATE.]

their applications should be made. But it appeared that the appropriation, if this amendment pass, will be totally inadequate. The Senator from Ohio is in error. This \$64,000 dollars was not an accumulating balance, because the balance of the former year went to the surplus fund.

[Mr. HARRISON explained, that he had not used the word accumulating, but had stated that the amount of the balance had increased, being larger than it was at the end of any former year.]

Mr. McLANE resumed. He did not intend to misrepresent the gentleman from Ohio. He believed the amount totally inadequate. The Clerk of the Pension Office estimated that 1,300,000 dollars would be required to pay all the pensioners that might apply this year. It was not probable that all would apply—but they ought to be provided for. The surplus now remaining arose from many pensioners having failed to apply for their pensions. On a former occasion, in consequence of making the fund remaining from a previous year a part of the appropriation for the invalid pensioners, it fell short upwards of 100,000 dollars, which Congress had afterwards to make up. He was, therefore, averse to diminishing this appropriation. It was worth while to know how these unexpended balances were created. The pensions might remain uncalled for from various reasons. The pensioners might be sick at home, or it might be difficult to send for it. The moment they were able, they would empower some agent to receive it; and Congress ought to be provided against such application. If the appropriation was not made, the Committee would have done their duty, and the responsibility would rest upon the Senate.

Mr. HARRISON expressed himself satisfied with the letter read by the Secretary. Rather than that one of these veterans should suffer in any way, he should vote for the bill.

Mr. CHANDLER said, that there seemed to be a want of information on this subject. The Clerk of the Pension Office reported that a larger sum than had been proposed was wanted. It was, he thought, better, therefore, to get further information from the head of the Department; and he would move to lay the bill on the table; but withdrew his motion at the request of

Mr. BRANCH, who made a few remarks.

Mr. COBB said, he believed the Chairman of the Committee on Finance was about to give more than the Department asked for. The Secretary said, that but 800,000 dollars was wanted, and it seemed that there was now an unexpended balance. Why should Congress give more than was needed? He was willing to vote for filling the blank with 800,000 dollars, and that appeared by the documents to be enough.

Mr. BRANCH moved to fill the blank with 800,000 dollars.

Mr. PARRIS hoped the question would be divided. He did not wish to touch the unexpended balance, but allow it to go, when the period arrived, to the surplus fund. He did not wish Congress to touch what they had no right to.

Mr. McLANE rose to make one remark. He understood the gentleman from Maine [Mr. CHANDLER] to say, that the answer to the letter of the Committee had been received from the Clerk of the Pension Office, and not from the Head of the Department, who was applied to. Mr. McL. would state to the gentleman, that these estimates were not made out by the Secretary of the Treasury, but by the Heads of the several Bureaus, by whom they are transmitted to the Secretary. He made this explanation, merely to show that the information had been received through the proper channel, and that no censure could be cast on the Head of the Department.

Mr. CHANDLER did not suppose that any neglect was complained of. He only went on the ground that, if information was wanted, they had better apply for it to the

Head of the Department. He did not intend to impute censure to any one.

Mr. KING thought there was some error in this matter; and if it was referred to the proper Department, that error would be corrected. He supposed that the Secretary of the Treasury had no more to do with the estimate than any other officer. He, as the Head of the Department, transmitted the estimates made out by the Clerks of the different bureaux. Mr. K. thought the application ought to have been made to the War Department, under which the Pension Office was placed. It appeared to him that, until the Secretary of War had an opportunity of revising the appropriation, it would be improper to act upon it. At the same time, he could not but express his opinion that the appropriation was not by any means inadequate. Under these views of the subject, he moved to lay the bill on the table; which was agreed to.

#### CUMBERLAND ROAD.

The unfinished business of yesterday having been resumed, the bill to complete the Cumberland Road from Bridgeport to Zanesville, in Ohio, and to provide for the survey of the same from Zanesville to the Seat of Government of Missouri, was taken up.

Mr. EATON had very few remarks to make. He considered that many gentlemen had argued erroneously upon this subject, because they had predicated their remarks on wrong facts and data. In addressing the Senate, he should depend on facts alone. Whatever the opinions of gentlemen might be on the abstract question of the constitutional power of Congress, this was not a case in which that question could be legitimately agitated. The bill now before the Senate proposed nothing more than the fulfilment of a contract on the part of the United States, entered into many years since, the early stages of which had gone on uninterruptedly. The mists of constitutional scruples had been newly raised, and thrown around this object at a time when they could be least expected. He should say nothing on this head, because, in his opinion, it had nothing to do with the original compact by which the United States agreed to complete this work. He intended to show what that original compact was, and that it was a mistake, in which some of the friends of the measure partook, that the two per cent. fund, so often mentioned, had anything to do with the agreement between the contracting parties. As far back as 1802, the plan was commenced, under the administration of Mr. Jefferson, than whom no man was more scrupulously regardful of the exact letter and meaning of the Constitution: for, said Mr. E. although I would not bow down in humble admiration of any man whose talents and virtues do not entitle him to the high character of a patriot and statesman, yet it is no humiliation to look up with reverence to the name of Jefferson. In the year 1802, Ohio was admitted into the Union; and in the act which sanctioned her admission, it was provided, that "one-twentieth part of the nett proceeds of the lands lying in said State, sold by Congress, after deducting all expenses incident to the sale, shall be applied to the laying out and making public roads, leading from the navigable waters emptying into the Atlantic, to the Ohio, to the said State, and through the same; such roads to be laid out under the authority of Congress, with the consent of the several States through which the roads shall pass."

Thus it will be seen, that the law agreed that Congress should make roads to and through the State. If the words were not clear, the question might be made to rest on the subsequent acts of Congress, in which the same provisions were made in favor of Indiana, Missouri, and Illinois. But there they stood in the law, utterly unquestionable as to their purport and bearing. Of what benefit to Ohio, he would ask, was the completion of the Cumberland Road through Maryland and Pennsylvania to the



SENATE.]

*Cumberland Road.*

[JAN. 23, 1828.]

borders of the Ohio? That did not fulfil the stipulation that it should pass through Ohio, which had been agreed upon. And what did she stipulate—what did she give as an equivalent? She stipulated that she would not, in consideration of this promised extension of roads to and through her territory, exercise her sovereign power to tax the domain of the United States lying within her borders.

And now (said Mr. E.) let us look at the extent of the public domain in the State of Ohio, at that time; and I think it will appear that the fund to be applied by Congress to public works far exceeds the expenditure. He would state a few facts in support of this position. From the year 1802 to 1815, six millions of acres had been surveyed, and, supposing that half that amount has been surveyed since, and the whole to have been sold at the Government price, here is a fund of nearly twenty millions of dollars. Here, then, is a contract in which the United States are bound to do one thing, and the State to do another. The State performs its portion of the agreement, and the United States is bound to apply five per centum on these sales. This fund would amount, on sales of twenty millions, to one million. Therefore, the statement that the fund had been overdrawn already, was certainly not correct. Subsequently to the act of 1802, the direct action of the Senate had been had in favor of extending the Cumberland Road still farther west. We find nothing more upon the subject until 1806, when Congress again took up the subject. They did not then subscribe to the principle that Congress was authorized to make a road without the consent of the States. But it was admitted that, if that consent was obtained, it was a constitutional exercise of power for Congress to authorize and complete the work. And this principle was sanctioned by Mr. Jefferson, in consenting to the passage of the bill. [Mr. E. now here read a passage from a report made at that period.] The President was there authorized to ascertain whether the States in question were willing to acquiesce in this exercise of power. That having been ascertained, Congress went on to make appropriations for the work. Therefore, Mr. E. considered that no violation of the Constitution has ever taken place in the laws passed by Congress for the continuance of the Cumberland Road. If Congress had a right to admit new States into the Union, and also the right to subject those new States to any conditions not hostile to their Republican character, then this compact was a valid one, and the faith of the Government was solemnly pledged to advance in the plan which they had commenced.

When Virginia ceded her western territory to the United States, she ceded the right of sovereignty and proprietorship. Afterwards, when Ohio knocked at the door, Congress was in possession of the power to make any stipulations and conditions that they might think necessary. They then said to Ohio, "Forbear to tax the public lands, and we assure you that a substantial road shall be made, joining the waters of the West with the ocean."

Is there any gentleman present, [said Mr. E.] who will not grant that it was a great consideration to unite the two extreme portions of this country by a substantial means of friendly and commercial intercourse? The Western States were then important, and are fast becoming vastly powerful and wealthy, and claiming their full share of attention from the General Government; and was it not a strong measure of expediency to seek out and carry into effect a plan for drawing their interests closely to the Atlantic States?

The gentleman from North Carolina, [Mr. MACON,] has said, that it is vain to legislate on the affections of the People, and that a stronger influence must be exerted to draw them together. But, [said Mr. E.] to my mind, there can be no stronger bond of union than that which arises out of a community of interests. This is produced by a free exchange of products, and a continual course of

business transactions carried on between the inhabitants of the different sections; and such measures, Mr. E. believed, must be adopted, to make the citizens of this extended continent one People. A perseverance in such a policy would soon do away all fears of discord and disunion.

There was another point of view in which every friend of his country would look upon this work. We are now no more secure against the occurrence of a war than at any former period of our political existence. Should it come again, the safety of the country must, in a degree, depend upon the West. He did not say this, because he thought the Western People were better soldiers or more patriotic than those of the East. But we of the West have no frontier that is assailable to a foreign enemy; and while the soldiers of the Atlantic States will be called from point to point to defend the coast from the attack of an enemy's fleets, the soldiers of the West will form a strong reserve to aid in all emergencies: for they are always ready. I do not say this, proceeded Mr. E. with the positive prediction that they will be wanted—but they may be—and your reliance on them may be most confidential. Then, I ask, will it not be of vital importance to have the means of rapid and easy communication between the West and the East? Will it not be essential to have the means of bringing together the whole physical energies of the country? and should we not, then, justly blame any previous neglect that should have thrown obstacles in the way of such an important concentration?

Let us suppose, for instance, that New-Orleans were again threatened; would she not look again to the soldiers of the West for defence? Yes, sir, and she would not look in vain. Once the Western riflemen have already beaten back her assailants; and they are ready to do it again. The drafts must be exorbitant indeed, that shall absorb the courage and intrepidity of our forest soldiers.

Wise statesmen will look forward to changes and emergencies. We may think that we can take care of ourselves; but the time may come when we shall need assistance. Against such a juncture it is our duty to provide. In peace to prepare for war, is an American maxim, which experience has shewn us cannot be to often repeated or too closely followed.

But said Mr. E., this road is important in a fiscal point of view. The reduction of the price of conveyance of the mail had been correctly stated by the gentleman from Ohio, [Mr. ROSSLES.] It was also of great importance as to individual expense, and the facility it gave to our internal commerce. He recollected the time when goods carried from Philadelphia to Ohio cost ten dollars per hundred weight. It was now reduced to reasonable charges. Cannot gentlemen see that this fact is of great importance in a commercial relation? as, in proportion to the facility of carriage, the amount of transportation would increase. Commerce, exterior and internal, was extended by such means.

This work, then, is a great national object. You made a contract with the State of Ohio, which you are bound to fulfil, and which, also, if my arguments have not failed, you are deeply interested in carrying into effect. The advantages which she would have derived from the receipt of the taxes on the public domain, would have been far greater than those she will reap from the road: for she could have employed it better than it has been employed. The road now wants repair. That it must be made no one doubts; yet it has often been proposed in vain. Indeed, in every instance where this road has been discussed we of the West have fought for it inch by inch. In other States 2 per cent. has been devoted to roads and Canals, and 3 per cent. has been taken by the States. But in Ohio the whole amount has been paid to the Government, so that she is under no obligation to the United States—which constitutes for her a very strong claim

JAN. 23, 1838.]

Cumberland Road.

[SENATE.]

to share in the advantages to be derived from this road, and strengthens the equitable title which she derives from the compact entered into when she became a sovereign and independent State.

Mr. CHANDLER said, that he had yesterday asked how much had been received, and how much expended from the fund to be applied from the sales of public lands on the Cumberland road. The gentleman from Tennessee supposed that nine millions of acres had been sold, which would produce one million of dollars to be appropriated to the making of the road. Well, ~~or~~ we have already expended upwards of 1,800,000 dollars. And I ask, said Mr. C., whether we have not done our share of the contract? and whether we are to go on after the 5 per cent. fund is expended? if so he should vote against the bill. If he understood the gentleman from Ohio yesterday, it was true that some expenditure had been made beyond the amount of proceeds from the sales of Public Lands; but that there ought to be a little surplus left to repair the road. For his part Mr. C. did not see how Congress was bound to make the repairs to the road. He thought they ought to go no farther; and he therefore moved to strike out the appropriation of \$180,000, and insert \$80,000. This he believed would be enough to complete the road as far it yet had gone—and if it were not stopped here when it had been carried through Ohio, there were other Western States who would also look to having it carried through their territory. If this was to be the case, he was willing that Congress should make it as well as it could be made with the five per cent.—and no better.

Mr. EATON observed, that if the gentleman from Maine would look at the report upon the subject, he would find that contracts had been made for the completion of the Road to Zanesville, about 30 miles from Bridgewater; and if he succeeded in striking off one hundred thousand dollars from the appropriation, only sufficient would be given to finish 13 miles; and all that had been done on the remaining portion would have been entirely thrown away.

Mr. CHANDLER then withdrew his motion.

Mr. HENDRICKS said, that when he addressed the Senate yesterday, he had been anxious to avoid discussion, or entering into a consideration of the Constitutional powers of Congress. He should chiefly confine himself, at this time, to replying to the remarks of the gentleman from Maine, in relation to the 3 per. cent fund. It must be known to every gentleman in the Senate, that the constitutional power has been settled by every Congress for upwards of twenty years. He did not, therefore, consider it necessary to touch that portion of the argument.

He had said yesterday, that Congress had agreed to make the road from Bridgeport to Zanesville; and, in pursuance of that agreement, that the contractors had gone on in the progressive stages of the work, so that, at this time, 21 miles of the road were in an unfinished condition. If the motion of the gentleman from Maine had prevailed, it would have destroyed the project for this year at least—because 80,000 dollars would have done comparatively no good.

The discussion of this subject yesterday took a wide range, embracing the Constitutionality of the measure. He had no disposition to follow the example, or now to answer the arguments of gentlemen who opposed the bill; but should call on them to sustain their positions in a future debate. The gentleman from Maine did not, however, participate in these objections. He seemed desirous of obtaining information in relation to what he called the "two per cent fund." This information, said Mr. H. I will endeavour to give him. The gentleman from Tennessee did not notice the fact of a law subsequent to the compacts with some of the Western States, which divided the five per cent. and applied three per. cent. to

the construction of roads within the State, and two per cent. to the making of a main road by the United States, through the State. Whether the sum arising from the two per cent. would, in the end, defray the expense of the road or not, he could not say. Thus far, probably it had not. But the country through which the road had already passed was the most difficult section of the whole. Farther West the soil was better adapted to the work, and it could be done cheaper. The grand question is, whether this was a great national work, in which the whole Union was interested. If this was the case then it ought to be progressed in. And the compacts had, as far as compacts could do it, established the right of the United States to make roads through the States.

I hope, said Mr. H. to be allowed to appeal to the gentleman from Virginia, who favored the Senate yesterday with his ideas relative to internal improvements, the tariff, &c. I would ask him what he would do with the powers of the Constitution—for it is scarcely to be supposed that they were given for no purpose—and if Congress has not the power to make a road or a canal, it has no right to exercise those constitutional powers at all. But this was going farther into the constitutional question than he had intended. To revert again to the two per cent. there was no doubt that in Illinois, Indiana, and Missouri, it would exceed the expenditure upon the road. It was not to be supposed that it would be applied beyond the limits of the States in which it was collected. For instance, the fund raised in Maine would not be applied to a road leading to the West. And here he would make another explanation. The gentleman from Georgia, [Mr. Cobb] had also made some inquiries as to the manner in which the estimates made before the work commenced had tallied with the expenditure. The estimates made by Mr. Shriver were remarkably correct. But in some instances, the difficulties of the route, the hilly nature of the country, and other obstacles, had caused the expenditure to exceed the estimates. He made this declaration frankly, because he did not wish that a measure based on just principles, should reap advantage by concealment. The tract of country through which the road was now progressing, was the worst through which it would pass. It was a broken, hilly country, resembling the mountainous districts of Pennsylvania and Maryland. But the plains of the States beyond the Ohio, to Mississippi, were far less difficult, and would call for small appropriations.

The gentleman from Georgia says, also, that the road wants repairs, and asks why its advocates do not propose a measure for the erection of toll gates upon it. But, sir, are we responsible for the condition of the road? Have we not endeavoured, for years, but in vain, to fix upon it toll gates, to provide, in this way, for its regular and permanent repair? And has not the opposition to this measure universally come from those very same gentlemen who oppose the appropriations to carry on the work? There is, said Mr. H. a bill now before Congress, the object of which is to provide for the erection of toll gates, and we shall see, when it is taken up, whether the gentleman from Georgia will go with us in its favor.

In conclusion, Mr. H. remarked, that the Cumberland road, was a stupendous work, which could never have been completed by the efforts of the several States. It peculiarly required the direction of the General Government, for it could no more be expected of the States, that they should construct roads for the national welfare, than that they should build ships of war or erect fortifications. Pennsylvania never would have been induced to make this road. She would rather have turned her attention and resources to local improvements; and so it would have been with every other State. In every point of view, the road was of great importance. It had already saved the country near half a million, and had, by the en-

SENATE.]

Cumberland Road.

[JAN. 23, 1828.]

couragement given by it to agriculture, increased the wealth of the country to an amount far greater than the sums that had been expended in its construction.

Mr. COBB said, that he believed it had been admitted yesterday that the expenditures had overgone the estimates, and that sufficient had not been granted. I asked, said Mr. C., why gentlemen did not go the whole, and, if they could make the road, why they did not also erect toll gates? The gentleman from Indiana replies to me, and says that a bill for that purpose is now before the Committee on Roads and Canals. He also calls on me to say whether I will support the bill.

Why, said Mr. C., I told the gentleman yesterday that I would not. I said, then, that I was entirely opposed to the system on constitutional scruples; and I now inform the gentleman that he will find in me a steady opponent, whether to measures for the construction of the road, or measures for its repair.

Mr. HENDRICKS said a few words in reply.

Mr. SMITH, of South Carolina, was unfortunately opposed to appropriations for this road, and not only this, but to appropriations by Congress for all roads, not excepting military roads, the constitutionality of which he doubted. The gentleman from Indiana says that we have repeatedly settled the question; and that it need no longer be agitated. But I think not. It is true that Congress has appropriated for these objects from year to year, under one pretext or another; but I never supposed it was designed that we should continue, from year's end to year's end, to give large sums for these objects. 180,000 dollars was given towards this road; and 30,000 dollars for surveys. I know that the road is very convenient for people coming from the West, and do not doubt its great advantages to the States through which it runs. But my principle is, let every State make its own roads; and, if they reap advantages, let it be from their own industry and perseverance. This would be far more consistent and creditable than to ask, from session to session, appropriations of money from Congress.

It is a little curious, said Mr. S., to observe the grounds upon which these repeated demands are supported. The friends of the road tell us, with very grave aspect, that we have made the road so far, and now it would be unjust not to make it a little farther. They argue as if our having gone thus far entailed upon us the obligation of still proceeding *ad infinitum*. Their reasoning seems to be, that, having put "our hands to the plough," we must, on no consideration, look back, but that the whole Western country must be intersected by this road at the expense of the whole country. It is true that two per cent. was granted towards making a road of this description: but I ask if there is any thing in the compact with these States which stipulates that the road shall be 80 feet wide, or that it shall cost 14,000 dollars per mile?

The gentleman from Tennessee said, in the course of his remarks, that, in a body like the Senate, he should depend upon facts. That is just what I have always endeavored to do. Well, sir, it is said that the two per cent. will pay for the completion of the road. I ask, will it be possible that it can defray the expense to which the Government has already gone? Will it pay 14,000 dollars per mile, and 636 dollars per mile as salary to the superintendent? I believe not. I believe that, at the time the road was first projected, had it been proposed to pay 636 dollars per mile to the superintendent, it would have prevented its construction. I know not what the superintendent does, or what he has done, but I know that the pay appears to me enormous. Of all public objects, perhaps none are more efficient in promoting the expenditure of public money than such a work as this. And that seems to be its principal recommendation.

It is said, in the report of the superintendent, Mr. Caspar W. Wever, that it is a very bad policy to build roads

and let them go to decay. And he goes on to state that that great monument of the munificence of the Government—the Cumberland Road—had nearly gone to decay. The appropriation of money, he says, has been made, but little good has been effected in making repairs. I should like to know whether the money appropriated has ever been applied effectually. I should think not; for every year we have applications for the repair or the improvement of this road.

Such are the declarations of your engineer. He tells you that your great and splendid road is in ruins. Look at the papers on your table, and any one will easily be convinced that a quick decay has come upon this road before the plans of its advocates are half completed. Different methods have been recommended to keep it in repair. It has been recommended to build it with stone, and cover it with gravel; but all will not do. It is swept away by the torrent. And it is now proposed to cover it with iron. Gentlemen smile; but it is so. [Mr. RIVES said not iron but metal.] Well, sir, I will look at the report. It is there recommended that the road be graded at an angle of five degrees, and covered with metal of a good quality. It is true, it is not explained what kind of metal this is to be. But, if I understand the English language, it may be gold or silver, as it is pretty clear it cannot allude to lead.

[Some one here remarked, that, by the word "metal," was meant "limestone."]

Mr. SMITH. This is the first time I ever heard that limestone was a metal. However, it may be so in the Western country. The new projects of the engineers were continually occupying the attention of Congress. These engineers are also taking a large proportion of the money of the United States (whether metal or not.) Upwards of sixty of these gentlemen are now in employment. And any Senator who will look at the documents on his table, will be convinced that it is money thrown away. And we still go on, laying stone upon stone, and heaping metal upon metal, as I sincerely believe to no practical effect beyond the distribution of the public money to men who want it.

I am not disposed to deprive the People of the West of any of their rights, or interfere in their convenience. More especially would I avoid interfering in the peculiar public benefit to which the gentleman from Ohio so gallantly alluded in the debate of yesterday. He said that alliances were formed by means of the convenience afforded by the Cumberland Road, between the young people of the different sections of the country; and that it was the happy instrument in causing many happy marriages. But, I would ask, if we are to pay so dear for these alliances? Poets have sung to us that bolts and bars cannot confine true love—and yet, forsooth, our modern lovers must have a smooth road paved with "metal of a good quality," to bring them together. This was a cold and phlegmatic kind of love, and he believed no lady would consent to give her vote for it.

I believe that the road has been as injurious as it has been expensive. But gentlemen also tell us that it is a war road. I hope not. I hope that, although we do not show much love towards each other, we shall not go to war. I have heard of no alarming enmity existing between the East and the West. Yet you have been expending the money of the Government on a war measure. Sir, we suffered sufficiently during the last war; and yet you are no sooner comfortably settled in the enjoyment of peace, than you prepare for war at a great expense. This is a principle which is continually cried up in this country, but I do not agree to it.

But, again: it is said that the making of this road was guarantied by a compact between the United States and the Western States; and the gentleman from Tennessee has read us the act. Well, sir, admitting this is the law;

JAN. 23, 1828.]

Cumberland Road.

[SENATE.]

if its operation is injurious or inexpedient, why is it a solemn compact more than any other law? and why may it not be repealed if it is an improper law? In relation to Ohio, it seems that the compact is already fulfilled. The road has not only gone through the State, but surveys have been made as far as the State of Indiana. I recollect, also, that, having authorized a survey, it was completed, but not happening to hit the seat of Government of Indiana or Missouri, (I have forgotten which,) it was abolished, and a new survey ordered. If there was a compact by which Congress was obliged to make a road to and through the State of Ohio, I do not mean to go farther, so far as depends upon me. Nor do I believe that the continuance of this road into Missouri, Indiana, or Illinois, is incumbent on Congress, or is authorized by the Constitution. I said I would not touch on this Constitutional question; nor need I to do so. There is yet another point of defence, in which the friends of the bill flatter themselves they are well sustained. It is, that this road is made under the power given by the Constitution to regulate commerce. Some of the gentlemen seem to go entirely upon this supposition. If this argument be admitted, where will the system stop? Will it not branch off to the Northwest Territory, or go to Santa Fe? In either case, it could be doubly defended by its friends, as a war road and a commercial road. How fallacious, however, is the policy, if we take it on the former ground, of opening a road of eighty feet in width into an enemy's country: for, if it is a war road, I presume we are going to fight Mexico. But, I ask, are they a warlike people? are we not in profound peace with them at the present time? To these questions I presume it will be answered, that we are not in hostility with Mexico, but that the road is to be a commercial one. And so we see that, whether one way or another, the friends of the road have always a ready defence. We are to have a road eighty feet in width from Cumberland to Santa Fe, built of stone and paved with metal; that part, I presume, nearest the Mexican frontier, with gold from the mines of Mexico. And then, sir, do you suppose these gentlemen are going to be satisfied? Not at all. New projects will start up, and new attentions be seized upon, to keep up the flow of money from your Treasury into the pockets of engineers, contractors, &c. But, suppose that, at some future period, the work should stop; then Congress must turn about and expend twenty millions to repair what they have already done.

On every consideration that has presented itself to me, I am opposed to this system of expense. Are the Representatives of the People willing to pay, in the time of peace, a subsidy for the purposes of war? A subsidy for the encouragement of commerce, or a subsidy for the establishment of post roads? I believe they are not. These sentiments I have offered to the Senate as the ground upon which I opposed the bill.

Mr. NOBLE said he would bear testimony to the humor with which the speech of the gentleman from South Carolina had been characterized; although, at the same time, he must differ from him in point of fact, and in many of the arguments upon which his witticisms had been founded. He did not know what kind of love it was with which the gentleman from South Carolina would look upon the people of the Western States. Love, he had always understood, regarded the happiness of its object; and he did not know how the gentleman could suppose that the people of the West could be happy, or even comfortable, without roads. But, if the gentleman had any desire to promote that love which teaches to do justice to our fellow citizens, he thought his course upon this bill would have been a different one. I have read somewhere, said Mr. N., that all poets were fools, but that all fools were not poets; and I begin to believe it is true. If we

speak of poetical affairs, please to allow me to have my own ideas. I believe poetry and novels to be the most injurious things in the world. If the gentleman from South Carolina wishes to increase that love which would induce us to give to each other whatever rights we are entitled to, he would see this measure in a very different light. If you will do away the designs of the sage of Monticello, then you will strike at the root of that love and fellow feeling upon which the prosperity of this country depends. It was under the auspices of that great man, the father of Virginia—although the gentleman from Virginia, who spoke yesterday, says that he had rather wade in the mud than make good roads to travel upon—that this great work was first set a-going. He was no violator of the Constitution, and understood its construction probably as well as men of the present day.

Now, sir, by a compact with these Western States, Congress is bound to do this work. The Government cannot avoid it; its pledge has been given, and it must be done. Mr. Jefferson saw how those States were situated. He saw that there was no outlet towards the East to that country lying on the Western waters, and that, in case of a war, the two sections of country would not be in a situation to help each other. If Mr. Jefferson had not set on foot this plan, those rugged rocks which I clambered over when a youth, would have remained, and the face of the country would still have been darkened by those endless forests through which I used to follow the paths of the Indians; for we never should have settled that country—we could not have done it—if it had not been for this road. Now, sir, will any man pretend that Congress shall not agree to the compacts which it has made with those States? Does any man believe that such a compact was unconstitutional? If he does, I will refer him to the fourth article of the second section of the Constitution, where it is laid down that new States may be admitted into the Union, and that Congress may make rules to regulate their admission. Is there any thing clearer than that? While those States were yet territories, the United States had the sovereign power over them: but when they were admitted into the Union, sovereignty over their territory vested in them. And when you offered to make a road through those new States, what would have been the effect if we had refused to accede to the conditions? But what did we do? We agreed to the compact, sir. We gave you a consideration for the benefit you were to bestow upon us. We got nothing; nor do we want any thing gratuitously. No time is fixed for the fulfilment of this compact; and, consequently, the present time is the only proper one.

Will you, then, after making a compact, refuse to do what you promised to those States who have been struggling for years in the forest, extending your dominions, and guarding your frontiers against the depredations of the savages? Why did Congress originally make this agreement? I'll tell you why, sir. It was, that we might have all the communication with the commercial cities that our talent, our wealth, and our enterprise, entitled us to. Sir, you can't stop the progress of civilization. Do all you can, the Western world has got the start of you, and will defy illiberality to overtake it or stop its progress. You may make us wade in the mud, and swim our rivers and creeks, by refusing to aid us in making roads and canals; but it will not do. It is out of your power to keep down the enterprise of our citizens. I ask you to pass this bill, the principle of which was advocated by the Sage of Monticello, and defended in the councils of the country by Mr. Madison. I have also a resolution in my hand, offered by a gentleman who was late a member of this body, the honorable Mr. RANDOLPH, in the House of Representatives, on the 10th January, 1812, which I will read to the Senate.

SENATE.]

Cumberland Road.

[JAN. 23, 1828.]

Mr. N. then read the following :

*Resolved*, That the President of the United States be authorized to employ the regular Army of the United States, when not engaged in actual service, and when, in his judgment, the public interest will not thereby be injured, in the construction or repair of fortifications, roads, canals, or other works of public utility."

Whether the author of this resolution still adheres to his former opinions or not, said Mr. N., I do not pretend to say. And I would ask the Senate, if the statesmen of Virginia, of the present day, need be referred to as a standard of faith on this subject. I could also allude to the great report of Henry St. George Tucker, but I need go no farther. Every part of the country, at that time, seemed to think that the Western States had a right to this road. We are told now, however, that it is an unjust and unconstitutional project; that a great deal of money has been spent; that the road is good for nothing; that it is out of repair, and all this. The gentleman from Virginia has been particularly warm in his attack upon the constitutionality of the work. But, when we come to the idea that Virginia is the only safekeeper of the Constitution, let me tell the gentleman that the whole of the western part of the State of Virginia is in favor of it. I only ask you to assist those who were struggling in the forests during the last war, without roads and without assistance. I ask you to fulfil the compact you have deliberately entered into, that you may keep your faith and your consciences clear, and that the West may not have cause to complain of the injustice of the Government.

Mr. RIDGELY said, that the argument, in his opinion, had gone farther than the subject warranted. He thought, that, when the Senate considered coolly the objects of this bill, they could find no reasonable ground upon which to oppose it. He saw no reason why it had become a constitutional question. In support of this, he referred to the acts of admission of the Western States, and quoted that portion of the law by which the United States obligated itself to give up a twentieth part of the proceeds of the public lands for the purpose of making roads, with the consent of the States through which they were to pass. Another act was passed, in the year 1803, which provided that the Secretary of the Treasury should pay three per cent. of the proceeds of the sales of the public lands to such person as was appointed by the Legislature of each State, to be applied, under their direction, to making roads within the States: and that the remaining two per cent. should be applied, under the direction of Congress, to making roads to and through the said States. Thus we ascertain what has been done with the five per cent. originally granted. Afterwards, a bill passed, during the Administration of Mr. Jefferson, and which was approved by him, appropriating thirty thousand dollars for laying out a road from Cumberland, in Maryland, to some point on the Ohio river, in compliance with the compact. Another section of that law authorized the President to obtain the consent of the States of Pennsylvania and Maryland to the passing the road through their respective territories. This law provided that the sum appropriated should be paid out of the two per cent. fund; and, if that were not enough, out of other moneys in the Treasury, not otherwise appropriated. This was done: and thus, by repeated laws of the same nature, the road has been made to the State of Ohio. Then came the State of Indiana; and I will ask gentlemen to look at the law admitting her into the Union. It will be found that the same provision is made as in the case of Ohio. Five per cent. is granted for the purpose of making roads to and through the State; and the same compact, it will be found, has been acceded to by the other States subsequently admitted into the Union. What, then, is the object of the bill now before the Senate? It is not, solely, to complete the road through the State of Ohio, but gra-

dually to progress with the surveys, and lay out the road, in compliance with the compact with Indiana, Illinois, and Missouri. How can there be any objection to complying with these terms? How can gentlemen reconcile a failure, on the part of the United States, to justice or to public faith? The compacts were entered into with those States while they were yet Territories: they were submitted to the Territorial Conventions, and were agreed to. It was no hasty piece of work; it was done deliberately, and repeated to each State, so as to show that the policy of the measure was deemed worthy of being followed up from year to year. I ask, then, what objection can we offer to the fulfilment of these agreements? I ask more—if the faith of the United States is not pledged? I do not know but the two per cent. on the lands sold has been expended; but, at any rate, that fund is to be applied by Congress. The bill first passed was to locate a road from Cumberland to Wheeling. The bill now before us has nothing to do with that. It is grounded upon the act of 1825, entitled "An act for continuing the Cumberland Road from the town of Canton, on the Ohio, opposite Wheeling, to the Muskingum, at Zanesville." In pursuance of the compact entered into on the admission into the Union of the States of Ohio, Indiana, Illinois, and Missouri, the bill of 1825 was framed. The second section provides for the appointment of a commissioner, and the third for the appointment of an impartial person, who shall, together, complete the examination and surveys to the Seat of Government of the State of Missouri. Subsequently to that act, an act of the 28th March, 1826, appropriated one hundred and fifty thousand dollars towards the work, and last year another act appropriating one hundred and thirty thousand was passed. The several appropriations to this part of the work amounted to four hundred and thirty thousand dollars. This might look like a large sum of money. We will admit that fact. But it is to comply with a contract in which the Government have entered, and he doubted not, that, even were it not so, it would be more than paid for by its beneficial effects upon the country at large. And, let me ask, said Mr. R., if, by these roads through the unsettled parts of the country, the United States does not greatly enhance the value of its public domain? The very road itself has such an effect. The work has been progressing beyond the Ohio river for four years, and he neither considered it just or proper to break off from a work that had been progressed in thus far, and the obstructions to which had been mostly removed. The first section of the road, between the Ohio and Zanesville, might be considered as finished. On the second section it was but partially made; and he thought that, if the road was to be stopped at all, it should not be done until that portion of it upon which money had been expended, should be completed. He thought the gentleman from South Carolina [Mr. SMITH] had misquoted and misunderstood the letter of the Superintendent of the road, Mr. Wever. [Mr. R. then read some passages of Mr. Wever's letter, in order to support the opinion which he had just expressed.] It was to be supposed that Mr. Wever understood his subject; and he estimated the cost of the completion of the road to Zanesville, at one hundred and seventy-five thousand dollars. The bill appropriated the sum of one hundred and eighty thousand dollars, in order to enable the engineers to go on with the surveys beyond the Muskingum river. And now, sir, said Mr. R., after the United States, considering themselves bound by the contract with the Western States, have done so much towards this great work, I will ask if they are to close their hands, and, to a certain extent, render useless all that they have already done? I hope not: I hope the work will progress. I own not a foot of ground in any of these States, and reside in a different quarter. I look upon the laws passed on the admission of those States into the Union, as comprising a pledge on

JAN. 24, 1828.]

Cumberland Road.

[SENATE.]

the part of the United States which, by withdrawing the work, at present would be violated in a most unjustifiable manner.

Mr. HARRISON said, he had intended to reply to his friend from South Carolina, [Mr. SKIPEE,] but it had been so ably done by the Senator from Delaware, that he would not at that late hour trespass upon the Senate, further than to ask the yeas and nays on the question of engrossing the bill.

The call being sustained, the question was taken, when the bill was ordered to be engrossed, by the following vote:

YEAS—Messrs. Barnard, Barton, Bateman, Benton, Boulogny, Chambers, Chase, Eaton, Harrison, Hendricks, Johnson of Kentucky, Johnston of Louisiana, Kane, Knight, McKinley, McLane, Marks, Noble, Ridgely, Robbins, Ruggles, Seymour, Silsbee, Smith of Maryland, Thomas—25.

NAYS—Messrs. Bell, Berrien, Branch, Chandler, Cobb, Dickerson, Ellis, Foot, Hayne, King, Macon, Parson, Sanford, Smith of South Carolina, Tyler, Van Buren, White, Woodbury—18.

Mr. MACON then rose, and offered the following resolution, remarking that it was his object to give up the road to the several States through which it had been constructed; and also to give up all the product of the two per cent. as well as the money that had been advanced, so as to get rid of the disputes which annually occupied Congress on this subject:

*Resolved*, That the Committee on the Judiciary inquire into the expediency of relinquishing to the States through which the Cumberland Road passes to the Ohio river, whatever claim, if any, the United States may have to the same; and that the said committee also inquire into the expediency of relinquishing to the States concerned, the claim of the United States to the whole of the five per cent. reserved from the sale of the public lands in the United States.

THURSDAY, JANUARY 24, 1828.

The resolution submitted yesterday by Mr. MACON, authorizing an inquiry into the expediency of relinquishing the Cumberland Road to the States through which it passes, was taken up.

Mr. CHANDLER suggested to the gentleman from North Carolina, whether it would not be better to amend the resolution, so as to provide for the giving up of the contract on the part of the States, should Congress relinquish the Road?

Mr. MACON said, that his object, in offering the resolution, was to cover the whole ground, and allow the Committee to decide upon the details. His design was to get rid of the whole subject, and the debates that so frequently occurred upon it. The inquiry of the Committee would be directed to the manner in which this would be done.

Mr. HENDRICKS said, that he rose merely to remark that the Western States would hardly be averse to doing away, unconditionally, the compacts, because their interest would be greatly promoted by it. Without saying a word on the subject of the five per cent. or the two per cent. of which so much had been said, the compacts which this resolution proposed to modify, were the only impediment in the way of the right of soil, and of taxation by the States, in reference to the public lands within their limits. There was an inquiry, however, suggested to his mind, which he would offer to the mover of the resolution, and which might save the Judiciary Committee the trouble of its investigation. It was this: If the compacts made by Congress with the States are valid at all, can they be changed by Congress without the consent of the States? As a single member, regarding no other

consideration than the interest of the State he represented, he might be in favor of relinquishing the compacts altogether; because, without the compacts, they would be entitled to the public lands; but the case presented was one in which he had no power to act. If the resolution had any object, it appeared to him that it was to dispense with the exercise of the power of Congress to make roads and canals, because such power was not found in the Constitution. But if the Constitution gave to Congress the right of making compacts with the several States, and of stipulating to expend two per cent. of the sales of public lands, in making roads and canals in the States, for the benefit of the new States, surely the constitutional power to make roads and canals cannot be denied. If such compacts could be made according to the provisions of the Constitution, how can it be argued that Congress has not the power to fulfil their conditions? As a member of one of the new States, he would not agree to any modification of these compacts; because he maintained that such modification could not be made without the consent of both of the contracting parties—the States and the Union. What, said Mr. H., is the whole case? You have engaged to make, for the new States, roads and canals, on condition that they will neither tax nor sell the public lands within their limits. The Senator from North Carolina, and others, say, We have undertaken to do what we have no constitutional power to do, and the resolution proposes to release Congress from that obligation, without releasing the States from their prohibitions against sale and taxation. If you wish to be released from your obligations in reference to the compacts, release the States also. Do the compacts entirely away. You either have no constitutional power to make the compacts, or you have power to fulfil them—have power to make roads and canals.

Mr. FOOT remarked that, if any thing could have convinced him of the propriety of agreeing to the resolution, it was what the gentleman from Indiana had just said. He was more and more convinced of the necessity of an inquiry into the whole subject, more particularly into the amount of the five per centum and the two per centum, devoted to this object. It was a matter of investigation and inquiry only, for the Committee, and the importance of the subject entitled it to that notice.

Mr. MACON said a few words, which the Reporter could not distinctly hear.

Mr. SMITH, of South Carolina, said, he thought he could name a case in which the gentleman from Indiana gave his vote for a similar measure. He alluded to the bill allowing the State of Ohio to sell the sixteenth sections of land reserved for the benefit of schools. The same authority had also been given to the State of Alabama. Now here was an infraction of a compact; but he had heard of no complaint in regard to it. If Congress could break a contract in one instance, was it bound to adhere to it in another? He believed that no part of our compact with the new States ought to be more religiously observed, than that by which we granted the sixteenth sections of land to the use and benefit of schools. Yet Congress had passed a law giving the right to the States of selling them. On the compact now under consideration, he thought that gentlemen had packed a great deal more than it could bear. Was it not far more important, in the new States, to provide for education, than to make roads? Every body knew the necessity of roads; but education was of far greater importance. And so much so was it considered by the Government that the provision of land for that object had the effect, in a manner, to coerce them into a sufficient encouragement of schools. This provision had, however, been deserted in some of the States where the lands had been sold, and the proceeds converted into bank stock. These were instances where the compacts of Congress with the States



SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 24, 1828.]

had not been considered so difficult to break as gentlemen now seemed to think them.

Mr. HENDRICKS had not risen for the purpose of opposing the consideration of the resolution. It merely authorized inquiry, and to that he could have no objection. He had merely intended to answer the questions put by the gentleman from Maine, and to propound the question to the Senate, whether, if the compacts were constitutionally made, Congress could be wanting in constitutional power to fulfil them. The great difficulty seemed to be—and upon this the arguments of gentlemen against Internal Improvement seemed to be founded—that Congress had no right to make roads and canals. No one, however, attempted to deny that they had the power of making compacts. And he would remark again, that, if they had the constitutional power to enter into compacts for the construction of roads and canals, they, as a natural consequence, had the constitutional power to make those roads and canals.

In what he had said, he did not wish to be understood as entering at all into the argument of constitutional power. That might be necessary on another occasion, but was not on this.

Mr. KANE said, that the argument on this question had extended, in his opinion, beyond any reasonable limit. He would briefly state what he thought was the true light in which this proposition appeared. The compacts between Congress and the States could be dispensed with and set aside only by the consent of Congress and the States assembled in convention. The conditions of the agreement had been acceded to in Territorial conventions, and an alteration could only be ordered in a similar meeting. One word to the gentleman from South Carolina [Mr. SMITH.] He supposed that the compact had been broken by authorizing the sale of the School Reserves in Ohio. But this was not the case. The subject was argued in this body; and it was argued that the interests of education would be advanced, if the State was allowed to sell the lands. How was the compact violated by this sale? The worth of the lands was not the less devoted to the objects of education. It was not supposed, when those reserves were made as a school-fund, that it was always to remain in the land, which was of but little value. The sixteenth sections were not always farmable, and it would have been useless to retain them, where they brought in no income. The only question was, at the time, whether this land-fund should be converted into a money-fund, and it was considered best that it should be so converted. Therefore no compact was violated; whereas the object of the reserve was more fully secured.

The resolution was then agreed to.

The report of the Judiciary Committee, adverse to a resolution relating to the erection of proper buildings for the United States' Courts, and for the preservation of the records, was considered: on which

Mr. PAIRIS observed, that, had he enjoyed an opportunity of communicating to the Committee his information on this subject, he thought they would have made a different decision, so far as related to one part of the subject—the preservation of the records. As to the erection of buildings for the use of the Courts, he did not know that it was absolutely necessary, but it surely was so to preserve the records. He had heard, but a short time since, of a fact in support of providing for the records, as, in one of the largest districts in the country, that of Massachusetts, the archives of the Court narrowly escaped destruction by fire. He therefore moved that the report lie on the table; which was agreed to.

The bill making appropriations for the completion of the Cumberland Road from Bridgeport to Zanesville, in Ohio, and to continue the survey of the same from Zanesville to the Capital of Missouri, was read a third time and passed.

#### SURVIVING OFFICERS OF THE REVOLUTION.

The bill for the relief of the surviving officers of the Revolutionary Army was taken up, when Mr. WOODBURY moved to fill the blank with 1,100,000 dollars.

Mr. WOODBURY rose and said, it has become my duty, Sir, as Chairman of the Committee who reported this bill, to explain the origin and character of it. I regret that this duty has not devolved upon some able representative of the interests of the petitioners; but I regret it the less, as my colleagues on the Committee possess every quality of both the head and heart to advance those interests, and will, no doubt, hereafter, be seconded by an indulgent attention on the part of the Senate.

Who, then, Sir, are the venerable men that knock at your door? and for what do they ask? They are not supplicants for mere favor or charity, though we all know that nothing but the proud spirit which helped to sustain them through the distresses of our revolution, has withheld most of them from reliance for daily bread on the alms provided by the present pension act. No, Sir; they come as petitioners for their rights. They come as the remnant of that gallant band, who enlisted your continental army; who disciplined its ranks; who planned its enterprises, and led the way to victory and independence. Confiding in the plighted faith of Congress, given in the form of a solemn compact, they adhered to your cause through evil report and good report, till the great drama closed; and they now ask only that the faith so plighted may be redeemed. Amid the wrecks from time and disease, during almost half a century, short of 250 now survive, out of 2480, who existed at the close of the war. Even this small number is falling fast around us, as the leaves of autumn; and this very morning a gentleman before me has communicated the information that another of the most faithful among them has just passed "that bourne whence no traveller returns." It behoves us, then, if we now conclude, in our prosperity and greatness, to extend relief, either from charity, gratitude, or justice, to do it quickly.

My great anxiety is, in the outset, to prevent any misapprehension of the true grounds on which the appropriation is founded. Throughout the whole inquiry, there is no disposition to censure the motives or policy of the old Congress. They adopted such measures as the exigencies and necessities of the times forced upon them; and now, when those exigencies have ceased, it is just, as well as generous, to give such relief as the nature of the case may demand.

A very great obstacle to the success of this measure heretofore has been a prevalent opinion, that these petitioners are seeking compensation merely for losses sustained, on the depreciation of continental money, and certificates received for their monthly wages; whereas, from their first memorial in A. D. 1810, to the present session, they have invariably rested on the non-performance, by Congress, of a distinct and independent contract. All the losses on their monthly wages they bore in common, and are willing to forego in common with many in the walks of civil life, and with the brave soldiers under their command. This is the plain and decisive reason why none but officers are embraced in the present bill. The contract on which they rely, was made with the officers alone; and gallant and unfortunate as were the soldiers, the officers have endured, and will continue to endure, without repining, still severer sufferings from the worthless money and certificates received for their wages; because those losses were perhaps too large, and too general, in all departments of life, ever to warrant the expectation or practicability of complete remuneration.

I have said severer sufferings on this account by the officers, because the money received for wages before A. D. 1780, worth only one dollar in the hundred, was, to the officers, the only means to purchase camp equi-



JAN. 24, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

page and clothing, that were furnished to the soldiers out of the public arsenals; and because the soldier often received besides liberal bounties, both at home and from Congress.

Let it then be distinctly understood, that, notwithstanding this disparity against the officers, no such losses or depreciations form any part of the foundation for this bill. A moment's attention to the history of that period will show the true ground of the appropriation. After this unequal pressure had continued nearly three years—after the officers had sustained their spirits during that trying period under such disadvantages, by the force of those principles that led them at first to join in the pledge to the cause, of “their lives, their fortunes, and their sacred honor,” after their private resources had become nearly exhausted in supplying these wants their country was unable rather than unwilling to satisfy, there arose a state of things which led to certain proceedings by Congress, in relation to half pay.

The prospect had nearly vanished, that any honorable accommodation could be effected with the parent country. The contest seemed likely to become more severe, and to be protracted for many years; and it was obvious that many of the officers, thus impoverished and disheartened, must actually resign in order to provide themselves with decent clothing, and to maintain their families, and secure any subsistence for advanced life, or that they must receive some assurance of future indemnity, if they continued in service, and abandoned every thing else to sink or swim with the military destinies of their country.

It was then that the resolve of May 15, 1778, granting half pay, for only seven years, to all who continued in service till the close of the war, was passed.

This short period of half pay was dictated rather by the wants of Congress to provide a longer one, than from an impression that it was, in truth, sufficient, or in accordance with any similar system in the armies of Europe. Hence, a committee, May 24th, 1779, reported a resolution, allowing half pay for life to the same class of officers, and justly grounded it on the great risks they were called to encounter, on their great sufferings and sacrifices of youth, ease, health, and fortune, in the cause of their country. But the want of resources in Congress induced them to postpone the subject, and, on the 17th of August, 1779, to urge upon the respective States the expediency of adopting such a resolution, and of pledging for its fulfilment their State resources. The power of the States over those resources was much more effective than that of the confederation over the States. But such were the general gloom and despondency of the times, that not a single State except Pennsylvania complied with the recommendation. The currency continued to depreciate more and more, daily: the officers, in many instances, were utterly unable, by their whole pay, to procure decent apparel: treason had penetrated the camp in the person of Arnold: Charleston had been surrendered: Lincoln captured: Gates defeated at Camden: the Southern States overrun by Cornwallis: our soldiery had become discouraged: and the great military leader of the Revolution had become convinced, and had urged with his usual energy upon Congress, that the adoption of this resolution was almost the only possible method of retaining the army together. Under such appalling circumstances, Congress passed, on the 24th of October, A. D. 1780, the resolution, which I will now take the liberty to read:

“Resolved, That the officers who shall continue in the service to the end of the war, shall also be entitled to half pay during life; to commence from the time of their reduction.” (1 U. S. Laws, 688.)

This, with one or two subsequent resolutions, explaining and modifying its provisions as to particular persons, constitutes the great foundation of the bill under consi-

deration. The promise was most solemnly and deliberately made: the consideration for it was ample, and most honorably performed by the officers; and yet, on the part of Congress, its stipulations have, in my opinion, never, to this day, been equitably fulfilled. As to the binding effect of the compact on Congress, nobody can pretend to doubt. I shall, therefore, not waste a single moment in the discussion of that point. But I admit that the officers were first bound to perform the condition faithfully, of serving to the close of the war, however long or disastrous. Did they do it? History and tradition must convince all that, through defeat as well as victory, they clung to our fortunes to the uttermost moment of the struggle. They were actuated by a spirit and intelligence, the surest guarantees of such fidelity. Most of them had investigated, and well understood, the principles in dispute, and to defend them had flown to the field of battle, on the first alarm of war, with all the ardor of a Scottish gathering, at the summons of the fiery cross. And it is not poetry, that one of my own relatives, an officer long since no more, when the alarm was given at Lexington, left, for the tented field, the corpse of his father unburied:

“One look he cast upon the bier,  
Dashed from his eye the gathering tear,”

and hastened to devote his own life to the salvation of his country. In the same duty—in performing their part of the compact, to serve faithfully to the close of the war, these petitioners endured the frosts of winter, often half sheltered, badly fed, badly clothed, and badly paid. God forbid that I should exaggerate. The naked truth is stronger than any coloring of fancy. We have the authority of their commander, that they were, at times, in such a condition as to be unable and ashamed to receive their friends; but never, I believe, loth to face their enemies. Their paths were sometimes marked by their blood—their courage and constancy tried by frequent alarms, by ambuscade, and the pitched battle, but they never faltered: and when, towards the close of the war, neglect on the part of Congress, as to their monthly wages, might have justified, under most circumstances, disquiet and distrust; and when, at Newburg, they were tempted with the insidious taunt, that if, relinquishing their arms, and retiring home with the promises made to them unfulfilled, they would “go, starve, and be forgotten;” yet they disbanded in peace, and expressed their “unshaken confidence in the justice of Congress.”

Washington himself declared, in substance, that, by means of this resolve, the officers were inspired to make renewed exertions; to feel a security for themselves and families, which enabled them to devote every faculty to the common cause; and that thus was an army kept together, which otherwise must have dissolved, and we probably have been compelled to pass again under the yoke of colonial servitude.

For all this fidelity to the performance of their part of the compact, the officers have been duly thanked by many Congresses, and applauded by the world. They have occupied a conspicuous niche in toasts, odes, and orations, and some of them have animated the canvas, and breathed in marble.

But has the promise to them of half pay ever been either literally or substantially fulfilled? That, sir, is the important question. I answer not literally, by any pretence, from any quarter. No half pay, as such, has ever, for any length of time, been either paid or provided for one of the petitioners. Almost as little, sir, can there be a pretence that it has been substantially fulfilled. No kind of fulfilment has been attempted, except in the commutation act, passed March 23d, 1783.

That act grew out of objections, in some of the States, to the system of half pay as a system, because not strictly republican in theory, and because every thing of a pension character had become odious by its abuse in some Go-

SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 24, 1828.]

vernments, in the maintenance of hirelings who had performed secret and disreputable services.

Some of the officers, being anxious to remove any formal objection, petitioned Congress for a commutation or change in the mode of indemnifying and rewarding them. No opposition had been made to the amount or value of the half pay, and, therefore, as appears in the commutation act itself, the officers expected, if a change took place, a full "equivalent" in value to the half pay for life.

[Mr. W. here read the act from 1 U. States' Laws, 687.]

But, instead of such an equivalent, Congress gave, by that act, what was far short of an equivalent, whether we regard the particular ages at that time of these petitioners, or their average age with the other officers, or the period they have actually since lived. Congress gave only five years' full pay to the youngest in the line, and just as much to the eldest; treating the officer of 25 as not likely to live any longer than him of 70; and subjecting the former to take for his half pay, which he was entitled to for his whole life, of probably 35 years, the same small sum bestowed on him not likely to live over 10 or 14 years.

If we look to the average age of all the officers at that time, the commutation was still inadequate. That age was probably not over 30; none have pretended to consider it over 35; and on all observations, in similar climates, and all calculations of annuity tables, such persons' lives would be likely to extend beyond 30 years; and thus their half pay for life be, on an average, worth the gross sum, *in presentii*, of at least seven years' full pay. Any gentleman can test the general accuracy of these results, by a reference to Price's Annuity Tables, and to Milne on Annuities. In England, Sweden, and France, it will be seen that a person of 30 years of age is ascertained to be likely to live 34 more; and of 35 years of age, to live about 28 more. An annuity for 34 years is worth a fraction more than 14 times its annual amount, if paid in a gross sum in advance; and one for 28 years, only a fraction less than 14 times its annual amount. So that seven years' full pay is as near a fair commutation for the half pay for life, taking their average ages, as can well be calculated, or as is necessary for the present inquiry.

Again: If we advert to the real facts, as since developed, these petitioners, had the commutation act not passed, or not been at all binding, would now receive twenty two instead of five years' full pay, as they have survived, since the close of the war, over 44 years.

Congress, as if conscious that the pressure of the times had driven them to propose a substitute for the half pay for life, not, in any view, sufficient or equivalent, as regarded the younger officers, who alone now survive and ask for redress, provided in the commutation act, not that each officer might accept or reject it at pleasure, but that it should take effect, if accepted within certain periods not exceeding six months, by majorities in the several lines of the army. The most influential officers in any line are of course the elder and superior ones. To these, as a general rule, five years' full pay was a fair equivalent; and by their exertions the commutation was accepted by majorities in most of the lines, and no provision ever afterwards made for such officers as were either absent or present, and dissenting.

No evidence can now be found, however, of any acceptance, even by majorities, in any of the lines, till after the expiration of the six months prescribed. But a report of the Secretary of War, dated Oct. 31, 1783, (8 Journals of Congress, 478,) enumerates certain lines and individuals, that had then signified their acceptance. It would be difficult, as might be expected, to find among the individuals named one who still survives. Those, then the youngest and now surviving, must have felt deeply the inequality proposed; and if most of them had not been absent on furlough, by a resolve of Congress, after peace

was expected, probably even majorities in the lines would never have been obtained. The certificates were made out for all, without application, and left with the agents: no other provision was made for those entitled to half pay, and it remained with the younger officers to receive those certificates or nothing.

But it is most manifest that Congress had no legal right to take away from a single officer his vested half pay for life, without giving him a full equivalent; or, to say the least, what the officer should freely and distinctly assent to, as a full equivalent. It would be contrary to the elementary principles of legislation and jurisprudence; and a majority of the lines could no more bind the minority on this subject of private rights of property, than they could bind Congress or the States on questions of politics. This point need not be argued to men, who, like those around me, have watched the discussions and decisions in this country the last quarter of a century. But no such individual assent was asked here: it was indeed declared to be useless for any minority of individuals to dissent: the commutation not having been in any view a full equivalent, individual assent cannot fairly be presumed. The subsequent taking of the certificates was merely taking all that was provided, and all they could get, without any pretence that they took it as a full and fair equivalent. And hence it follows that, on the lowest computation, two years' more full pay are necessary to make any thing like a substantial fulfilment of the compact on the part of Congress. In truth, 20 years more would be less than the petitioners could rightfully claim now, if the commutation act had never passed; or if the position was clearly established that the commutation act, as to them, was, under the circumstances, entirely null and void. To say that such a transaction, resorted to under the pressure of the times, and finding no apology except in the security and necessities of that pressure, should not be relieved against when the pressure is over, and our means have become ample, is to make a mockery of justice, and to profane every principle of good faith.

But consider a little farther the history of those proceedings, on the supposition that the five years' full pay was an ample equivalent to all. Was it either paid or secured to them in such manner as to become any thing like a substantial fulfilment of the promise? Though the act allowed Congress to give the officers money or securities, and though these last might be in the form prescribed for other creditors, yet the act contemplated giving them money or money's worth, else it doubly violated the former engagement to give them half pay for life. The very nature of half pay, or of any commutation for it, implies that it should be actually paid, or so secured as to raise the money whenever it becomes due. They were here intended as means for immediate maintenance or business to those who, by peace, would be thrown out of their accustomed employment and support. This is too plain for further illustration; and, in conformity with these views, Congress forthwith effected a loan in Europe, and paid in money all the foreign officers entitled to the commutation. But how were the petitioners treated? They did not obtain a dollar in money, and even their certificates were not delivered till six or nine months after their right to half pay accrued; and when received, so far from being secured by pledges or requisitions rendering them valuable as money, the officers could not obtain for them in the market over one-fifth of their nominal amount. The receipts given for these certificates truly omitted to state that they were in full payment of either the commutation or the half pay. By such means, these petitioners, to supply the then existing wants of themselves and families, which was the legitimate object of both the half pay and its commutation, in fact realized only one instead of five years' full pay, or only two years' half pay instead of half pay for life.

JAN. 24, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

If this was a substantial fulfilment of the promise to them, I think it would be difficult to define what would have been a defective, delusive, and unsubstantial fulfilment. But it has been suggested, that the petitioners might all have retained their certificates till afterwards funded, and in that event have escaped loss. Can gentlemen, however, forget that the very design of half pay was to furnish daily food and raiment, and not a fund to be deposited in bank for posterity? and that, though the use of a portion of it, if all had been paid at once, might have been postponed to a future period, yet their necessities utterly forbade most of them from not resorting, forthwith, to a single year's pay, which was the entire value of the whole certificate? It is another part of the distressing history of this case, that if, on the contrary, every officer had retained his certificate till funded, his loss on it would have been very near one-third of its amount. But on this point I shall not dwell, as its particulars are more recent and familiar. It will suffice to recall to your minds, that the provision made for the payment of these certificates in A. D. 1790, was not by money, nor virtually to their full amount, but by opening a loan, payable in those certificates, and a scrip of stock given for them on these terms: one third of the principal was to draw no interest whatever for ten years; and all the interest then due was to draw thereafter only three per cent. Without going into any calculations of the value of different kinds of stock, under different circumstances, it is obvious that such a payment or security was not worth so much, by nearly a third, as the money would have been worth, or as scrip would have been worth for the whole then due on six per cent. interest.

It is true that this loan was in form voluntary; but it is equally true that, as no other provision was made for payment, no alternative remained but to accept the terms. Hence, if the officer sold his certificate from necessity, he obtained only one-fifth of the amount therein promised; or, if he retained it, he obtained only about two-thirds of that amount.

What renders this circumstance still more striking, we ourselves have in this way saved, and reduced our national debt below what it would have been, many millions of dollars—from 13 to 15, I believe—and yet, now in our prosperity, hesitate to restore what was taken in part from these very men, and, when not from them, taken from others on account of their speculations on these very men, and their associates in arms. It was at the time of the finding thought just, and attempted by some of our ablest statesmen to provide some retribution to the original holders of certificates for the losses that had been sustained on them—to provide in some way a partial restoration. But the inherent difficulty of the subject, and the low state of our resources, prevented us from completing any such arrangement, though we were not prevented from saving to the Government, out of those very certificates, and similar ones, ten times the amount now proposed for these petitioners.

On this state of facts, then, I hold these conclusions. That what is honest, and moral, and honorable, between debtor and creditor in private life, is so in public life. That a creditor of the public should be treated with at least equal, if not greater kindness, than the creditor of an individual. That when the embarrassments of a debtor give rise to a mode of payment altogether inadequate to what is justly due, and this kind of payment is forced upon the creditor by the necessities of either party, the debtor ought, when relieved from his embarrassments or necessities, to make ample restitution. That it is the dictate of every moral and honorable feeling to supply the deficiency; and especially should the debtor do this where the inadequacy was more than four-fifths of the whole debt; where the debtor, by a part of the arrangement, saved millions to contribute to his present prosper-

ity; and where the debt itself was, as in the present case, the price of blood lavished for the creditor, the wages of those sufferings and toils, which secured our present liberties, and fill the brightest page of glory in our country's history. The great military leader of the Revolution has given his sanction to this measure, in the strongest terms, when, calling to mind the lion hearts, and eagle eyes, that had surrounded and sustained him in all his arduous trials, and reflecting that they, not soldiers by profession, nor adventurers, but citizens, with tender ties of kindred and friendship, and with cheering prospects in civil life, had abandoned all to follow him, and to sink or swim with the sacred cause in which he had enlisted, he invoked towards them the justice of his country, and expressed the fullest confidence, that "a country rescued by their arms will never leave unpaid the debt of gratitude."

It is not to be forgotten, that a measure like this would remove a stain from our history. Its moral influence on our population, in future wars, for wars we must expect, again and again; its consonance with those religious as well as moral principles of perfect justice, which, in a Republic, are the anchor and salvation of all that is valuable; its freedom, I trust, from political prejudice and party feeling—all strengthen the other reasons for its speedy adoption.

Nor have the imputations against it, as a local measure, been at all well founded. What is right or just in regard to contracts, is right without regard to the residence of individuals, whether in the East, the West, or the South. But, independent of that consideration, these venerable worthies, though once much more numerous at the North than elsewhere, have since followed the enterprises of their children, and pushed their own broken fortunes to every section of the Union. It is impossible to obtain perfect accuracy as to their numbers and residence. But by correspondence and verbal inquiries, it is ascertained that 4 or 5 survive in New Hampshire, from 30 to 35 in Massachusetts and Maine, 5 or 6 in Rhode Island, 5 in Vermont, 16 in Connecticut, 20 in New York, 12 in New Jersey, 18 in Pennsylvania, 5 in Delaware, 12 in Maryland, 33 to 38 in Virginia and Kentucky, 10 to 12 in Ohio, 12 or 15 in the Carolinas, and 5 or 6 in Georgia. As, by the annuity tables, something like 250 ought now to be alive, the computations have been made on a medium of 230 between the number ascertained and the conjectural number.

The question, then, is of a general, public nature, and presents the single point, whether, in the late language of an eloquent statesman of New York, these veterans shall any longer remain "living monuments of the neglect of their country."

All the foreign officers, whose claims rested on the same resolve, were, as I have before stated, promptly paid in specie; and their illustrious leader, Lafayette, by whose side these petitioners faced equal toils and dangers, has been since loaded with both money and applause. Even the Tories, who deserted the American cause, and adhered to one so much less holy and pure, have been fully and faithfully rewarded by England: and it now remains with the Senate to decide, not whether the sum proposed shall be bestowed in mere charity, however charity may bless both him that gives and him that takes; nor in mere gratitude, however sensible the petitioners may be to the influence of either; but whether, let these considerations operate as they may, the officers should be remunerated for their losses, on those broad principles of eternal justice which are the cement of society, and which, without a wound to their delicacy and honest pride, will, in that event, prove the solace and staff of their declining years.

I shall detain the Senate no longer, except to offer a few remarks on the computations, on which the sum \$1,100,000 is proposed as the proper one for filling the blank. Va-

SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 24, 1828.]

rious estimates, on various hypotheses, are annexed to the report in this case; and others will doubtless occur to different gentlemen. But if any just one amounts to about the sum proposed, no captious objection will, I trust, be offered on account of any trifling difference. It is impossible, in such cases, to attain perfect accuracy; but the estimates are correct enough, probably, for the present purpose.

The Committee have proposed a sum in gross, rather than a half pay or annuity, because more appropriate to the circumstances of the case, and because more acceptable, for the reasons that originally gave rise to the commutation.

On the ground that these officers were, in 1783, justly entitled to two years' more full pay, as a fair equivalent for half pay during life; and there being 230 of them of the rank supposed in the report, their monthly pay would be about \$30 each. This, for two years, would be \$720 each; or \$165,600 due to these petitioners at the close of the war, over and above what they then received certificates for. The interest on that, for 44 years, would be \$437,184, which, added to the principal, make \$602,784.

If to that be added what they lost on their certificates by depreciation, which, at four-fifths, was \$331,200, and the sum, without any interest on the depreciation, amounts to \$933,984, or, with interest, to more than a million and a half; or, if the depreciation be considered seven-eighths, as it really was, the sum would be still larger. On the other hand, if nothing be allowed for depreciation on the certificates, but one-third be considered as lost in funding, that one-third, in A. D. 1791, would be about \$204,240, and interest since would swell it to \$645,434, which, added to the two years' pay not received, and interest on that pay, makes the whole \$1,248,218.

Another view of the case, which seems to me the most technical, and which steers clear of any difficulty about the loss either by depreciation or funding, will lead to about the same result as to the amount. It is this. On the ground that seven years' full pay was the smallest sum which, in A. D. 1783, could be deemed a fair equivalent for the half pay for life, then the petitioners got certificates for only five-sevenths of their half pay; or, in other words, five sevenths of their half pay was extinguished and paid. The other two-sevenths, then, has annually accrued since, and will continue to accrue while the petitioners survive. This two-sevenths being \$51 42 per year to each officer, or \$11,826 to these officers, would amount at this time to \$520,344; and the interest accruing on it during only 35 years, would make it exceed the \$1,100,000 proposed. The amount is fairly reached by this view of the case, without a single cent for either depreciation or loss in funding, and thus does not indirectly touch a single fact or principle upon which a similar allowance could be made to any body besides these officers. Gallant, and meritorious, and suffering, as were the soldiers, and none could be more so; worthy and affectionate as may have been the surviving widows; and distinguished as may have been many of the officers' heirs for filial and generous devotion to smooth their declining years; they all stand on their own cases and merits. None of them have been referred to the Committee who reported this bill; and they can all be provided for otherwise this session, or hereafter if thought proper. Let the present appropriation be tried first on its own grounds, and then by subsequent amendments of this bill, or by new bills, let an appropriation for other classes of persons be also tried on its own grounds. All I ask and entreat is, that if, either in strict law or in justice, whether grounded upon the original defective commutation, the depreciation of the certificates, or the loss in funding, any member is convinced that the sum proposed to these officers is a fair one, that he will first consider the case of the

officers, and support this motion. If any think a different sum more proper, I hope they will propose that sum in due time, and thus let the sense of the Senate be fully expressed upon one case at a time, and upon the only case now duly before us. In this manner only can any thing ever be accomplished.

The amount of the sum now proposed cannot be objected to on the grounds that doubtless caused the losses and sufferings which we are now seeking to redress. The country, during the Revolution, and at its close, would hardly have been unwilling to bestow twice the amount, had its resources permitted. But now, such have been our rapid advances in wealth and greatness, by means of the rights and liberties the valor of these men contributed so largely to secure, that the very public land they defended, if not won, yields every year to our treasury more than the whole appropriation. One-twentieth of our present annual revenue exceeds it. A fraction of the cost of the public buildings; the expense of two or three ships of the line; one-tenth of what has been saved to our national debt in the funding system; a tax of ten cents per head on our population, only a single twelvemonth; either of them would remove all this reproach.

But, whatever might be the cost, I would say, in all practicable cases, be just, and fear not. Let no illiberal or evasive feeling blast the hopes of these venerable patriots. Much longer delay will do this as effectually as a hard hearted refusal; since the remains of them are almost daily going down to the city of silence. Either drive them then at once from your doors, with taunts, and in despair, or sanction the claim. So far as regards my single self, before I would another year endure the stigma of either injustice or ingratitude to men like these, I would vote to stop every species of splendid missions; I would cease to talk of Alleghany canals; I would let the capitol crumble to atoms for want of appropriations; and introduce retrenchment from the palace to the humblest doorkeeper.

It has formerly been said, that if these officers are relieved, so must be those of the late war. But, deserving as were these last, the cause in which they fought required much inferior sacrifices; they were not contending under the stigma of traitors, liable to the halter; they were liberally and promptly paid; and whatever small depreciation may have existed in the treasury notes taken for their monthly pay, it was infinitely less than the losses sustained by these petitioners on their monthly pay, and for which they neither ask nor expect relief.

One other consideration, and I will at this time trouble the Senate no longer. The long lapse of time since the claim originated has been objected formerly to its success. But what honest individual shelters himself under a statute of limitation, if conscious that his promise has not been substantially fulfilled? Under such circumstances, it is no defence, either in the court of conscience, or in a court of honor; and Congress have often shown their liberality in waiving it, where expressly provided to bar an application.

Here no express bar has ever been provided. Before their first application, the officers waited till A. D. 1810, when old age and infirmity rendered them more needy, and when many years of prosperity had rendered their country more able. However numerous, and technical, and evasive, may have been the objections since interposed, let it not be forgotten, that, in performing their portion of the compact, however neglected as to food or wages, they never were heard to plead excuses or evasions, however appalling the danger, whether roused by a midnight alarm, or invited to join a forlorn hope.

Like others, too, it may be imputed to them in derogation, that they were "military chieftains." But if, as such for a time, they did, like others, nobly help "to fill the measure of their country's glory," so, like others of that

JAN. 24, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

class, they have often distinguished themselves in forums, cabinets, and halls of legislation.

Whatever "honor and gratitude" they have yet received, is deeply engraven on their hearts; but they now also need—and they ask, only because they need—the additional rewards of substantial justice.

It remains, Sir, for us, whose rights they defended and saved, to say whether they shall longer ask that justice in vain.

Mr. CHANDLER observed, that no man could have a higher respect than himself for the worthies of the Revolution; and if the soldiers, as well as the officers, were included in the provisions of the bill, he should probably vote for it. But he wished to make some inquiries. In the first place, it appeared, that these officers had been paid by the commutation, which they accepted, and by which they received five years' full pay. The Chairman of the Committee, however, says, that they did not accept these conditions, because it was decided upon by a vote, in which those opposed to it had no opportunity of refusing it. But I would inquire, whether the chairman has any means of ascertaining who voted for, and who against it. For, certainly, if an officer did vote for it, he ought to abide by his vote. And if he voted against it, and yet accepted it, he was equally bound to be content with it.

Mr. C. was adverse to any exclusive provision like the present. He thought the soldiers equally entitled to reward with the officers; and was of opinion that the former fared much harder than the latter. He was therefore against giving the officers in preference to the soldiers who fought by their side.

He would ask another question. He wanted to know why, if the officers now surviving had an equitable claim upon the Government, the widows and children of those who have died since the Revolution, had not an equal claim? And why, said Mr. C., if justice is to be done, should it not be general in its application? He did not believe justice required this bill; impartial justice, at any rate, would not be done by it. He knew the danger there was in saying any thing against Revolutionary claims. But he wished to be just before he was generous. He had seen enough of this kind of partial legislation, and desired that an end might be put to it. If this was to be the beginning, he wished to know where they should end? If the whole subject must be acted upon, he wanted to take up the whole at once, when he should vote accordingly.

Mr. WOODBURY, in answer to the inquiries made by the gentleman from Maine, [Mr. CHANDLER] in relation to the votes of the officers for receiving the commutation, begged leave to repeat, a little more in detail, the curious piece of history that existed as to the acceptance of the commutation act. It required the lines of the Army, at the farthest, to give their acceptance within six months from the time of its passage. There was no evidence that it was accepted by any one individual, or line, until after the expiration of six months from that time: and the only evidence of any acceptance, at any time, by any line, was a report from the then Secretary of War, showing that some of the lines, and not all of them, had accepted. [Mr. W. here read the Secretary's report, showing which of the lines had accepted, together with some select corps and individuals.] He intended to mention, when he was up before, that the older officers, who individually accepted, received the full equivalent, as to the amount of the certificates; because they could not expect to live long, and five years was a fair and liberal commutation for their half pay. But with the subordinate and younger officers, the case was different; they could fairly calculate on living longer than the others, and by every estimate made by annuitants on the probable duration of life, they were entitled to a commutation for a

longer period than the five years. Besides, a great portion of the younger officers had gone home on furlough, when the question was decided in the lines; peace was daily expected, and they had been permitted by a vote of Congress, to visit their families, so that they were not present when the vote was taken. In relation to the other question asked by the gentleman, as to why the widows of the deceased officers were not provided for by the bill, he observed, that they were not considered the proper objects either of the charity or justice of the old Congress; but only their husbands. The half pay and commutation were personal, and for personal services. Neither were the widows the legal heirs of their husbands, and entitled on that ground; though if they were, it would be utterly impossible, such was the number of heirs, the claims of creditors of the deceased, and the length of time and difficulty of evidence on this subject, to provide for them. But he, for one, and he could speak also for his colleagues in the committee, was not disposed to be less charitable or gallant to the widows, than the gentleman from Maine. He would be perfectly willing to give to the widows of the surviving officers an annuity for the short period of life yet remaining to them. This, as they did not probably exceed 100, and the annuity should not be over one third half pay, would not amount to much, not probably to more than sixty thousand dollars in a gross sum, as they could not be expected to live more than ten years longer. The sum provided for in the bill would be sufficient to cover their claim, as a deduction was to be made for all that had been paid to officers under the pension act. With respect to that class of soldiers who were entitled to \$80 bounty at the close of the war, he would be perfectly willing to include their claim, and the sum in the bill would be sufficient also for that purpose. But he had protested, in his argument, against any construction being given to pay those officers on any other ground than that of contract—about the half pay: they did not make any claim on account of depreciation of the certificates they received for their monthly wages: and hence, faithful and brave, and commendable, as were the soldiers, they could not claim to be included in the bill for depreciation in their monthly wages.

It had just been supposed that if this bill passed, a most enormous sum of money would be paid to each of those officers. But such was not the fact. It had been ascertained, that there were at least about two hundred officers now living; and taking two hundred and thirty as the basis on which to make an estimate, there would be only about \$4,300 paid to each individual—whereas, if the commutation act had not passed, they would justly be entitled to more than three times that sum.

Mr. BRANCH said, that he had listened with great pleasure to the able exposition of the Chairman of the Committee, [Mr. WOODBURY.] His feelings were warmly enlisted in behalf of those Revolutionary worthies; for he too felt grateful for their services and privations in the cause of their country. He had labored to be convinced of the propriety of voting this appropriation for the few surviving officers, to the exclusion of the private soldiers; but his mind was still in doubt. It was fair to presume, from the laborious investigation of the gentleman who had just addressed the Senate, in his usual forcible manner, that all that could be said in their behalf, was contained in the argument just delivered.

If doubts exist when one side only has been heard, are we not justified in asking for further time for reflection and examination? For that purpose he had now risen. He presumed many Senators felt like himself.

The Chairman had set out by addressing the justice of Congress, and basing the claim on the strict letter of the compact, which he boldly asserted could not be resisted. He concluded by making a pathetic appeal to the liberality and patriotism of gentlemen. He, [Mr. B.] was fully

SENATE.]

*General Appropriation Bill.—Surviving Officers of the Revolution.*

[JAN. 25, 1828.]

Persuaded, that the two arguments did not fit; they could not stand side by side; they were irreconcilable with each other.

If the officers are entitled, according to the strict letter of the compact, then there is no propriety in attempting to rouse our feelings, and enlist our sympathies in their behalf. Let justice be done, at all hazards. Again, if their claim is a legal claim, then it is abundantly manifest, that it must survive to their legal representatives; and we are under as strong obligations to provide for the widows and orphans of the two or three thousand who sleep with their fathers, as the two or three hundred who happen to be now in existence. He was also inclined to believe that the claims of the private soldier of the Revolutionary war, rested on as solid a foundation as those of the officers, for they too had suffered by depreciation. He never would consent to place the officer, who had reaped the laurels of victory, on a different foundation from the private soldier, who stood by the flag of his country, stimulated alone by patriotism. That he might have time for reflection and examination, he moved that the bill be laid on the table, and made the order of the day for Monday next.

Mr. HARRISON rose to suggest to the gentleman from North Carolina, [Mr. BRANCH,] whether his object would not be equally well attained by moving an adjournment. That would give him ample time to investigate the report of the Committee, and fully inform himself on the subject. The gentleman proposed making this bill the order of the day for Monday next; but he would state, that there are many important bills the orders of the day, about that time, with which this might probably come in conflict. He would further state, that there were several of the officers now in the city, awaiting the decision of Congress, in regard to their claims. He therefore hoped the gentleman would consent to an adjournment, in order that the bill might not be delayed.

Mr. BRANCH then withdrew his motion.

FRIDAY, JANUARY 25, 1828.

#### GENERAL APPROPRIATION BILL.

The bill making appropriations for the support of the General Government was read the third time.

Mr. KING inquired of the Chairman of the Committee whether the Government had not sent a Minister to Colombia; and, if so, why an outfit was not found in the appropriations?

Mr. SMITH, of Maryland, said, that the bill had been reported by the Committee of Finance, as it came from the other House. He thought it rather extraordinary, that no appropriation had been made for the object mentioned by the Senator from Alabama. On reference to the estimates, he also found no notice made of an outfit to the Minister at Colombia.

Mr. PARRIS moved that the bill be recommitted to the Committee which reported it, that they might inquire whether a person appointed in the manner in which the Minister to Colombia had been, was entitled to an outfit.

Mr. KING objected to the recommitment, as so much time would be consumed by such a course.

Mr. SMITH, of Maryland, also made some further explanations; when Mr. PARRIS withdrew his motion to recommit.

The question then occurred upon the passage of the bill, on which a desultory debate arose relative to the outfits of *Chargé d'Affaires*.

Mr. HAYNE made a few remarks on the matter—the purport of which was, that Secretaries of Legation, appointed *Chargés*, were entitled to outfits. Even in the case of John A. King, who was deputed by his father, it was allowed; and it was a general practice to give an outfit whenever the individual, by an appointment, changed his situation so as to be subjected to greater expenses.

Mr. JOHNSTON, of Louisiana, thought this principle ought to be settled at this time, if possible. He considered that no distinction had existed between a *Chargé d'Affaires* appointed by the Government, and one deputed by the Minister. The reason 'or this was, that the same change of circumstances, calling for an increase of expenditure, took place in the one case as in the other.

Mr. EATON read the law of 1806, the words of which were, that an outfit should be paid to every Minister or *Chargé d'Affaires*, "going from the United States"—and from which he argued that, unless they went from the United States, they were not entitled to it.

Mr. SMITH, of Maryland, and Mr. JOHNSTON, of Louisiana, opposed the construction put by Mr. EATON upon the words of the law.

Mr. EATON replied in support of his previous argument.

Mr. KANE said, that this question was suddenly presented to his mind, but he would not agree with his friend from Tennessee in the application of the law to the precise case presented. Is a *Chargé d'Affaires* appointed by the President and Senate, residing at the time of his appointment out of the United States, entitled to an outfit? This is the question for decision. It is contended by the gentleman from Tennessee, that the act of 1800 applies the outfit to a person "on his going from the United States." And as this person did not go from the United States, but resided at a foreign court, he is not entitled to the outfit. Were these words intended to fix the time when the outfit should be paid, or do they constitute a condition, without which it cannot be paid? As the reason of the payment applied equally to this case and to one where the individual proceeded from the United States, Mr. K. said, he felt disposed to believe that particular word referred to the time of payment only.

Mr. KING read a list of the different Secretaries of Legation appointed to be *Chargés*, to show that no one so appointed by a Minister, and who had not received a commission from the Government subsequently, had been allowed an outfit.

After some further remarks by Messrs. JOHNSTON, of Lou. MACON, BELL, and HAYNE, the question was taken on the passage of the bill, and decided in the affirmative.

#### SURVIVING OFFICERS OF THE REVOLUTION.

The bill providing for certain Surviving Officers of the Revolution then came up, as the unfinished business of yesterday.

Mr. HARRISON said, he rose to reply to the question put by the Senator from North Carolina to the committee which reported the bill before the Senate. He was asked why the committee had selected 300 or 400 out of the Revolutionary officers to receive the beneficence of the Government. He could easily shelter the committee for what they had done, under the order of the Senate, which had referred to them the particular case of the officers, and no other. But, as he had nothing to conceal in relation to his sentiments on this subject, he would say, without hesitation, that no other description of Revolutionary claims should have been mingled with those which the bill provided for, by his vote. The other Revolutionary claims which had been referred to, addressed themselves to the gratitude, the honor, and, he would add, to the interest of the nation; for it was certainly the interest of every nation to discharge claims thus supported. In addition to these, however, the claims now presented rested on the basis of unfulfilled compact—of violated law. This was the ground taken by the committee, maintained by their report, and, in his opinion, established beyond contradiction, by the able argument of their chairman. If this view was correct, the two subjects were so distinct that they ought not to be blended. But does this evince,



JAN. 25, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

upon the part of the committee, any disposition to reject or disregard the claims of the private soldiers of the Revolution? No. Let my friend from North Carolina, said Mr. H., bring in a bill to make a further provision for this remnant of the most patriotic army that the world ever saw, and he will find, that, go as far as he may, I will not be behind him in voting them effectual relief. But this is an entirely different matter; the committee have told you that it can be supported upon principles of law, recognised by your courts of justice. Look, Sir, said Mr. H., upon the committee, and see of whom it was composed. With the exception of myself, who, in cases of this kind, requiring legal investigation, could give them little assistance, where would you go to find four men,\* upon whose legal opinions, deliberately formed, the nation might rest with more perfect security? The august tribunal, your highest judicial court, now in session in another part of this building, would pay the utmost respect to their opinions, and would long hesitate before they would pronounce one in opposition to such authority.

I cannot think it necessary to attempt any further elucidation of that part of the argument of this case which places it upon the ground of a legal claim, and not of a gratuity. Indeed, it would be presumption in me to attempt it, after the Senator from New Hampshire. I shall, therefore, content myself with a single remark, in answer to an objection made by the Senator from Maine. He asks if the acceptance of the commutation certificates for five years' full pay by the officers is not sufficient evidence of their acquiescence in the proposition made by Congress. A satisfactory answer, is, I think, to be found in the actual value of the commutation certificate at the time that it was issued. The chairman of the committee has stated it at one fifth of its nominal value. I have, however, received information from one who had the best means of knowing, and which accords with what I have always before heard, that it did not exceed one-tenth, i. e. ten per centum. The amount of the commutation certificate for a captain being \$2,400, its value in the market would then be \$240, which is precisely the amount of a single year's half pay. Now, would any one, having common sense, make a bargain of this kind, to receive a single year's half pay in lieu of half pay for life? Observe, I pray you, Sir, this commutation certificate was a very different thing from the certificates given to both officers and soldiers for the pay due to them. As the Government had not the means of discharging that debt, the claimants had no alternative but to accept the evidence of the debt, whatever might be its real value in the money market. The claimants of the half pay had an alternative—i. e. that of adhering to their claim of half pay for life; and this it was so obviously their interest to take, rather than the other, that it cannot possibly be supposed that the taking of the commutation certificates for five years' full pay from the officers when they were lodged, and which was worth only one year's half pay at the time, was considered by them as a relinquishment of any further claim. Even such of the officers as were obliged to raise money for immediate use, would not have touched these certificates if they had conceived that such would be the effect of taking them; because they could have sold their claim for half pay for life for a larger sum than they could obtain for the certificate. In other words, they could get more for their claims by dealing with the speculator than with Government.

It would hardly be considered fair, at this distant period, to ask the friends of this bill to show that a proper equivalent was given for this extraordinary concession upon the part of the Continental Congress to the officers of the Army. It would be sufficient for us to prove, that the compact was made by the competent authority, acting in behalf of the American States. But as insinuations

have been made, not here, but elsewhere, impeaching not only the magnanimity, but the patriotism of the officers, in forcing the Government into the measure of promising them half pay for life, I think it proper to give a short account of the origin of this measure, and the influence which produced its final adoption. This is due, not only to the officers, but is necessary to a proper understanding of the merits of the case.

The commencement of the fourth year of the war (1778) brought with it no encouraging prospect of its speedy and successful termination. The gigantic project of the enemy for cutting off the communication of the Eastern with the Middle and Southern States, had, indeed, in the preceding year, been entirely defeated. But although astonished at the unlooked for intelligence of the capture of a numerous, gallant, and well appointed army, the British ministry were neither appalled nor disheartened. If another attempt was made to conciliate, it was attended with the most vigorous exertions to achieve by arms what could not be obtained by negotiation. Germany, that store-house of armed men, was ransacked for hirelings to wage war upon a distant, and, to them at least, unoffending People. The guards of their King were put in requisition. The dock yards and the arsenals resounded with the din of warlike preparation for the sea as well as the land. Information of these events were carried to America. It produced, it is true, no disposition for submission. But it was far, very far, from producing measures corresponding to the crisis which was approaching. The enthusiasm which had distinguished the five years of the war, and which had given rise to efforts and to results so glorious, had, in a great measure, subsided. Languor and imbecility pervaded every department connected with the supplies for carrying on the war. The very circumstance which should have aroused both the General and State Governments to greater exertions, seemed to produce an effect the most opposite. The rumors of an acknowledgment of our independence by the powerful kingdom of France had reached this country early in the year of which I am speaking, and was confirmed by the actual arrival of a treaty, offensive and defensive, in the month of May. It was received, as it ought to have been, with the greatest demonstration of joy. But, unfortunately, it produced an opinion in those who administered the Government, if not with the people themselves, that their emancipation was put beyond the reach of contingency.

The effects of this fatal security was immediately felt by the army. The amount of its supplies, before scanty, partial, and inefficient, was now almost entirely suspended. It is most fortunate for the liberties of the country, that the calm and discriminating mind of the Commander in Chief was not led away by these deceitful appearances. He saw that the contest was yet to be protracted; that many bloody conflicts were to be sustained; and that a successful issue was only to be looked for by new and great sacrifices upon the part of the People, for effecting an entire renovation in the condition of the Army. This opinion was formed from a knowledge of the character of the British Ministry, and the immense resources at their disposal. He also knew that the assistance which we should receive from our allies would be measured by the efforts which we should make to sustain ourselves. And if even this should not be the case, the idea was not to be borne, that the freedom of his country was to be exclusively achieved by the army and treasure of an ally, and that ally a despotic king. These views were pressed upon Congress in repeated remonstrances; and all the resources of his mind, and the great influence of his character, were put in requisition to make them effectual. Such at length they were, and the usual course of calling for aid upon the State au-

\* Exclusive of Mr. H. the committee consisted of Mr. Woodbury, Mr. Berrien, Mr. Van Buren, and Mr. Webster; the latter gentleman was not present, but is understood to have agreed with the rest of the committee.



SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 25, 1828.]

thorities was adopted. For the most part, however, these calls were not more successful than that of Glendower on the spirits of the deep. The hope of relief being thus repeatedly disappointed, the sufferings of the Army seemed at length to have reached its utmost point, and its immediate dissolution to be apprehended. I beg leave, said Mr. H. to read a part of several letters of General Washington to the President of Congress, describing the situation of the officers at this period.

[The extracts of the letters of Gen. Washington, here read by Mr. H., described, in the strongest terms, the situation of the officers, destitute of the common necessities, and even of decent clothes.]

Such, Sir, [said Mr. H.] is the official account of the Commander-in-Chief, of the situation of that Army, upon which the fate of America was to depend. It was my fortune, said Mr. H. to be associated, in the early period of my military service, in the Northwestern Army, under the command of Generals St. Clair and Wayne, with many of those who had served in the Revolutionary Army. From those veterans I have often heard minute particulars of their situation, known, no doubt, to the Commander-in-Chief, but which could not well enter into his official letters. What think you, Sir, of a mess consisting of four or five officers, unable to furnish, from their common wardrobe, a decent suit to a comrade, who was to mount the honorary guard of their beloved Commander! One tolerable shirt alone, the property of the mess, and that performing the round of service to them all. The first Captain under whom I served, the late Colonel Kingbury, of Connecticut, than whom Sparta nor Rome ever produced a better soldier, informed me, that he joined General Washington's Army with a portmanteau filled with clothing, which, becoming the common property of his brother officers, was soon so reduced, that the portmanteau was dispensed with, and the remains of his wardrobe stuffed in a stocking, and carried in the knapsack of a soldier. It must be remarked, however, that all the officers were not in this destitute condition. Some of them were men of fortune, others had wealthy relations, who furnished them with every necessary. And this made those who were without any such resources (which was the case with the great majority of the platoon officers) much more discontented with their condition. At the very time when the officers of the highest grades were disputing for rank, the elevation of a Captain to the rank of a field officer, was, in many instances, no longer regarded as an advantage, because it brought with it a demand for additional expenses and equipments for the new character which he was called upon to support, and which he had not the means to supply, without exhausting the sole resources upon which his family depended. The younger officers, upon whom the glow and glitter of military life, the pomp and circumstance of war, make so strong an impression, shrunk from the gaze of the stranger, or even of his brother officers, as, in tattered garments, he slowly and mournfully took his post for the duties of the grand parade—a scene upon which the accomplished officer delights to exhibit himself, and which, in all armies, will present a true picture of its discipline and its efficiency. This degrading state of the officers of our Army became known to the enemy, and was a subject for their mirth and ridicule. In a little poem which I have once seen, and which is attributed to a British officer celebrated for his accomplishments, but more for his tragical end, and the sympathy which he excited amongst his enemies, the baggage found, or supposed to be found, upon a *bat* horse, the property of one of our most distinguished Generals, is thus described:

"His horse that carried all his prog—

"His military speeches—

"His cornstalk whiskey for his grog—

"Blue stockings and brown breeches."

This could not have been a true description of the wardrobe of the distinguished officer who is named in the poem, who was a man of fortune, and amply provided with every thing suitable for his rank; but I do not at all doubt that the blue stockings and brown breeches were to be found in the portmanteaus of many others.

Amidst such a complication of difficulties and embarrassments, without the means of decent support, destitute of clothing, the means of equipment which the Army regulations required, the ridicule of their enemies, and of every passing stranger, is it at all to be wondered at, that the officers were disgusted at the service, and that they should think of leaving it? Nor could they believe that their services were much appreciated by a Government, which would make no effectual effort to rescue them from the most abject penury and want. It is true that Congress became at length alarmed at the destructive consequences which must follow the secession of the veteran leaders of their troops, and were seriously and intensely engaged in discovering the means of averting it. The case was too pressing and urgent to be relieved by the usual requisitions on the State Governments, which were always slowly, and never effectually, answered. It seemed, indeed, to them, without a remedy. But a wiser head, acting under the impulses of a heart whose every other passion was absorbed in the love of country, was deeply engaged upon this important subject. We read, sir, of the sages, the lawgivers, and the heroes of Greece. It is the peculiar fortune of America to have produced a citizen who united all those great characters in his own person. In the recesses of his tent, he nightly meditated the means of saving his Army from dissolution, and his country from ruin. The knowledge of General Washington was derived not so much from books as from observation. He knew man as he is, not as he may have been described. With the sources of action in the human bosom he was intimately acquainted, and it opened at once to him the remedy for the disorders which prevailed. The means of relieving the wants of the Army, by an advance of money, was neither in his power, nor in that of Congress. But a remedy could be found in renovated hope—to be realized, indeed, at a distant and uncertain period, but being guaranteed by the solemnly pledged faith of the nation, would be subject to no contingency but a failure on their part to accomplish the object which had been committed to their valor. The scheme adopted by the Commander-in-Chief, to which I have alluded, was that of giving half pay for life, at the end of the war, to the officers who should continue to serve to that period. His first recommendation of this measure is to be found in a letter to the President of Congress, dated at Valley Forge, April 10th, 1778, which I beg leave to read:

"It may be said by some, Sir, that my wish to see the officers of this Army upon a more respectable establishment, is the cause of my solicitude, and carries me too far. To such I can declare, that my anxiety proceeds from the causes above-mentioned. If my opinion is asked with respect to the necessity of making this provision for the officers, I am ready to declare, that I do most religiously believe the salvation of the cause depends upon it; and, without it, your officers will moulder to nothing, or be composed of low and illiterate men, void of capacity for this or any other business. To prove this, I can with truth aver, that scarce a day passes without the offer of two or three commissions; and my advices from the Eastward and Southward are, that numbers who had gone home on furlough, mean not to return, but are establishing themselves in more lucrative employments. Let Congress determine what will be the consequence of this spirit.

"Personally, as an officer, I have no interest in their decision, because I have declared, and I now repeat it,

JAN. 25, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

that I never will receive the smallest benefit from the half-pay establishment; but as a man who fights under the weight of a proscription, and, as a citizen who wishes to see the liberty of his country established upon a permanent foundation, and whose property depends upon the success of our arms, I am deeply interested. But, all this apart, and justice out of the question—upon the single ground of economy and public saving, I will maintain the utility of it: for I have not the least doubt, that, until officers consider their commissions in an honorable and interested point of view, and are afraid to endanger them by negligence and inattention, no order, regularity, or care, either of the men or public property, will prevail.”

Frequent recommendations of the same character, [continued Mr. H.] followed in that and the succeeding year. In the beginning of the year 1780, this measure was again pressed, and declared to be the only one which would preserve the Army from dissolution. This, sir, is the language of one of these letters:

“I have often said, and I beg leave to repeat it, the half-pay provision is, in my opinion, the most politic and effectual that can be adopted. On the whole, if something satisfactory be not done, the Army (already so much reduced in officers by daily resignations, as not to have a sufficiency to do the common duties of it) must either cease to exist at the end of the campaign, or it will exhibit an example of more virtue, fortitude, self denial, and perseverance, than has perhaps ever yet been paralleled in the history of human enthusiasm. The dissolution of the Army is an event that cannot be regarded with indifference. It would bring accumulated distresses upon us; it would throw the American people into great consternation; it would discredit our cause throughout the world; it would shock our Allies. To think of replacing the officers with others, is visionary.”

In conformity to these recommendations, sir, (continued Mr. H.) Congress adopted the measure of giving to the officers who should serve to the end of the war, half pay for life. Before I proceed, sir, to show the effects of this measure upon the Army, I ask leave to read a few sentences from the book I have in my hand, to show how entirely the sentiments of General Washington accords with those of another great military character, as to the effects of poverty and straitened circumstances in the officers, upon the discipline and efficiency of an Army. It is the opinion of Marshal Saxe, sir, who, speaking of the French Army, in the reign of Louis XV. reduced by the diversion of its funds to other objects, to a situation similar to that of the United States' Army in the Revolution, thus expresses himself:

“For, what vigor in command, vigilance in the service, exactness in duty, emulation and desire to instruct one's self, or gentleman-like behaviour, can be expected from a man who is ever discontented with his profession? constantly employed about means to subsist in it, or to give it up? and waiting with impatience for the moment of quitting it to advantage? Distress of circumstances of course renders the mind stupid, and abases the soul. It extinguishes courage, and infallibly benumbs all the talents. In a word an officer ought to live by the sword, and expect his fortune from it. A point of view, therefore, must be offered to him, whose chances are powerful enough to make him sacrifice the present to a future chance, that flatters his ambition.”

I have thus, sir, shewn the origin and progress of this half-pay system. That it was a measure of general Washington's urged by him for two years, and adopted by Congress, after the greatest deliberation. Well, now, sir, with regard to the effects of this measure upon the Army. That it was in the highest degree beneficial, and entirely realized the expectations of its author, could be proven by referring to the different positions in

which the hostile armies stood in relation to each other before and after its adoption. The weakened, inefficient Army, kept together only by the personal influence of their leader, was enabled to assume the offensive character, to block up the more numerous, well-founded, and well-appointed forces of their enemy, in their principal *depot*; and, at last, to be found worthy compeers of the veteran regiments of France, in the last and most glorious achievement of the war. But, sir, I will produce better testimony on this subject than can be procured from any other source. It is the opinion of General Washington himself, expressed in his own words. In a letter to the President of Congress, after the conclusion of the war, upon the subject of the claims of the officers for half-pay and referring to a communication made by him on the same subject, in the year 1780, he thus expresses himself:

“That, in the critical and perilous moment, when the last mentioned communication was made, there was the utmost danger that a dissolution of the Army would have taken place, unless measures similar to those recommended, had been adopted, will not admit a doubt. That the adoption of the resolution giving half-pay for life has been attended with all the happy consequences I had foretold, so far as respected the good of the service, let the astonishing contrast between the state of the Army at this instant, and at the former period, determine. And that the establishment of funds, and the security of the payment of all the just demands of the Army, will be the most certain means of preserving the national faith and future tranquility of this extensive continent, is my decided opinion. By the preceding remarks, it will readily be imagined, that, instead of retracting and reprehending (from further experience and reflection) the mode of compensation so strenuously urged in the enclosures, I am more and more confirmed in the sentiment; and if in the wrong, suffer me to please myself with the grateful delusion. For, if, besides the simple payment of their wages, a further compensation is not due to the services and sufferings of the officers, then have I been deceived indeed.”

These documents, Mr. President, [said Mr. H.] are conclusive. They show the influence which this measure of granting half pay to the officers had upon the success of our revolutionary struggle, in the opinion of one who, of all others, was best entitled to judge—that it was that alone which prevented the dissolution of the Army, and restored its discipline and its energy. And to that discipline and energy those victories are to be attributed, which resulted in the establishment of our liberties. That glorious event, then, the independence of America, is to be distinctly traced to the compact made by the Revolutionary Government with the officers of their Army. It has, I think, been satisfactorily shown, that the obligation it imposed has never been completely discharged, which it is the object of the present bill to perform. And upon what ground, sir, is its rejection to rest? Is it to be found in the character of our government? What! a Republic, which is supposed to be founded on public virtue, to refuse to perform its contracts, solemnly and deliberately made! To shelter itself under its power, against a claim which its equity and its justice would have obliged it to discharge! Or, will you refer your defence for its rejection to the character of your People? Assemble them, then. It is a tribunal to which the friends of the bill would be delighted to appeal. Bring together the yeomanry of your country—tell them that this claim is founded on a resolution of Congress, passed in a gloomy period of the Revolution, upon the urgent recommendation of the Father of his Country; that to it he attributed the ultimate success of our arms, and the establishment of their liberties: and if they do not direct you to discharge this obligation, even

SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 25, 1828.]

if it would require the last dollar in the Treasury, then I am mistaken in their character.

If General Washington was correct in attributing to this half-pay system the success of our arms, what measure has ever been adopted, in the whole world, which has produced so much benefit to the human race? See, sir, this extensive and happy country. Ten millions of souls enjoying liberty, unrestrained by every thing but laws, which themselves have made, and alterable at their will. See the influence of our Revolution upon the country South of us. A whole continent redeemed from the most slavish tyranny. Look at its effects in Europe. A constitutional government in France and in Spain, the bars and bolts of the Inquisition broken, its portals thrown down, the horrible mysteries of its dungeons exposed to the detestation of the world. Sir, where is it that the effects of the valor of the memorialists have not been felt? Even the stupid Turk gazes with wonder and amazement at the influence of a principle of which he had never heard, and could not be made to comprehend, until it had converted a nation of slaves into a nation of heroes. I am aware, Mr. President, [said Mr. H.] that the private soldiers of the Revolution have a right to claim a full share of the reward for all these glorious results, and no one is more willing to accord it to them. I look back, with no little satisfaction, to the efforts I made in support of their pretensions in the year 1818. I have always considered that act of the Government as not sufficiently extensive in its operation. I am at this moment willing to extend it so as to embrace all the revolutionary soldiers. And, permit me to say, sir, that I would go further than the Senator from New Hampshire, to provide the necessary funds for that object, than the one contemplated by this bill. I would not only suspend the progress of Internal Improvements, in which I am more interested than the gentleman is, but I would suspend the completion of the fortifications—and make the defences of his own Portsmouth, and my own native James River County, of the breasts of freemen, instead of ramparts of earth and masonry. But, Sir, I resist the mingling of this peculiar claim of the officers, on account of their half-pay, with that of the soldiers and officers, as recognized by the law of 1818, as I would then have done the uniting the former with the latter; because, in their nature, they are entirely different.

When a great act of public justice is to be performed, Mr. President, I do not look at the cost for any other purpose, than to ascertain whether the Treasury can furnish the amount. Money is, in my opinion, always well spent when it is employed to support the honor and character of the nation, and to disseminate correct principles amongst the People. It is by these, and these alone, that a republic can be supported. Whenever we refuse to do any thing which duty and honor requires us to perform, on account of the money it will cost, it will be evidence of an approaching event, which I cannot even think of without horror. Pass, then, this bill, sir, and it will establish a principle which, in any future wars you may wage, will prove your shield, your helmet, your spear, your protector, and your avenger. Let gentlemen look around them and see who are their memorialists—the Ogdens, the Reeds, the Stewarts, and the Gibbons; yes, sir, Major Gibbons, who led one of the forlorn hopes, at the storming of Stony Point, and only lost seventeen out of the twenty which composed his command—himself, I believe, and the other three, wounded.

For my own part, sir, I never see one of those men without feeling the highest respect and gratitude, as well for the services they rendered my country, as for those which I have individually received. To their valor I consider myself indebted that I am a freeman; that I am a member of this august body; though last, not least, that one

connected to me by the nearest and dearest ties of natural affection, did not expire on a gibbet.

Mr. SMITH, of Maryland, rose to notice an error, which might as well be corrected. It was stated in the report of the Secretary of War, to which allusion had been made, that the line of Maryland consented to accept the commutation. This he believed was not the case; and that the officers never consented. He was convinced that the Army under General Greene had no share in the acceptance of the commutation. Mr. S. had communicated last year with Major Howard upon this subject, who said that those officers were never consulted. He had also conversed this morning with General Reed, who confirmed his impression that the Maryland line did not consent to receive the commutation. They, therefore, could never, in fact, have come under the provisions of the commutation law. It was true, that when they came home from service, they found that the law had passed, and that they must take the commutation or nothing. The alternative was, to take it or starve—and it was not unnatural to suppose that they chose the former. This was the case with the whole Maryland line.

Mr. S. here spoke at some length of the privations suffered by the officers of the Revolution. He observed that, at the funeral of Major Howard, upon the coffin was placed a soldier's coat, with something like epaulettes on the shoulders, which he had worn during his service for want of a better one. The Government found the soldiers in coats, but the officers were necessitated to purchase theirs, and often, having none, were fain to take a soldier's coat instead. I do not intend, said Mr. S. to dress up the misfortunes of the Army for the sake of effect. These facts are matters of history, and do not need embellishment. The few words which I shall offer in defence of these claimants, will be grounded on the belief that the faith of the Government is bound to relieve them. A solemn agreement was entered into with them by the Government. They fulfilled faithfully their part of the obligation—and they now come here, not to ask your gratitude, but to claim a right.

He had never heard a clearer exposition of facts, or a stronger array of arguments, than was made by the gentleman from New Hampshire [Mr. WOODBURY] yesterday. Yet it had been said, that the soldiers ought to be included in the provisions of the bill. He was of a different opinion. The soldiers were far better provided for than the officers, and they were now enjoying pensions larger than their pay when in actual service. Four-fifths of the soldiers of the Revolution were now on the pension list, at eight dollars a month, while their pay when in service was only six and two-thirds. He believed that there were very few, if any, who were entitled to pensions, who had not received them. As to Maryland, he did not think there were five soldiers of the Revolution in that State who did not draw pensions. They were well provided for; and, as far as related to the soldiers, this country had wiped away the stigma which had been always thrown upon it by monarchical Governments, that Republics were ungrateful. He hoped Congress would do so in this case.

It had been asked why the provisions of this bill were not applied to the widows and children of those officers who had died. The reply, said Mr. S. which I make to that question, is, that we cannot do all that we might wish to do—but let us not, therefore, fail to do all that we can—and in doing this, let us select those individuals whose claims upon the Government are the strongest. I shall say no more—my object in rising being only to correct the error in the report of the Secretary of War relative to the officers of the Maryland line, and to state that those who accepted the commutation, did it from necessity.

Mr. CHANDLER observed, that, as the gentleman from Maryland had alluded to him, he would make a few

JAN. 24, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

remarks in reply. He wished this subject stripped of all extraneous matter, and of all other considerations than those which rightfully belonged to it. How, then, does the matter stand? The gentlemen who advocate the bill say that it is no gratuity. They say that every officer was entitled to his half pay for life, and that the commutation was forced upon them, they never having consented to it, except in some instances; and that the compact was not fulfilled by that act. But, said Mr. C. I contend that the compact has been fulfilled by the acceptance of the commutation offered, and that no further claim exists. If they contend that there is an equitable title, then, I say, that the heirs of such as accepted the terms, and who have since died, are equally entitled to the sum now proposed to be paid. He never knew that the death of the creditor destroyed the debt, and he believed it was equally binding in one case as the other. If the bill were to pass in its present form, it would be partial in the extreme.

The gentleman from Ohio had read several letters from General Washington, to show that he considered these individuals to have a claim on the Government. But, if General Washington was of that opinion, would he not have acted under it? I ask, said Mr. C. in what instance General Washington, who was always the soldier's friend, came forward and stated that the Government owed these officers any thing which had not been paid? He never did; and, therefore, the conclusion was a fair one, that he did not consider that they were entitled to any thing, and that their compact had been fulfilled. He [Mr. C.] did not doubt that such was his opinion.

These officers were certainly entitled to great respect, and to the gratitude of the country; and no man more cheerfully awarded them than Mr. C.; but he did not wish to be carried away by his feelings. He desired to do justice. If the country owed them any thing, let it be paid to the utmost farthing. He wished their claim, however, to be satisfactorily established, in the first place. Far from feeling any hostility towards these applicants, he was induced by many considerations to feel favorably disposed towards them. His early associations led him to look with great respect upon the patriots of the Revolution, as he lost his father in that struggle, who, although not on the continental establishment, was no less a patriot.

Mr. PARRIS remarked that, unless provision were made for the soldiers of the ranks, as well as the officers, he should not vote for the bill. The sufferings of both were equal—there was no difference in their privations, and the same provisions ought to be extended to both. He, therefore, proposed to recommit the bill for the purpose of adding an amendment; which he read. [This amendment was pronounced, on the next day, to be out of order.]

Mr. VAN BUREN said he hoped the bill would not be re-committed. It would create an injurious delay—while, if there ever was a case in which a legislative decision ought speedily to be made, it was this. The bill ought not, therefore, to be re-committed, so as to place it behind the other business. He thought the Senator from Maine might reach his object without recommitting the bill; and Mr. V. B. considered the best method would be, to offer an amendment to the effect proposed.

Mr. FOOT believed that there was one amendment pending, so that another would not now be in order.

Mr. WOODBURY said that if the blank were first filled with the sum proposed, or whatever amount the Senate might decide upon; or, if the present motion were rejected, the gentleman from Maine could then attain his object, by moving to amend the bill by adding a section. The gentleman would recollect, that the bill had been before a Select Committee, and he believed, after they

had once reported upon the subject for which they were appointed, they became defunct, and had no longer power to act upon it.

The CHAIR corrected Mr. W. The committee were not discharged from acting upon the bill until it should have been disposed of.

Mr. PARRIS said that the proposition of the gentleman from New Hampshire did not reach his object. He wished that the amounts due to the soldiers should be ascertained by the committee. It was not possible for him [Mr. P.] to draw a section that should embrace the amount of the depreciation which they suffered. As he could not frame an amendment which would comprise all his objects, he desired the recommitment of the bill.

Mr. FOOT thought that, to fill the blank with a certain sum in the present state of the question, would operate to exclude all other amounts. He was of opinion that the extent and number of the objects to which this bill was to apply, ought first to be settled, and then the sum proposed to fill the blank could be fixed upon with precision.

Mr. WOODBURY observed that another and perhaps a better method to reach the object, would be, by a separate appropriation. The only question now is, will we pay the sum which has been proposed to the officers of the Revolution? And this question, he thought, stood entirely separate from any other class of individuals. Appropriations for other objects could be made in additional sections, after the blank in the first section had been filled.

Mr. FOOT believed that, if the blank were filled, it would prevent provisions from being made for any other class of claimants. As to the ground on which the chairman had rested these claims, he was of opinion that, if it was a good ground, the legal representatives had the same claim to relief as the surviving officers. He therefore hoped that a recommitment might be had, and that the consideration of the bill might be deferred, that they might see what amendments the committee would see fit to propose.

Mr. BERRIEN thought the delay proposed would operate unjustly and injuriously upon the prospects of the bill. Let us, said Mr. B., look at the circumstances under which this measure stands. The committee was appointed to inquire into the merits of these claims. They have done so; and the bill is now in a fair train of debate and examination. It is proposed, at this juncture, to recommit the bill—and for what? Why, because it may influence the vote of some gentlemen, by giving a pledge to provide for another class of claimants.

But, said Mr. B., supposing the blank to be filled with the sum now proposed. Are gentlemen pledged by their vote on this question? Can they not afterwards bring forward their amendments, and should they fail of obtaining their adoption, may they not vote against the bill on its final passage? He saw no objection to such a course, and he thought the question was, whether it would be just to delay the bill for this purpose.

Mr. VAN BUREN asked the reading of the proposition made by Mr. PARRIS; which, having been complied with, Mr. V. B. said that it ought not to be adopted. It went infinitely beyond the object proposed by this bill, which was, to liquidate a debt to one class of individuals, who, having been promised half pay for life, had never received an equivalent for the benefit thus held forth in expectation. The proposition of the gentleman from Maine proposed to settle—not the certificates of commutation alone—but all the accounts of the Revolution. Mr. V. B. thought that the gentleman had taken an incorrect view of the subject, and trusted his motion would not prevail.

On motion of Mr. EATON, the bill was postponed until Monday, and made the order for that day.

SENATE.]

Public Lands.

[JAN. 28, 1828.]

MONDAY, JANUARY 28, 1828.

## THE PUBLIC LANDS.

The bill to graduate the price of the Public Lands having been taken up for consideration—

Mr. HENDRICKS said, it would be remembered that, at the last session, he had submitted an amendment to the bill, which, with the bill itself, was made the order of the day for a subsequent period of the session; that, owing to the pressure of other business, the Senate was prevented from the further consideration of the bill, and no opportunity was afforded, during the residue of the session, for presenting his reasons in support of the amendment then proposed.

The same bill had again been offered for consideration, and he thought it his duty to avail himself of the present opportunity, to offer the same amendment. He trusted that it would be unnecessary for him to assure the Senator from Missouri, that it was in no spirit of hostility to his bill, that he offered this amendment. Should it meet the favorable reception of the Senate, it would accomplish much more than the bill in its present shape, would be more acceptable to him than the present bill, and, if it should not be adopted, the question could then be taken on the bill as reported. He proposed to strike out the fifth section, and insert the following:

"Sec. 5. *And be it further enacted*, That the preceding sections of this act shall be, and the same are hereby, made applicable to the Territories only.

"Sec. 6. *And be it further enacted*, That the public and unappropriated lands within the limits of the new States, shall be, and the same are hereby, ceded and relinquished in full property to the several States in which the same may lie, on condition that such States shall not, at any time hereafter, put such lands into market at a lower minimum price than shall be established by law for the sale of the public lands in the Territories: and on condition that the Indian title to lands within the limits of any State, shall hereafter be extinguished at the expense of such State."

The amendments being stated,

Mr. H. said: Some exposition of the amendments proposed, will probably be expected of me, and I will ask the indulgence of the Senate, while I attempt to give, as briefly as I can, my reasons in support of them. A document heretofore referred to, as one which might be expected to give much light on this subject, has been laid on our tables, and the statements and calculations therein contained, give us a good historical view of the public lands, from the commencement of the Government to the present time. I will not, however, weary the Senate with its details, for all statistical views of this subject aloof, we have grand and unerring principles to conduct us in this discussion, in which, if borne out, we shall the less need arithmetical calculations, and, without which, those calculations, however plausible, would be entirely insufficient.

It has long been my opinion, that the best interests of the Union imperiously demand a change in our land system; and I have long seen the injustice of the present system towards the new States. Both these opinions seem to be gaining ground every where. The balance of the Constitution is lost in the present state of things. The attention of Congress is engrossed, in legislating, specially, for the new States, to the partial neglect, at least, of its own general concerns; and the equality, sovereignty, and independence, of the new States, are lost in their object and humiliating dependence on the Federal Government.

No Senator from the new States can but have observed how frequently, within the last few years, opinions have escaped members from all parts of the Union, that it would be better the public lands were ceded to the States,

on just and equitable conditions, than that the Councils of the Nation should be teased and distracted with the local policies, and municipal legislation, necessary, under the present system. So frequent were these remarks, during the first session at which I had the honor of a seat in the Senate, that the time seemed to have arrived, when this proposition ought to be made; and, with that view, a few days before its close, a resolution was introduced by myself, calling for the document before alluded to. This document, sir, it was my intention, should no other member move in the business, to make the basis of some such proposition as that now before the Senate. Nor was I alone in the opinion, that the time had arrived when this proposition should be made: for, a few days after the adoption of the resolution referred to, a Senator from Virginia, [Mr. TAZEWELL] laid upon your table a resolution, expressing the abstract opinion, that it was expedient for the United States to cede and surrender to the several States the public lands within their limits. This proposition was what I had long wished to see. It came from the right source—from one of the old States; and from that State, too, whence the Federal Government had derived its title to most of the country Northwest of the river Ohio, and East of the Mississippi. This proposition I hoped to have seen renewed at the last session, and clothed with whatever details the mover had thought proper to submit to the Senate. But, learning that it was not his purpose to renew his proposition, I determined on the measure myself, and seized the occasion of the present bill, then under consideration, as a proper one.

The amendment submitted, Mr. President, is not burdened with detail. The proposition is a plain and simple one, encumbered with but two conditions: for, if correct in the principle at the base of this measure, that the equality and sovereignty of the new States require that these States should have the control of the public lands within their limits, then it would be unjust to attach many, or hard conditions, to the cession: for the power of attaching onerous conditions includes the right of refusal. You might easily attach conditions such as the States could not accept.

The bill proposes a graduation of the price of the public lands, applicable alike to the States and Territories; and provides, that, after the lands shall have been many years in market; after all the good shall have been sold, and the bad and worthless reached the minimum of 25 cents per acre, that the residue of worthless lands shall be relinquished to the States. The amendment proposes that the whole system of the bill shall apply to the Territories only, and that the lands in the States shall forthwith be ceded to the States in which they lie. One condition of the amendment is, that the States shall not put those lands into market at a lower minimum than shall be established by Congress, for their lands of equal value in the Territories. This is to provide, that the Legislatures of the States, who will always know more of the wants of the People than we can know—who will always be more disposed to put their lands into the hands of the industrious poor, on terms more favorable than this Government—and who will know better than we can know, when to give pre-emption rights and donations to actual settlers—may not undersell, and render the hundreds of millions that would still belong to the Union, in the Territories, of little value. It is to provide that the States may not hereafter do, what this Government would not consent should be done, in regulation of the price.

The other condition is, that the Indian title to lands within the limits of the States shall be extinguished, hereafter, at the expense of the States. This provision seems necessary, because, by the Constitution, the treaty-making power is vested in the President and Senate, and would have to be employed in our negotiations with the Indians. Any details about Land Offices, Surveys, &c.

JAN. 28, 1828.]

*Public Lands.*

[SENATE.]

would be useless. The States would establish their own land offices, and regulate the surveys as they might think proper; and, in the Territories, the system, with the principle of graduating attached, would remain as at present.

But, Mr. President, I am not vain enough to suppose that, in this proposition, I shall have luckily hit on that which will be most acceptable to the Senate. In relation to the terms, which are equitable and just, and on which the lands should be ceded to the States, we are as liable to hold a great variety of discordant opinions as on any other subject; and the abstract proposition, on which, perhaps, a large majority are agreed, is in danger of being lost by the discordance of its friends. If, however, we shall unfortunately come to no union of opinion at the present time, still I hope that the discussion will be useful, in the comparison of opinions, and the development of views; and that, if not at the present, at some future day, it may aid in coming to some satisfactory conclusion.

This Union is, in theory, formed of sovereign, equal, and independent States. In the older members of this Confederacy, the Federal Government sets up no claim to the waste and unappropriated lands; has no land offices, derives no revenues from the sales of lands. In the new States, this Government is the lord of the soil, has established land offices, and collects millions from the sales of lands. A statesman or historian, making himself acquainted with our system, would pronounce it, in theory, beautiful. With nothing would he be more pleased than with the republican equality of the States. But what would be his surprise, when told, that, in seven of these States, the soil itself belonged to the Government of the Union, while, in seventeen States, the soil belonged to the States themselves. Would he not instantly inquire, why are the States of this Confederacy equal in theory, when they are not so in fact? Why are they not made equal in reality, as they are in name? The answer to this last inquiry would be the reasons against the proposition now before the Senate. He would then hear, as we have so often heard, of the cessations, the pledge, and the compacts.

I am aware, Mr. President, that these are usually resorted to, as the authority of this Government, to hold the lands in the States; but these authorities, taken in connexion with other portions of the history of that day, instead of showing title in the Federal Government, may, in my opinion, safely be relied on, to sustain a different position. It surely was the intention of the States ceding, and of Congress in receiving, these cessations, that the territory thus ceded should be formed into States, and should be received into the Union, as free, sovereign, and independent States, on an equal footing with the original States, in all respects whatever. That they should thus be received into the Union was most certainly the intention of the framers of the Constitution. To establish and sustain the political equality of the States, the Constitution had extended favors to the small States. It had put political power, in some instances, into the hands of the small States, to balance numbers of the large States. The equal representation in the Senate is an evidence of this. I will take a brief notice of these cessations, this pledge, and these compacts; and being more familiar with my own country than that of any other, I will take my facts and illustrations from that district chiefly ceded by Virginia to the Union—that portion of country out of which is formed the States of Ohio, Indiana, and Illinois. I will leave to others—to the Senators from Mississippi, Alabama, Louisiana, and Missouri—to speak of that portion of the public lands which was acquired by treaty from France and Spain, and by cession from other States than Virginia.

The ninth article of the Confederation declared, that no State should be deprived of territory for the benefit

of the United States. This was the origin of the cessations. The cession from Virginia was authorized by act of her Legislative body in 1783, and was formally transferred by her delegates to the Congress of the Confederation, by deed bearing date the first of March, 1784. These transactions were anterior to the formation of the Constitution of the United States, and cannot be understood, without recurring to the circumstances under which they took place. These circumstances, some of them imperious and controlling in their character, and these only, can give us the reasons of the actors of that day, and unfold their views about the public domain. It had been a matter of much complaint, on the part of several States, that, in the articles of Confederation, no disposition was made of the crown lands. This will be found, perhaps, as fully set forth, in the objections of New Jersey to the Confederation, as any where else. The objections of New Jersey to the articles of the Confederation, respecting the public lands, were as follows—Vol. I. U. S. Laws, p. 24.

"The ninth article provide, that no State shall be deprived of territory for the benefit of the United States." "It was ever the confident expectation of this State, that the benefits derived from a successful contest, were to be general and proportionate, and that the property of the common enemy, falling, in consequence of a prosperous issue of the war, would belong to the United States, and be appropriated to their use. We are, therefore, greatly disappointed, in finding no provision made in the Confederation, for empowering the Congress to dispose of such property, but especially the vacant and unpatented lands, commonly called the crown lands, for defraying the expenses of the war, and for such other public and general purposes." "Reason and justice must decide, that the property which existed in the crown of Great Britain, previous to the present Revolution, ought now to belong to the Congress, in trust, for the use and benefit of the United States." "Shall such States as are shut out by situation, from availing themselves of the least advantage from this quarter, be left to sink under an enormous debt, whilst others are enabled in a short period, to replace all their expenditures, from the hard earnings of the whole Confederacy?"

The proposition of New Jersey was, that all the crown lands, all the waste and unappropriated lands in all the States, should belong to Congress, as a source of revenue, to meet the expenses of the war. But this proposition so to amend the articles of the Confederation was rejected by the Congress of 1778, to which it was submitted, three States only, out of ten, voting for it.

The objections of Maryland to the articles of the Confederation were also submitted to the same Congress. An amendment was moved, in behalf of Maryland, "that the United States, in Congress assembled, shall have power to appoint commissioners, who shall be fully authorized and empowered to ascertain and restrict the boundary of such of the confederated States, which claim to extend to the river Mississippi or South Sea." This was also negatived.

The objections of Rhode Island to the same articles, were also considered by the Congress of 1778. It was proposed by that State, to add, "that all lands within these States, the property of which, before the present war, was vested in the crown of Great Britain, or out of which revenues from quit-rents arise, payable to the said crown, shall be deemed, taken, and considered, as the property of these United States, and be disposed of and appropriated by Congress, for the benefit of the whole Confederacy." This proposition was also negatived, by a vote of States, nine to one. So far then we have, in three instances, the solemn decision of Congress, against the assumption of power over the unappropriated lands, within the limits of the States. Nor



indeed, does it appear, that, after that period, 1778, was the proposition to give Congress the right of soil in the States ever renewed. This, sir, is a very important part of our history, respecting the public lands. In these three instances, Congress positively refused to assume the power of interfering with the right of soil, in the sovereign and independent States. Congress seemed to say of that proposition, that, being already clothed with the sword and the purse of the nation, if power over the soil were added, there would be nothing but the shadow of a name left to the States.

Many causes, however, operated in producing these voluntary cessions on the part of the States. Those States in which there were but little unappropriated lands, and on whom the pressure of the war debt was at that time heavy, allured by the expectations, that there were public lands sufficient to pay the debt, were pressing the idea of cession. Some of the States had not yet joined the Confederacy, dissatisfied with the articles of Confederation; and in order to quiet the discordant elements of the day, it was necessary to hit upon some measure likely to produce that effect. Congress, accordingly, by act of 1780, recommended to the several States having wild lands, to make liberal cessions of them to the Union, to pay the debt of the Revolution. This measure promised to have the desired effect. Nor was the situation of the States holding these lands, calculated to dissuade them from such cessions. Virginia had been exposed to great expenditures and sacrifices, in the prosecution of her Indian wars, and in garrisoning of posts on the territory in question, and to her, who had experience on that subject, there was little prospect that her finances, all things considered, were in a short time to be much benefitted by her public lands. The validity of her title, too, owing to the unexpected extent of her grant from the British crown, and its clashing with that of Connecticut, no doubt strongly induced her to the proposed cession. The grant of Connecticut running indefinitely West, and that of Virginia indefinitely North, would have thrown them upon the same territory, from the Western limits of Pennsylvania, along the shores of the Northern lakes, to the banks of the Mississippi. They would have held disputed titles, and of all things, collisions among the States were at that time to be most carefully avoided. Nor does the value set upon these lands at that day, seem to bear any comparison with their value according to modern estimates.

In examining the whole history of these cessions, from the articles of the Confederation to the formation of the Constitution, we find nothing to incline us to the opinion, that either Virginia or the United States expected this vast expanse of territory to remain in the hands of the Union, in the same condition it was in the hands of Virginia at the time of cession. That the condition in which these lands were placed by the cession, was not intended by either party to be a permanent one, is most certain from the cession itself, in which it is stipulated that new States shall be formed out of this territory.

But, it is said that we may not cede the lands to the States, because Congress stands bound to appropriate their proceeds to the payment of the public debt. The pledge, as it is called, is immediately referred to. This pledge, sir, I believe, is to be found no where else than in the act of cession of Virginia, and in her deed of transfer to the Union. If this be a pledge, it is made by Virginia herself, and is a guarantee that Congress will so appropriate the proceeds of the public lands. It is not, as is generally understood, a pledge made to Virginia by Congress. But, consider it in that light, and associate it with other parts of that instrument from which it cannot be separated, and you cannot fairly understand it to have reference at all to a period, after the political condition of the territory shall have been totally changed—after it

shall have been formed into sovereign, free, and independent States.

Much stress appears to be placed on the language of this pledge. It is there said, that the lands so ceded "shall be considered a common fund, for the use and benefit of such of the United States as have become, or shall become, members of the Confederacy, or Federal alliance of the States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever." There is not, in this pledge, any stipulation, that the new States, when admitted into the Union, shall never interfere with the primary disposal of the soil.

But, sir, whatever the language of this pledge may be, the object of the contracting parties is plainly expressed. That object was, that all the States should become, and remain, members of the Confederacy; and, as a strong inducement for so doing, it was stipulated, that the proceeds of the ceded lands should be appropriated in favor only of those States that had subscribed the articles of Confederation. The quotas of such States as were not members of the Confederacy, should be required of them unaided by the proceeds of the territorial lands. Nor is this view of the subject weakened by the fact, that most of the thirteen States had, previous to these cessions, joined the Confederacy: for the policy of the cession had been determined on in 1780. New York had ceded before Virginia; and it is worthy of remark, that at least one of the delegates from Maryland subscribed the articles of Confederation the same day that New York ceded her unappropriated lands to the Union.

This provision held out to the New States, thereafter to be formed, strong inducements to join the Confederacy: for, refusing to do so, they would be deprived of their respective proportions of the proceeds of the territorial lands, while they would be chargeable with their proportions of the public debt. The inducement, too, in their case, was much strengthened by the ordinance of 1787, which prohibited them, after they should become States, from interfering with the primary disposal of their own soil, until they should have joined the Confederation.

But, connected with this pledge, there is another objection urged. The special words of the prohibition not to interfere with the primary disposal of the soil, &c. is understood by some as expressing a perpetuity co extensive with time. This language, however, is familiar to the statute book, and from it nothing can be inferred. It is to be found in almost every act of Congress, from the Confederation to the present time. We are in the habit of saying in our statutes to day, that this, that, or the other regulation, shall be, and for ever remain, the law of the land, while we possess the power, and frequently, at the next session, exercise it, of repealing such law.

I have said, Mr. President, that this pledge has reference only to a Territorial form of government, and has no reference whatever to a period, after the political condition of the country shall have been totally changed—after it shall have been formed into sovereign, free, and independent States. And, if it be not susceptible of this construction, it cannot be reconciled with the ordinance of 1787, which says, that, whenever any of the said States shall have 60,000 free inhabitants therein, such State shall be admitted, by its Delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever. If the construction just given be not the true one, the pledge and this provision of the ordinance are at war with each other—are destructive of each other. And suppose, sir, that these lands were pledged in perpetuity, under all political circumstances, for the payment of the public debt: For what debt?



JAN. 28, 1828.]

Public Lands.

[SENATE.]

Surely for no other than the \$42,000,000 then existing. And has not that sum, in amount, been often paid.

But do gentlemen tell us that this pledge is a sacred one, and may not be touched, until every tittle of the procrastinated Revolutionary debt shall be paid? And if so, will some one be kind enough to tell the Senate how it comes to pass that more than 20,000,000 of acres have already been legislated away in military bounties, and for other purposes than paying the debt of the Revolution? This pledge would seem to be one of flexible, convenient character. Whenever it becomes necessary for this Government to divert any portion of the public lands from the object of this pledge, it can forthwith be done; but when the fair claims of the new States are presented for the whole, or a part of these lands, then, indeed, this pledge rises in great majesty and strength. Put this matter on what ground soever you please, these lands are long ago released. If bound for the payment of the Revolutionary debt, that debt is, in amount, long ago paid; and if inseparable from the sovereignty of the States, they are in that way released, although the debt be not paid.

If we carefully examine the ordinance of 1787, we shall see, on the face of it, that it never was intended, in the great mass of its provisions, to be applicable to the States when formed: for some of its provisions are entirely inconsistent with every idea of State government, and in that view, they are contradictory to one another. Can any one believe that the ordinance would guaranty, on a particular event, the admission of these States into the Union on an equal footing with the original States, in all respects whatever, if it had been the intention of Congress to retain the full property of the soil, while the soil of the original States belonged to those States?

The resolution of 1780 provided for the formation of the ceded territory into States, and determined, that, when admitted, they should have the same rights of sovereignty, freedom, and independence, as the other States. The ordinance specified the boundaries of the districts, and recognized them as States, before their admission into the Union. It gave them the right, severally, of demanding such admission, whenever they should have sixty thousand free inhabitants, and gave them the right, also, of forming for themselves permanent Constitutions and State Governments. Being recognized as States before they had joined the Confederacy, the Congress of 1787 thought proper to restrain them, previous to their joining the Union, from the primary disposal of the soil. This was, perhaps, at that day, when every patriot was tremblingly solicitous for the stability and perpetuity of the Republic, a valuable provision. It held out inducements, strong and powerful, to the new States, to become members of the Confederacy; and it was the Legislatures of the new States, who had not joined the Confederacy, and these only, that were prohibited interfering with the primary disposal of the soil. They had a right to demand admission with a population of sixty thousand, and to form, at that period, permanent Constitutions and State Governments. They were, at that period of their history, and not till then, promised admission on an equal footing with the original States; and if Congress had refused them admission, they would still have remained States, and the equal footing which was guarantied them, being ascertained by comparison with the original States, would have attached to them.

This opinion is not novel. For this opinion, the ablest statesmen contended, in the question of admitting, without restriction, the State of Missouri. I will not, Mr. President, weary the Senate, in giving extracts from the speeches of that day, volumes of which could be instantly produced. The occasion is in the recollection of every one. It was contended for, by many of the advocates for the Missouri admission, that she, having formed

her Constitution, convened her Legislative body, enacted her own laws, was, in very deed, a State, and that her State sovereignty and equality, included her right to her public domain. It may also be stated, with much certainty, that difficulties such as these, finally kicked the beam in favor of her admission, more than any constitutional argument.

I am well aware, sir, that the Constitution will be resorted to for aid in the present case. We shall, no doubt, have quoted upon us the third section of the fourth, and the whole of the sixth article. We shall be told that Congress have power to dispose of, and make all needful rules and regulations respecting the Territory, or other property belonging to the United States. But, those who contend for the validity of the ordinance, and its application in the present case, will surely not take the ground that its provisions were changed by the Constitution; for, if they do, they have themselves no ground to stand upon. If you say the ordinance was repealed by the Constitution of the United States, you lose the benefit of its prohibitions against the new States; and if you admit that the ordinance, with its guarantees in favor of the new States, is sanctioned by the Constitution, you must admit, that the new States, with a population of 60,000, were entitled to admission into the Union, on an equal footing with the original States.

The ordinance is, in many of its provisions, a compact between the original States and the People and States in the Territory. It contains engagements of both parties; and the sixth article of the Constitution declares, that all engagements, entered into before the adoption of the Constitution, shall be valid. The ordinance contemplated the public lands as belonging to the new States, after their admission into the Union; and, if all other authorities were wanting to prove this, the ninth article of the Confederation would be sufficient. It declares, that no State shall be deprived of territory for the benefit of the United States. These articles were made for the government of the United States, and for the States which should adopt them in future; and the ordinance was framed in accordance with those articles. They were the basis of the ordinance of 1787. They were the constitution of that day, and the ordinance cannot be construed in violation of them. The meaning of the ordinance, compared with this article, becomes perfectly clear.

Mr. President, the union of the States was the grand object of all parties in the regulation of the Territorial lands. The articles of confederation had provided, that no State should be deprived of territory for the benefit of the United States; that Congress should not assume the ownership of the soil in the States. With this, many States were dissatisfied, and hesitated about joining the Union. To remedy this, the cessions provided, that no State out of the Confederacy should participate in the proceeds of those lands; and the ordinance further provided, that the new States, refusing to join the Union, should not only be excluded from all participation in the proceeds of the territorial lands without their limits, but that they should be prohibited from interfering with the primary disposal of the soil within their limits. As a further inducement to the new States to join the Confederacy, the ordinance stipulated that they should be admitted into the Union, with a population of 60,000, on an equal footing with the original States, in all respects whatever; and the Constitution, in sustenance of the same policy, provides, that all engagements entered into before the adoption of the Constitution, shall be as valid against the United States, under the Constitution, as under the Confederation. So that the articles of the Confederation, the acts of cession, the ordinance of 1787, and the Constitution itself, form a perfect and harmonious chain of policy—the grand object of which was, the union and equality of the States.

SENATE.]

Public Lands.

[JAN. 28, 1828.]

Then, Mr. President, if at all correct in this view, it may well be asked, by what means have the new States been deprived of their equality, of the right of soil? I am well aware, sir, of the answer to be expected here. Here the compacts made with the new States are brought into view. Here, notwithstanding the guarantee that the new States shall be admitted into the Union, on an equal footing with the original States, in all respects whatever; that they shall enjoy the same rights of sovereignty and equality with the old States; we are told that the sovereignty of the States are, *sub modo*, conditional; that, if one condition may be attached another may, and that, whatever our political rights would have been, if we had never made the compacts, we must now abide by them, and have no reason to complain. And are we to be told, that, although the sovereignty and equality of the States, as well as the stipulations of the ordinance, would have given us, without the compacts, the soil of our country, we are to be deprived of that first attribute of sovereignty by the conditions imposed, when we asked permission to form, for ourselves, a constitution and State Government?

These compacts, it is true, ought never to have been made; and, however soon we may get clear of them, we shall have suffered sufficiently by them. A Territorial form of Government is, indeed, not to be desired. It has been one of turmoil and strife, wheresoever it has been introduced. The Territories, anxious to gain a political elevation, anxious to gain the level of equality with the original States, did not rightly consider the immense sacrifices they were making for the name, while they were not really acquiring the substance of equality and independence. They had a right to demand admission with a population of 60,000, and Congress might, in their discretion, receive them into the Union with a less population. Some of the new States asked for admission with a less population. This was the case with Ohio, the first from the Territory in question. Ohio, tired with her Territorial relations to the Union, asked, by her Delegate, permission to form, for herself, a Constitution and State Government, with a less population than 60,000. Congress, under these circumstances, having the power to admit or not, responded to this request of Ohio with conditions. That part of the ordinance which prohibited the new States from full property in the soil, until they should be admitted into the Union, was made perpetual; and the prohibition of sale and taxation was imposed, for no other consideration, than a few sections of school lands, a few supposed salt springs, and five per cent. of the proceeds of the public lands, for internal improvements. This is the history of the matter in reference to Ohio.

Louisiana was next admitted into the Union, with a Territory obtained, by treaty, from France. That the People of Louisiana, who had been accustomed to receive from the Crowns of France and Spain almost any quantity of land for occupying it; a People anxious to experience the full benefits of the Government to which they had recently been attached; should have been thoughtless about any regulation on the subject of their public lands, is not wonderful. Louisiana, too, like Ohio, was admitted into the Union with a less population than 60,000.

Indiana was the next State admitted into the Union. She had, before she applied through her Delegate, for admission, a population of more than 60,000. She had a right to demand admission under the ordinance of 1787. Following, however, the example of others, under circumstances less favorable than her own, instead of forming her Constitution, and demanding unconditional admission into the Union, as, by the ordinance, she had a right to do, she procured the passage of a similar law, authorizing her to form a Constitution and State Govern-

ment, giving up the right of soil and taxation to the Federal Government.

The compacts, themselves, admit the rights of the States to the public lands: for they stipulate conditions. The compact not to tax, implies the right of taxing on the part of the new States, unrestricted by the compact. The compact not to interfere with the primary disposal of the soil, implies the right to interfere, unrestricted by the compact. If the right of the Federal Government, in these respects, had been clear, on constitutional grounds, or on well-established principles, we should have had no compacts, no bargaining about it. Congress did not ask the States to enter into compacts not to declare war, not to make treaties, not to grant letters of marque and reprisal, or keep troops and ships of war in time of peace. And why? Because the Constitution itself clearly inhibited these powers to the States.

Sir, it must be admitted, that the new States are now contending with this Government on terms very unequal. They are little else than vassals and tributaries to the power of this Union, and they have all the force of the compacts against them. But I cannot, I will not believe, that this consideration is to prevent that justice now, which at first should have been done. I believe that, as soon as it shall appear, that the condition of the new States, in reference to their public lands, is one of abject and humiliating dependence; inconsistent with the rights of sovereignty and equality; inconsistent with the spirit of the Constitution, and their character as States; that the proposition now before the Senate will instantly prevail.

We claim, as we believe, a constitutional right; make a reasonable demand, that you should restore to us the soil of our country, which you ought never to have taken from us. Do you talk of equitable conditions, the expenses of Indian wars, and Indian treaties in the country; the expenses of purchasing Louisiana and Florida, from France and Spain: and, if you had never owned one foot of soil Northwest of the Ohio river, would your Indian wars and Indian treaties have been the less expensive? Your line of frontier South of the Ohio would not have been quite so long; but the whole country between the Ohio river and the Lakes would have been covered with an innumerable horde of Northern warriors, who could, at any moment, have carried desolation into the Southern country. Your expenditures, on account of Indian wars, would, in that event, have been much greater, than at present they are. And if, previous to the acquisition of Louisiana, every acre had been granted by the Crowns of France and Spain, to individuals, would you have hesitated about \$15,000,000 for that indispensable appendage of the Union? Would not inevitable wars with the nations in possession of that country, have cost you, probably ere now, this amount twice told; saying nothing about the commerce of the Western country?

If the idea of State sovereignty, strengthened by the equality which is guaranteed to the new States, be inseparable from the right of soil, then you cannot withhold that right of soil. If you have a right to impose conditions, then may you impose such as can never be complied with, and, in this way, exercise the power of refusal. But, if you even determine that you have the right of imposing conditions, then we say to you, do not lay heavier burdens on us than we are able to bear: do not look to us to contribute more than our numerical proportions to the Treasury of the nation. In requiring us to reimburse expenditures on account of Indian wars and treaties, you adopt the principle of levying on that portion of the country which may, unfortunately, become the theatre of war, the expenses of that war. You require it to sustain, not only the desolations of war, but to pay the debts created. And where would this principle lead? It would have required the People of this District to have rebuilt the President's House and the Capitol, and would

JAN. 28, 1828.]

Public Lands.

[SENATE.]

have subjected them to contributions for every expenditure here. It would have required the People of the Niagara frontier to have borne the burden of the Treasury, in that quarter, instead of receiving remuneration for burnt villages, and lost property during the war. And, besides, this principle is incapable of being practised on: for, how will you determine, and of whom will you require, a reimbursement of your expenditures in Canada?

It was my intention, sir, to have presented to the Senate, some arguments on the principle of expediency, many of which might be urged in the present case. I will, however, desist from this view of the subject, being unwilling to occupy the time of the Senate. I will only remark, that the public lands, as a source of revenue, have greatly disappointed the expectations of those who looked to them as the means of paying the national debt. It was, no doubt, the expectation of the times, that these lands would soon pass into the hands of capitalists, and that the public debt, then amounting to about 42,000,000 dollars, would be paid before any of the political divisions of the Northwestern Territory should gain a population of sixty thousand, and be prepared for admission into the Union. Of the twenty five millions annually paid into your Treasury, your receipts from lands have frequently been less than one million. And this result has several times happened, when you had, at present, more than one hundred millions of acres in market. Your land system has been in operation about forty years, and your whole receipts, from that source of revenue, has not exceeded 36,000,000 dollars; and this sum is chargeable with heavy incidental expenditures in collecting. The million derived from this source, can, if the means of the Government are insufficient without it, be assessed on other objects, and this Government would be relieved from a distracting subject, which, in the very fact of your time, in legislating about it, and in the cost of its necessary details, consumes half its own amount.

But, sir, there is another point of view to which I wish to direct the attention of the Senate. The amount of lands with which this amendment has any thing to do, does not exceed 200 millions of acres, the quantity contained in the new States; while the whole amount of the public domain is estimated at 10 or 1100,000,000. And of the 200,000,000, more than 50 are already disposed of, in military bounties, sales, and donations; 800 or 900,000,000 would still be left in the Territories and further West, to the undisputed control of the Federal Government.

The public lands should be ceded to the States in which they lie, because their present condition is not warranted by the letter of the Constitution of this Government. The Government of the Union is one of limited and specified power. It was framed with a cautious jealousy of its encroachment upon the States, and with the view of transferring from them, and to it, no powers which they could exercise; no powers except those which are, in their character, national, and necessary for national purposes. Its powers are carefully enumerated and specified; and so jealous were its framers, that, after every specification contained in it, it is expressly inhibited the exercise of any powers, except those delegated to itself, or prohibited to the States. We shall search in vain for any clause in the Constitution, which prohibits to the States the exercise of any powers connected with the public lands. In all the original States, this power has always been exercised by the States. We shall search in vain for any clause in the Constitution, which authorizes a control over the principal object of sovereignty in the States—their public lands. It cannot be appendant to the word Territory, in the fourth article of the Constitution; for Territory, in our Constitution, our laws, and our history, signifies a region of country without the limits of a State, in, and over which, a Territorial Government is established.

We say the Territory Northwest of the river Ohio, the Territory of Michigan, &c.; but, when we speak of the public lands, we say the public lands in those Territories; the public lands in the States. The one term signifies a political division of the country. The other is a term by which we designate property.

The exercise of this power by Congress, is contrary to the spirit of the Constitution, which aspires to national objects, unlike that under consideration—national concerns, such as the States are incompetent to legislate upon. The interests submitted to the Federal Government, are those of peace and of war, of the Army, the Navy, and the foreign relations of the country, and of such system of finance, as may be found necessary to give active energy to these great interests. One of the principal difficulties in the formation of this Government, was, to designate the boundary betwixt it and the States; and it seems to have been the care of its framers, to avoid, as much as possible, all municipal legislation; the regulation of all local and domestic concerns. It seems to have been intended, that the Federal Government should not engage in that which the States were competent to do. Now, sir, test the present case by any of these rules, and we must come to the conclusion, that, with this matter, the Federal Government has nothing to do. The Public Lands create a field of municipal legislation, inconsistent with its general purposes, and the evident intention of its framers. And, if in any degree correct in this view, the compacts are unwarranted by the Constitution; and, if so, are not binding on the States.

I deny, sir, the Constitutional power of this Government to hold lands within the limits of the States, except for the purposes designated by the Constitution; such as forts, magazines, arsenals, dockyards, and other needful buildings: and, to enable Congress to hold lands even for these purposes, the consent of the Legislatures of the States is declared to be necessary, by the express language of the Constitution. In a question of such vital importance to the new States, it would surely not be thought unreasonable, that they should scrutinize the power which takes from them the public lands within their limits, impairs their sovereignty, and deprives them of equality with the original States. It would be, at least, some consolation to know, that the power which prostrates them at the feet of the Union, which assigns them a level lower than that of the original States, is based on the Constitution.

The power, Mr. President, of the States to make compacts is one thing, and the Constitution of the United States is another. And, although the States may have the power to make compacts, by which a portion of their sovereignty may be alienated, yet it does not follow of course, that they have a right to transfer such sovereign power to the Union, or that the Union could receive or exercise such power. The boundary separating Federal and State powers, may be considered the stability of our political system. This boundary may not be passed by either, for any purpose; neither to usurp nor to transfer power: for, in either way, would our system be deranged, and the Constitution suffer violence. A State may have the power of destroying her own Constitution, though totally destitute of power to interfere with the Constitution of another State, or with that of the Union. Suppose a State to determine on its own dissolution: Could it transfer all its powers, Legislative, Executive, and Judicial, to the Federal Government? And, if a State could so transfer its powers, could this Government receive such transfer, or exercise such powers? Surely not: if one jot or tittle of power, not given by the Constitution, can be acquired or exercised in such way as this, then farewell to the guards against usurpation of power, placed by the wisest and best of men around the Constitution: Farewell to the sovereignty of the States.

SENATE.]

Public Lands.

[JAN. 28, 1828.]

Establish this doctrine, and we may live to see a consolidation of all power in the hands of this Government. Then, indeed, would the Constitution have prescribed in vain the mode of its own amendment. Vain would be the provision that two-thirds of Congress, or of the States, should agree in calling a Convention to propose amendments, and that three-fourths of the States should be necessary to ratify such amendments, if the Constitution can be changed by transfers of power from individual States, or by compacts with the several States.

I lay it down, sir, as a proposition not to be resisted, that the rights of soil and taxation are inseparable from the sovereignty of every independent State; and to sustain this proposition, no other proof seems to be necessary than well established definitions. What, sir, is sovereignty? And what is a State? Go to writers on national law, or to the ablest expositions of our most enlightened statesmen, for answers to these questions. We shall here, no doubt, be told, that nothing can be found in national law applicable to our affairs. But we must be permitted at least to hope, that the sovereignty of the States is not so perfectly destroyed by the formation of the General Government, as not to be recognized by the principles of international law. It is, perhaps, by all writers on such subjects, taken as an axiom, that the public domain is the first grand object of sovereignty in every independent State. In proof of this proposition, I shall refer the Senate to some authorities. Vattel, page 165, says, that "the general domain of the nation over the lands it inhabits, is naturally connected with the empire; for, establishing itself in a vacant country, the nation certainly did not pretend to have the least dependence there on any other power; and how should an independent nation avoid having authority at home? How should it govern itself at its pleasure in the country it inhabits, if it cannot truly and absolutely dispose of it? And how should it have the full and absolute domain of the place in which it has no command? Another's sovereignty, and the right it comprehends, must take away its freedom of disposal."

This authority would, itself, be abundantly sufficient to prove the proposition laid down. The high character of its author must be set at naught, or it cannot be resisted. But I shall make another quotation from the same book, which, if the author of the compilation had written with our system before him, and with reference to no other form of government, could not be more applicable to our affairs. It is to be found at page 3, and is in these words: "Several sovereign and independent States may unite themselves together by a perpetual confederacy, without each, in particular, ceasing to be a perfect State. They will form together a Federal republic. The deliberations in common, will offer no violence to the sovereignty of each member, though they may, in certain respects, put some constraint on the exercise of it, in virtue of voluntary engagements."

And what is the condition of the new States, respecting their public lands? What we complain of, is, that you have not only put restraint on the sovereignty of the new States, but that you have taken that sovereignty entirely away.

I will, Mr. President, trouble the Senate with but one other quotation from this author. It is to be found at page 165, in these words:

"What is called the high domain, which is nothing but the domain of the body of the nation, or of the sovereign who represents it, is every where considered as inseparable from the sovereignty."

The authority of Vattel is strong and very positive. He lays it down as a proposition incontrovertible, that the right of disposing of the soil, the right of high domain, is inseparable from the sovereignty. Look, too, at the decisions of the Supreme Court, and surely this authority will

be considered in point. In the case of Fletcher against Peck, 6 Cranch, 128, Judge Marshall, in delivering the opinion of the Court, says:

"That the Legislature of Georgia, unless restrained by its own Constitution, possess the power of disposing of the unappropriated lands within its own limits, in such manner as its own judgment shall dictate, is a proposition not to be controverted."

And in the case of Martin against Hunter, 1 Wheaton 325: "The sovereign powers vested in the State Governments by their respective constitutions, remain unaltered and unimpaired, except so far as they are granted to the Government of the United States."

These authorities are in direct sustenance of the sovereignty of the States. The doctrines of international law, and the authority of the supreme Court, are alike clear and positive, and establish the proposition that the public domain is inseparable from State sovereignty.

But, again, sir, the public lands ought to be given up to the States, because, in their present condition, they stir up and perpetuate distracting political questions. The question of internal improvements is one of that kind. On this subject, there seems to be as yet no compromise of opinion. The new States must adhere to their opinions, and the old States are not likely to yield. It is a very singular fact, that, while a large minority of both branches of the National Legislature deny that Congress have the constitutional power to construct roads and canals, while they persist in saying, that, in constitutional questions, precedents are entitled to no respect; that, although beaten to-day, on an appropriation for a road or canal, they will rally to-morrow, and fight the battle over again—yet, by the compacts with the new States, this Government stands bound to appropriate five per cent. of the proceeds of the sales of public lands to these very objects. Two-fifths of these appropriations are to be expended, under the direction of Congress, in making roads and canals to the States; and three-fifths to be expended under the direction of the Legislatures of the States, to those objects within the States.

If Congress have no constitutional power to construct roads and canals, there is no power in existence to carry these compacts into execution: and yet this five per cent. is the principal consideration the new States have for not interfering with the primary disposal of the soil. The enemies of internal improvements say they have no power in the Constitution to make roads and canals: but they are bound by compact, with all the new States, to make roads and canals for their benefit. Surely, then, according to their own construction, they must either give up the compacts or the Constitution. But, Sir, strange as it may seem, many members of both Houses, who strongly deny the power of Congress in reference to internal improvements, adhere with much pertinacity to the compacts, because the moment they are abandoned, the public lands will unquestionably belong to the States.

The question of internal improvements is one which the new States, in the present condition of the public lands, can never yield. It is in vain to expect, that, while the lands belong to the Federal Government; while millions are drained from the country into the Treasury of the Union—these States will cease to ask aids for the improvement of their country in roads and canals. It is reasonable that they should so ask. The new States have recently seen New York finish her splendid canal. They see Pennsylvania in progress with one no less splendid. They see other States carrying on other public works. These States have all derived revenues, almost inexhaustible, from their public lands; and Pennsylvania, though one of the oldest States, has not yet exhausted that great source of revenue: for, on a recent occasion, she has pledged the revenues to be derived therefrom to the progress of the canal.

JAN. 28, 1828.]

*Public Lands.—Surviving Officers of the Revolution.*

[SENATE.]

The public lands in the hands of the new States, would put those States on an equal footing with the original States. They would be sources of revenue for the improvement of those States, and they would relieve their agricultural interests, from the heavy burdens they at present bear to sustain their Treasury. Few of the old States are reduced to the necessity of a land-tax to meet their current expenditures; but the new States, having few objects of taxation, lay heavy contributions on their agricultural interests for that purpose. Almost all the circulating medium of the new States, is drained into the Treasury of the United States, by the operation of the land offices, and the lands thus purchased, are taxed heavily to support the State Governments. In no portion of the Union is agriculture so much burthened as in the new States.

The public lands should be given up to the States, because the revenue derived from them is a tax on those States, and has an impoverishing effect upon them. This opinion I know will be controverted. It will be said that every man that buys land, must expect to pay for it, and that it is no difference to whom that payment is made. It will also be said, that the means of paying for these lands, are generally taken from the old States to the new, by purchasers, emigrants to the country. It is true, sir, that it makes little difference to the person paying out his last dollar, to whom he pays it; but to the country, it is very important. If he pays it into a land office, it passes immediately out of the country into the Treasury here. If he pays it to his neighbor, it remains in the country, and makes a part of its circulating medium. In the one case, every dollar in the country might be employed in the purchase of lands among the citizens, and there would not be a dollar the less of money in the country. In the other case, every dollar would be gone out of the country. A citizen emigrates from an old State to a new, and lays out his money for land. What has the country gained? His person only. The title to a tract of land is changed from the Federal Government to a citizen; but he is, for the present, impoverished. He increases the demand for a circulating medium in the country, but he adds not a dollar to that medium.

Mr. President, there is no prospective evil too delicate to name, and none, however remote, unworthy our vigilant attention. We legislate not only for the present, but for other times; and it is our duty to guard our free institutions against every thing likely to interfere with the peaceful prosperity of the country at a future day. In this view, sir, the lands ought to be given up to the States, for a reason stronger than any heretofore named; because, in their present condition, they offer to the new States the strongest inducement to a severance of the Union. What, sir, is patriotism? It is the love of country. And can the love of country ever be indifferent to the ownership of the soil, and the tenure by which it is held? Can the People of the new States—and there are no people on earth more patriotic—be indifferent to the fact, that the soil of their country belongs to the Federal Government, and not to themselves? Suppose the Union to be dissolved, and where would be the public lands? All controversy about them would then cease. They would belong to the States in which they lie. Look at the great inducement to this state of things: Look at the character and extent of this country—How capable of self government, and its own independence. Seven of the largest States of the Union. The finest country on earth. The whole valley of the Mississippi. The noblest rivers on the globe. With three millions of inhabitants. A safe and sheltered sea board, with a commanding position, for a large participation in the commerce of the West Indies, South America, and Mexico. But the People of these States are devoted to the Union. You cannot drive them from the Union. They are attached to our Republican institutions, and proud of the

trophies and achievements of the Revolution. They wish to perpetuate to future ages, the liberties of their country and the union of the States. They wish to preserve inviolate the Constitution, and ask for that justice which will place them on an equal footing with the original States; which will place in their hands the first attribute of sovereignty—the soil of their country. I trust they will not ask in vain.

Mr. BRANCH replied in opposition to the amendments and the bill generally; when, on motion of Mr. PARRIS, the bill was postponed, and made the order of the day for to-morrow.

#### SURVIVING OFFICERS OF THE REVOLUTION.

The Senate then resumed the consideration of the bill providing for certain surviving officers of the revolution: the following motion of Mr. PARRIS being still under consideration:

*Resolved*, That the bill be recommitted to the committee which reported it, with instructions to provide for the payment of every officer, non-commissioned officer, and private soldier, who served in the revolutionary army, and who was entitled to pay from the Continental Treasury, for the service by him actually performed, deducting therefrom the just value of whatever such officer, non-commissioned officer, or private, may have received from the Government, in payment for his said service; and deducting, also, whatever sum he may have received, if any, under the pension law of March 1818, and May 1820.

The VICE PRESIDENT stated that the point of order presented on Friday last, relating to motions for recommitment of subjects to select Committees, was decided by him on parliamentary principles; but he had since found that the practice of the Senate was different. [He then read the rule from Jefferson's Manual.] The parliamentary rule was more convenient, and he would now submit the point for decision to the Senate.

Mr. WOODBURY said, that if the Senator from Maine would withdraw his motion, the Senate would be relieved from the difficulty presented by the question of order, and the gentleman would, without embarrassing the committee, have an opportunity to move amendments in the committee of the whole.

Mr. SMITH, of Maryland, suggested that the committee could be revived for the purpose of a recommitment.

Mr. PARRIS said that he was unwilling to withdraw his motion, unless with an understanding that he should have an opportunity to renew it. He had an object in his motion, which he should take occasion, at a proper time, to explain.

The VICE PRESIDENT made some further explanations as to the point of order, stating that on parliamentary principles, a motion to recommit was tantamount to a motion to revive the Committee; but such had not been the practice of the Senate, &c.

Mr. SMITH, of Maryland, said, if no objection was made by any Senator, it might be taken and considered that the motion was in order: when after some further remarks from Mr. SILSBEE and the VICE PRESIDENT, no objection being made, it was considered as settled that the motion was in order.

Mr. PARRIS said that his object was not, as had been surmised, to embarrass the bill by objections, or to defeat it by delay. He wished to further its progress. He was anxious that the bill should make a proper provision for the soldiers, but he would not say that, if he could not accomplish his views in regard to the soldiers, he would not vote for the separate provision for the officers. His object was to provide both for the officers and soldiers; they had contended side by side for their country's cause; and, in the distribution of the bounty or justice of their country, they should not be separated. There were many survivors of the contest who had no claims.

SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 28, 1838.]

The six months' militia men had, to this day, a claim on the States, severally, by which they were raised, but not on the Government. But there were regiments on the Continental establishment, as efficient as any others in the service, which had received no compensation, in any way. If we gave to the officers a part of the sum due to them, we should pay the soldiers in the same proportion; and if our finances enable us to pay the officers the whole of their claims, the whole sum due to the soldiers should likewise be discharged. It was unnecessary to speak, at this time, of the merits and the sufferings of the soldiers. The story had often been told in this House, and it was matter of record. It was said by the Senator from New-Hampshire, that the half-pay was promised to the officers as an inducement for them to remain in the service. The soldiers were entitled to their monthly pay, as well as the officers to their half-pay for life; and if the officers had been paid in depreciated paper, so had been the soldiers. In one respect, the officers had a great advantage over the soldiers. If the officers were, by hard fare or bad usage, disgusted with the service, they could throw up their commissions and turn their backs upon the camp. But the soldiers, though suffering from want of food and clothing, were obliged, for the whole term of their enlistment, to perform the last day's service as well as the first; and if they left the camp, they were pursued by martial law and punished as deserters. If any discrimination were made, it should, therefore, be in favor of the soldiers. Both officers and soldiers should be provided for, and that alike. Let it not be the business of this House to create a distinction between them. It had been objected to the proposition for remunerating the soldiers, that the sum required would be very large. This was an unfounded objection. It would not equal the amount annually paid to those on the pension list. He took as the basis of his calculation the statement made by the Senator from Maryland, Mr. SMITH. That gentleman stated, that four-fifths of the surviving soldiers were on the pension roll. This number will be excluded from the provisions of the bill. The whole number of pensioners was now 12,500. Five hundred, it was computed, would die this year. The one-fifth part, embraced in the provision, was 2,400. Two hundred dollars to each of these was but \$ 480,000—not half the amount of the pensions. The provisions which he proposed would embrace another class of soldiers, which was not provided for by any existing law. One regiment, he knew, for documentary proof of the fact was in the Capitol, had entered the service with the promise of pay and eighty dollars bounty; they served faithfully, and never received one farthing—Justice, concluded Mr. P., should not be dealt out with a partial hand. If it was rendered to one class, it should not be withheld from another. But if we were not able to do full justice to all, he would not say that he would do nothing.

Mr. SMITH of Maryland, said the subject had been before Congress many years, and amendments had always been offered, and sometimes adopted, by which the bill was lost. He wished now to take the question on the bill providing for the officers, alone; and he hoped the Senate would say, decisively, whether they would fulfil the compact with the officers or not. If not, he did not think that the old officers would trouble us any more. He was opposed to the recommitment. When the bill had passed, provision might be made for the soldiers.

Mr. VAN BUREN said he approached the discussion of the bill under consideration with a degree of solicitude he had seldom experienced. It arose from a deep consciousness of the importance and delicacy of the subject, and the difficulties which would attend a satisfactory determination. He freely confessed, that he did not remember a legislative question in which his feelings had

been more deeply engaged. These feelings, sometimes too sanguine, and always ardent, might now deceive him; but he could not suppress the conviction, that, upon the doubtful issue of the present question, the character of our country was, in no inconsiderable degree, suspended. It would, indeed, have afforded him the highest gratification, could he anticipate with confidence a favorable result. But when he beheld the formidable concentration of talent and numbers arrayed against the petitioners and their advocates, he was but too conscious of the difficulties against which they had to contend. Undeterred, however, by these circumstances, he would proceed to discharge the duty which seemed to be required by his connexion with the committee by whom the bill had been reported.

His brethren of the committee, said Mr. V. B., had pronounced a merited eulogium upon the character and services of the petitioners. Considerations which arose naturally from the subject, but upon which, although far from being exhausted, he would not attempt to dwell. Indeed, he was greatly deceived, if, on this point, there was any diversity of opinion. Whatever expressions might escape from gentlemen in the warmth of debate, he was sure that the transcendent merits of the petitioners, after having received the attestation of impartial history, were not now to be the subject of examination or of doubt. Sir, if, in the mysterious dispensations of an all-wise and over-ruling Providence, we, too, are doomed to experience the common calamities of nations, it may become our duty to receive these dispensations with meekness, and bear them with fortitude. But if there be a stain from which he would be most desirous of rescuing the American name, it would be the stain of ingratitude to the surviving officers of the Revolution. If there be a calamity which, more than any other, he would pray to have averted, it would be the calamity of witnessing, in an American Senate, a cold insensibility to the services of those whose devotion to their country in peace, and whose constancy in war, had extorted the applause of an admiring world.

If, sir, gallantry in the field, and devotion to country, ever deserved the meed of grateful remembrance, the encomiums bestowed by my colleagues upon the Revolutionary officers will find their approval in every patriot bosom. But their merits, great as they were, appear to be enhanced by the cause in which they were engaged. Revolutions in Government had been witnessed before, and they have been witnessed since. But if we consider the principles involved, the means employed, and the results produced, may I not be indulged in expressing the conviction that they dwindle into insignificance with this? The Revolution in which they embarked, was not only the most important, in civil government, that oppression has produced or patriotism accomplished, but must, in the nature of things, for ever remain so. The materials for another equally important, do not, I fear, exist; and, perhaps, the progressive character of man precludes a well-grounded hope that they will ever again arise. Why, sir, said he, do I allude to these high considerations? Not, I am sure, for the purpose of display; and as little with a view to indulge in self adulation. It is because the unparalleled blessings, which, as a people, we enjoy; the great and successful example that has been given to the world; and the perpetual influence which that example must exert on its future destinies—awaken in every mind the most intense anxiety, lest the closing scenes of that mighty conflict should be unworthy of its own great character—and that the page of history which embalms the virtues and heroic deeds of our fathers, may not at the same time record the too early degeneracy of their sons. The petitioners at your bar are destined to be our witnesses with posterity. It is in their persons that an opportunity is afforded, either to repel, or



JAN. 28, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

in some degree, confirm the imputation cast upon Republics by the enemies of freedom, that ingratitude is their inherent and inextinguishable vice : and it was earnestly to be hoped that our decision might be such as would be favorable to them, to ourselves, and to the cause of liberty.

But, sir, said Mr. V. B., instead of pursuing these general remarks, allow me to invite your attention to the question immediately under consideration. In doing so, my first attempt will be to separate that which is not a subject of dispute from that which is : for in this, as in other cases, time may be consumed, and arguments fruitlessly employed, in supporting positions which have never been questioned, or enforcing opinions in which all are agreed.

First, then, it will be admitted, on all sides, that the promise made by the Congress of the Confederation of half pay for life to the Revolutionary officers serving to the end of the war, was made by competent authority : that the condition upon which the promise was founded has been fully performed : that the obligation thereby created rests upon the present Government in its original force : and that if it has not been fully, fairly, and justly performed, it ought now to be discharged. The critical condition of the country at the time the promise was made—the fact that this inducement to remain in service had been held up to the Army from the commencement of the war, by various resolves of Congress—that this alone prevented their abandonment of a service, in which they were not bound to remain by any of those considerations which operate on the generality of mankind—that to their continuance in the Army, more than to any other cause, under the blessings of Providence, the successful termination of the war was, in the opinion of Gen. Washington, mainly attributable, and that the sacrifices which they incurred, in consequence of their determination to remain, were almost unparalleled—are points upon which there can be no difference of opinion, and requiring, after the able comments of the Senators who had preceded him, no additional illustration.

If this, sir, said Mr. V. B. has been the unquestionable engagement of the Government, if the petitioners are thus entitled to its fulfilment by the performance of the sole condition on which it was made to depend—the question will be asked, has that engagement been satisfied ? And if satisfied, how has it been done ?

Those who maintain that the Government had fulfilled its engagement, rest their position on the ground of the commutation of the five years' full pay, which has been given in lieu of the promised half-pay for life. Whatever might be the diversity of sentiment with respect to the legality or the fairness of that commutation—the means by which it was effected—and the manner of its execution—and on these points he acknowledged there was room for an honest difference of opinion : there was one position, he thought, sufficiently plain to challenge the acquiescence of every reflecting mind. It is, sir, that this commutation tendered by the Government as a complete fulfilment of its promise, has been any thing but a fair and just equivalent. To demonstrate this, a few observations only will be necessary.

The intelligent Chairman of the Committee, who reported the bill, whose ability in the exhibition of the claims of the petitioners would entitle him to more than the humble tribute of respect, which it was in his power to render, had submitted to the Senate statements and calculations establishing the following results :

1. That, according to authentic tables for the computation of annuities, the five years' half-pay, ought to have been *acres*, at the time it was given, in order to make it a fair equivalent, and that the reduction of this just allowance was attributable to the necessities of the Government, and not to a disposition to elude the claims of the petitioners.

2. That, owing to the failure of the States to supply

the funds necessary to the payment of the interest, and ultimate redemption of the principal, of the "commutation certificates," these commutation certificates for five years' full pay, given as an equivalent for half-pay for life, rapidly depreciated. So that, when compelled by necessity to dispose of them, they in fact produced to the officers less than one year's pay.

3. That when these commutation certificates were funded in 1791, a deduction was made equal to one third of their amount, by deferring the interest for ten years, upon one-third of the principal, and allowing only three per cent. on the interest which had accrued since 1783.

That this deduction was made by the Government, on the ground (and could be justified on no other,) that these certificates were in the hands of speculators, who had availed themselves of the necessities of the officers, brought upon them by their stipulated continuance in service, and thus were enabled to obtain them at a reduced and almost nominal price.

Mr. V. B. said he would refrain from attempting to enforce the views, upon this branch of the subject, presented by the Senators who had preceded him. It would be time enough to do so, should these views be ever contested. He candidly acknowledged, however, that they did not constitute the material arguments upon which he relied, for the purpose of showing the gross inadequacy of the commutation awarded to the petitioners : and he would therefore proceed to state the grounds upon which he predicated his proposition, with all the brevity and perspicuity in his power.

The certificates for commutation of half pay, were issued under the resolution of March, 1783, and delivered in November, 1783. They admitted upon their face, that five years' full pay was due to their holders, to be paid with interest, at the rate of six per centum per annum. These certificates were redeemed by the operation of the funding act in 1791. They were, of course, for different amounts, according to the respective ranks of the officers. The average pay of the officers was \$30 per month, and the amount which would have been due to each officer for half pay, allowing interest after the same was acknowledged to be due, would have amounted in 1791, when the redemption took place, to \$1,742 40. The average amount of five years' full pay for each officer, amounted with interest, in 1791, to \$2,664 00 ; from this amount one third was deducted in the redemption, as he had before stated. The average amount therefore received by each officer in 1791, for his five years' full pay, assuming that these certificates had been retained, would have been \$1,776 00.

From this simple statement it results that, in consequence of the delay in discharging the commutation, and the deduction which was forcibly made in doing so, the Government paid no more than would have been due to the officers for their half pay alone, up to the period when the commutation was actually made. To that period, therefore, the officers gained nothing by that measure. Since that time years have rolled away, during which they would have received the promised half pay, had it not been for the commutation. The sum which would have been payable to the officers since that period, is the sum precisely which the officers have lost, and the Government has gained, by this variation by the Government from its original contract.

This subject, said Mr. V. B. is simple, founded upon data which cannot deceive by their plausibility, and is liable to no mistake, except the mere errors of calculation. Those he had endeavored to avoid. The average half pay of each of the petitioners from the year 1791 to 1828, would have amounted to \$13,177 83. This sum, multiplied by 230, the number of Revolutionary officers supposed to be yet in existence, would amount to \$3,030,710. The effect of the commutation upon the Treasury, and upon the interests of deceased officers,



SENATE.]

*Surviving Officers of the Revolution.*

JAN. 28, 1828.

could not be, said he, distinctly stated without a particular knowledge of the time of their respective deaths. But from what we know upon that subject, there was a moral certainty that the gains of the Treasury from that source had not been diminished, but on the contrary greatly increased.

It is then, said he, an ascertained and incontestible fact, that, in addition to all the injuries sustained by depreciation, the officers have lost by the course of events, and the Government has gained a sum not less than \$3,030,710, in consequence of that commutation which is now set up to bar the claims of the petitioners—claims predicated upon a promise of the Government, held out to the officers as an inducement to remain, and constituting the chief reward for the most signal services ever performed by men in the cause of freedom and their country.

Upon these facts, said Mr. V. B., a question arises for our decision, no less important to the Government than to the petitioners; because, involving the character of the one, and the interests of the other. What is it? Is it confined to the legal rights and obligations of the parties? No, sir, I shall never, said he, bring my mind to consider the question of strict legal right, when I look at the parties. Who are they? On the one hand, the Government of the United States, not liable to be impeached, and incapable of being coerced against its will by any power superior to its own—rich in resources, and overflowing with redundancy: on the other a remnant of the officers of the Revolutionary army, borne down by the infirmities incident to age—with one foot in the grave, and the other upon the threshold of your door, supplicating the fulfilment of that promise which was made them, in the vigor of their days. If even they have legal rights, where is their remedy to enforce them? They cannot in the nature of things have any. But candor constrained him to acknowledge, that in strictness, they have not now, whatever they may once have had, any rights, except such as are founded upon the immutable principles of justice. As early as the year 1785, the Government found it necessary to protect itself against dormant and unfounded claims, arising from the Revolutionary contest, by a statute of limitations. Various acts and resolutions were passed upon the subject before the year 1793, more or less comprehensive in their terms: and in that year an act was passed so comprehensive in its provisions, as to embrace the claims of the petitioners, and barring them, unless presented by the 1st day of May, 1794. The officers did not present this claim until 1810, and are therefore precluded from urging their vested legal rights. Being thus furnished with a general answer to all claims which do not address both our consciences and judgments, Congress have nevertheless relaxed, from time to time, the rigor of their own act, when considering claims founded on justice, and not opposed by policy. But as none of these suspensions have embraced the case of the petitioners, we have it in our power, if we can have the heart to present this statute of limitations to the petitioners, and under its mantle, resist the cry for justice, if not for bread. The question, then, is not what we are bound to do by law, but what we should do. What conduct on our part will bear the scrutiny and the judgments of impartial men, when the opportunity to remedy the consequences of our decision shall have passed away?

Let us look, for a moment, said Mr. V. B. at the arguments advanced by the opponents of the bill. The meritorious services of the petitioners, the signal advantages that have resulted from these services to us, and to posterity; the losses sustained by the petitioners, and the consequent advantages derived by the government from the act of commutation, are unequivocally admitted. But, it is contended, we have made a compromise, *legally* binding on the parties, and exonerating the govern-

ment, from further liability, that in an evil and unguarded hour, they have given us a release and we stand upon our bond. Now the question which he wished to address to the conscience, and the judgments of this honorable body, was this—not whether this issue was well taken in point of law—not whether we might not hope for a safe deliverance under it—but *whether the issue ought to be taken at all*—whether it comports with the honor of the Government to plead a legal exemption against the claims of gratitude—whether, in other words, the government be bound at all times to insist upon its strict legal rights. Has this been the practice of the Government on all former occasions? Or, is this the only question on which this principle should operate? Nothing, said Mr. V. B., can be easier than to show that the uniform practice of the Government has been at war with the principle which is now opposed to the claim of the petitioners. Not a session had occurred since the commencement of this Government, in which Congress had not relieved the citizens from hardships resulting from unforeseen contingencies—and forborne an enforcement of law, when its enforcement would work great and undesired injury. He might, if excusable on an occasion like this, turn over the statute book, page by page, and give repeated proofs of this assertion. But it is unnecessary. He would content himself with a reference to one or at most two measures of the character described. In the year 1812, between the months of June and September, goods to an immense amount were shipped from England to the United States, by American merchants, in open violation of the acts prohibiting their importation. They alleged in justification, either their anticipated repeal of these acts, in consequence of the measures of one of the belligerents; or their apprehension that in the event of a declaration of war by the United States, their property would be seized and condemned in the British ports. The declaration, in fact, took place; but the importers were not the less liable to the fines and penalties imposed by a violated law, and merchandise to the value of more than *twenty millions of dollars* was forfeited to the United States. Upon the arrival of the goods, the owners were permitted to retain and use them, upon giving bonds to abide the decision of their Government. Application was made to Congress for relief: and although it was well known that immense profits were made upon their importation, and not a doubt existed of their liability to forfeiture, Congress, by an act which fills but a single page upon that statute book, cancelled the bonds and relinquished merchandise, which, if retained, would have been equal in value to one-fourth of the whole expenses of the war, and which would doubtless have been retained had the Government insisted upon its legal rights, and acted on the principle now contended for.

The system which has been pursued in relation to the purchasers of public lands, is not a less memorable example of a departure from that rigorous policy now recommended to our imitation.

By the act of 10th May, 1800, the minimum price of the public lands was fixed at \$2 the acre; one-twentieth of the purchase money was required to be paid at the time of the purchase, one-fourth in 40 days; the balance, *with interest*, was payable by instalments of 2, 3, and 4 years; and the forfeiture of the land was the declared penalty of non-payment.

By the act of the 26th March, 1804, *no interest* was to be charged upon instalments for future purchases, if punctually paid, and this provision, in favor of the purchaser, was extended to those whose instalments should become due before the following October.

Under this liberal system, yielding to the government but little more than the necessary expenses of surveying the lands, supporting the various land offices, and providing for the holder a secure landed title, a debt accumulat-

JAN. 28, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

ed prior to the year 1820, from the purchasers to the United States, amounting to twenty-two millions of dollars.

Before that time repeated indulgencies had been granted, extending the times of payment, preventing the forfeitures which would have accrued, and, in numerous instances, allowing a re-entry, or a new purchase of lands, improved, and forfeited to the Government upon the terms of the original purchase. No less than six acts were passed from the year 1813 to 1820, to suspend the forfeiture and sale of the lands thus purchased. The evil, however, had swelled beyond the reach of palliatives. A debt of 22 million of dollars exceeded the ability, blighted the prospects, and deadened the energies of the States by whom it was due. Had the law been enforced and payment inflexibly exacted, nearly the whole of the lands thus purchased and improved, would have been forfeited to the Union, and many an honest yeoman would have been compelled to relinquish to more fortunate strangers those woods and lawns which he vainly hoped would be the solace of his declining years. To prevent this calamity, the Government interposed, and by an act of liberality having few parallels in history, arrested the forfeitures; authorized the relinquishment of lands for which the purchasers were unable to pay; and the application of whatever sums had been paid to the payment of so much only as they thought proper to retain; cancelled the accumulated interest; extended the term of credit for that portion of the lands retained; and by a subsequent act passed in 1824, consented to receive as a full payment for these lands, less than *two-thirds* of the amount actually due. Nor was this all: by the act of 1821, the price of the lands was reduced from two dollars to one dollar and twenty-five cents; and he who had surrendered lands purchased at the highest sum was enabled to re-enter the same lands, if not sold at public sale, at the reduced price. Sir, said Mr. V. B., by the best estimate that I am able to make on referring to the only documents within my reach, this donation to the purchasers of public lands could not have been less than *seven millions and a half* and probably has not been short of *ten millions of dollars*. But the exact amount is not material to the elucidation of the principle from which it flowed; and in considering its value, who, that can cast his eyes upon those extensive regions, where tranquillity has succeeded to dissipation, and prosperity to ruin, will attempt to estimate it by the scale of dollars and cents?

It appears, then, said Mr. V. B., that it has not been the practice of the Government to act the part of Shylock with its citizens; and God forbid that it should make its *debut*, on the present occasion, not so much in the character of a merciless creditor, as a reluctant, though wealthy, debtor; withholding the merited pittance from those to whose noble daring and unrivalled fortitude, we are indebted for the privilege of sitting in judgment on their claims; and manifesting more sensibility for the purchasers of our lands than for those by whose bravery they were won; and, but for whose achievements, these very purchasers, instead of being the proprietors of their soil, and the citizens of free and sovereign States, might now be the miserable vassals of some worthless favorite of arbitrary power.

If disposed to be less liberal to the Revolutionary officers than to other classes of the community, let us at least testify our gratitude by relieving their sufferings, and returning a portion of those immense gains which have been the glorious fruits of their toil, and of their blood.

Such, said Mr. V. B. would, in his judgment be a correct view of the subject, had the government relieved itself from all further liability by the most ample and unexceptionable performance of its stipulations. How much stronger, then, will be their appeal to your justice,

if it can be shown that you have no right to urge this act of commutation as a complete fulfilment of your promise? The act of commutation is impeached by the petitioners—first, on account of the means by which it was effected; and, secondly, because the stipulations of that act have never been fulfilled.

The petitioners with reason complained that without ever having consented to be bound by the acts of their brother officers, their personal rights were made to depend upon the decision of the lines, and not upon their own individual assent. This is admitted to have been the fact. Two months were allowed to the officers of the lines, under the immediate command of Gen. Washington; and six months to those of the Southern army, to give their assent to the compromise. It does not appear that the lines of the Southern army ever gave their assent. Indeed it is stated by a distinguished Revolutionary officer on this floor, (Gen. S. SMITH,) that they never did. It does not appear that there ever was a meeting of the officers of the Northern army, for the purpose of deciding upon the question: and it is affirmed that there was none. To assume, then, that the assent of each individual was given under circumstances like these, appears to my mind harsh and unjust. But it is alleged, in extenuation, that the compromise was made upon the petition of the officers themselves. Let this be admitted: did the application for a just equivalent for the promised half pay for life, confer on Congress the right to prescribe the terms? Will it justify the allowance of less than that to which they were entitled? Will not the circumstances, under which this application was made, present a still stronger appeal to your liberality, if not your gratitude? Look, said Mr. V. B. at the acts of these brave and high-minded men, in whatever light you please; examine their conduct by the strictest scrutiny, and you will always find them exhibiting the purest principles and the most elevated patriotism. The half pay establishment for life, was, at that time, considered by the ardent advocates for liberty, as leading to the formation of an aristocratic body, and therefore, subversive of the principles of the revolution. An intimation like this, in the infancy of our institutions, however groundless in itself, was sufficient to excite alarm. The dangers of the past were overlooked in the apprehension for the future; the measure was reprobated, and these meritorious officers became the objects of unfounded jealousy. To quiet these unreasonable fears, the petitioners expressed their willingness to waive the literal fulfilment of the promise which had been given: to remove the cause which could have a tendency to deprive them of the confidence of their fellow-citizens: to surrender the boon they had so dearly purchased; and, in addition to all that they had done, and to all that they had suffered, to offer up their future prospects upon the altar of their country. And could any thing be more preposterous than to attempt to found upon an act, originating in motives like these, the right to prescribe the terms of commutation? But it is alleged that the officers received the commutation certificates, and, by doing so, must be presumed to have assented to their being considered a full satisfaction of their demands. This inference was, in his opinion, removed by the peculiar circumstances under which the certificates were given. These circumstances said Mr. V. B. are not unworthy of the deliberate attention of the Senate. Previous to October, 1783, and subsequent to the time when the signature of the preliminary articles of peace was known to the army, frequent applications had been made, in their behalf, to Congress, for an adjustment of accounts, and payment of the large arrearages which were due. These applications were fruitless. The failure of the States to comply with the requisitions of Congress, deprived that body of the means of discharging their engagement: and with a

SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 28, 1828.]

full sense of the services and privations of the army, and of the injustice they were about to commit, Congress were on the point of disbanding them, unpaid and unrequited, and sending them penniless and almost naked to their homes. The effect of this anticipated measure upon minds sensibly alive to indignity and injury may be easily imagined:—At the moment when passion might have triumphed over reason, the army was addressed by an anonymous writer, on the subject of their wrongs, with a degree of eloquence calculated to redeem, if any thing could redeem, the vicious tendency of his principles. He admonished them of the futility of their complaints, and urged them, by every motive that could be addressed to their hopes and to their fears, to change the supplicatory style of a memorial to language more becoming those who had the means of redress within their hands. At that perilous moment, on the events of which were suspended the honor of the army and the future welfare of the country, their commander-in-chief appeared amongst them. He conjured them to give one more distinguished proof of unexampled patriotism, patience and virtue; to rise superior to the most complicated sufferings, and by the dignity of their conduct, give posterity occasion to say, when speaking of their glorious example—"Had this day been wanting, the world had never seen the last stage of perfection, which human nature is capable of attaining."

They listened to the voice of their beloved commander, followed his advice, surrendered their arms—and sunk, penniless, into the ranks of private life. In the succeeding month, the certificates of commutation were tendered, by the Pay-Master General, who requested only an acknowledgment of their receipt, while in relation to the final settlement certificates for their pay, he required a full discharge of their demands. The certificates thus tendered, were accepted, and in almost every case, immediately sold, for the purpose of satisfying the most urgent necessities of nature. He asked the Senate whether it would comport with the dignity and honor of a great and magnanimous people, to avail themselves of an acceptance extorted by circumstances like these; and to urge it as sufficient to bar the claims of justice, and divest their protectors in the hour of danger, of their stipulated reward?

But it has been said, that this commutation excited no dissatisfaction at the time; that the complaints upon the subject, are of recent date, and now, for the first time, thought of as a plausible support to an unfounded claim. The Senator from S. C. [Mr. SMITH,] who has been impelled, by a sense of duty, to assume the unpleasant task of zealously opposing the bill upon your table, has enquired, with much apparent triumph, whether a single individual could be pointed out who had refused the commutation? He assured the worthy Senator that he had adopted an erroneous impression. When tendered, it was received with universal discontent, and by the junior officers, who were most likely to be injured, with decided reprobation. Had an opportunity for inquiry been allowed, he had no doubt of being able to designate many who had refused. At the moment he could refer the senator to Major Gadsden, of his own State, whose petition on the subject had been presented to the Senate; and if respect for the feelings of an honorable member before him, did not render it improper to drag the name of his venerable father into the debate, he could name another veteran soldier of the Revolution,\* the confidant of Washington and the companion of Lafayette, who had served his country bravely and efficiently throughout the war, and who refused to receive the commutation, because violating, in his opinion, the leading principles of the Revolution, by subjecting his

property to the decision of men whom he had never authorized to act in his name or stead. But, Sir, said Mr. V. B., what effect did the supposed injustice of his country have on this veteran soldier? Did it in the least damp his ardor in her cause? By no means. He belonged to a different school, and he gave the most palpable proof of the enduring quality of the principle of that school during the late war. On learning the approach of danger he repaired to this City. On the disastrous day of *Bladensburg*, he was found, at the advanced age of seventy, on horseback in the field, stimulating to exertions, by his example and exhortation. When the danger pressed the hardest he waited on the military commander of the day, and solicited the responsibility for the safety of the City, by being intrusted with the possession of this capitol, with a reasonable force for its defence. Denied in his application, mortified and humiliated by the results of the day, he found his way back to his home and the home of his family, where he still lives, blessed with the esteem of his friends, and the respect of all who know him.

But assuming, said Mr. V. B., that the act of commutation was just, in its inception, was it just in its execution? On this point, he thought there was no room for contrariety of opinion. An essential difference, he observed, existed between the claims for pay and subsistence of the army, and those arising from the stipulation of half pay for life. The former being payable during the war, when it was known that the finances were embarrassed, were properly subject to the depreciation of that period. But the promised half pay for life was expected to survive the period of embarrassment, and therefore to be payable in the sound currency of the country. Some of the reasons which inclined the officers to accept a commutation have already been noticed. The necessity of obtaining pecuniary means to enable them to embark in other pursuits, formed a no less prevalent inducement. To effect this object, it was obviously necessary that the equivalent to be received should be promptly paid or adequately secured. The act of commutation did neither. It is surely not enough to say that the resolution of Congress prescribed that the commutation of five years full pay should be paid in securities, unless it can be shown that paper, absolutely worthless, was the security intended. Can it for a moment be supposed, that Congress meant to deceive their brave defenders, by holding out a "promise to the ear," only "to break it to their hopes?" No, Sir, they meant what they expressed, that the securities should be real, and not nominal; their repeated and earnest requisitions upon the States prove their intention; and nothing but the inherent weakness of the government, and the failure of the States to comply with the requisitions of Congress—an excuse fortunately not in our power to plead—prevented that venerated body from redeeming their engagements. But though the depreciation which followed was not attributable to Congress, its effect upon the officers was not the less fatal. Necessity, that waits not for times or seasons, compelled too many to carry their certificates into market, and the amount which they produced served but to realize the destruction of all their hopes. The few who retained them until 1791, experienced a loss not less severe than unexpected. It has already been stated that, by the operations of the funding system, one-third of the amount which the commutation certificates declared to be due was deducted by the government. The reason alleged for a measure apparently so destructive of public confidence and individual rights, was the well known fact, that by far the greater part were held by speculators who had purchased them at an inconsiderable price. Mr. Madison, it is true, endeavored to exempt the certificates in the hands of the officers from this deduction; but having failed in his attempt, the least necessitous of

\* Col. McLane, of Delaware.

JAN. 28, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

the officers were doomed to experience a diminution of their already insufficient commutation.

This act of commutation, therefore, is clearly liable to the objection :

1st. Of not being a just equivalent for the promised half-pay for life.

2dly. Of having been effected under circumstances, and by the operation of motives, which deprive it of all obligatory force, and entitle the officers to liberality instead of rigour.

3dly. Of partial and defective execution.

If, said Mr. V. B., no other obstacle were interposed to the claims of the petitioners than those to which he had alluded, fortified as they are, by facts not susceptible of misconstruction, and resting upon the plain and immutable principles of justice, no doubt could be entertained of your favorable decision. But he was apprehensive that other considerations would have their influence: that the claims of the petitioners would be clouded by dangers in prospective; and, that the fear of establishing a precedent by which the door of your Treasury would be unlocked to a crowd of applicants pleading their poverty, and urging their misfortunes, may induce you, in this case, to resist the strongest impulses of your hearts, if not the dictates of your judgments. Among the different grounds upon which this apprehension is founded, a leading one, he said, is, "That the bill did not embrace the cases of private soldiers, who might also have sustained injustice, and whose services were not less meritorious than those of the officers themselves."

Before I proceed, said Mr. V. B., to consider this objection, allow me to call your attention to one or two incidental remarks. A variety of persons, officers of the Army, who had not served to the end of the war—private soldiers, militia officers, and citizens who had borne the privations of that period, had been successively brought in review before the Senate; and their losses and sufferings, after having been forcibly depicted, were urged as a reason for the rejection of the claim of the petitioners.

If, said Mr. V. B., any thing could aggravate the injustice already inflicted upon the petitioners, it would be an objection like this. Had the claims of the persons alluded to been similar to those of the petitioners, the argument derived from an equality of right would be entitled to attention; but if dissimilar, let them be disjoined. The allowance of the one can constitute no ground for the admission of the other; and by uniting them together, you throw upon the petitioners the misfortunes of others, (misfortunes for which they are in no sense responsible,) in addition to their own.

Now, Sir, said Mr. V. B., it is easy to demonstrate that no similarity exists. What is the object of this bill? To repair a wrong in not having given a just equivalent in satisfaction of a promise of half-pay for life. Do the claims of any others rest upon a basis like this? Is it alleged that any such or similar engagement was made with the soldier? Most assuredly not. If, then, no similarity exist, an attempt to connect them would be plainly unjust.

I am aware, said Mr. V. B. of the imposing character of the argument that has been urged in favor of the claims of the common soldier. In a Government like ours, appeals in their favor cannot be made without effect. They derive their force from that all pervading jealousy of power, which is generally supposed to be the concomitant of official station and accidental elevation. Although not insensible to its influence, he was not disposed to complain of its effect; and when properly directed or controlled, he considered it necessary to the successful operation of our political system.

But, sir, said Mr. V. B., instead of yielding our judgments to favor on the one hand, or improper prejudice

on the other; it became our duty as public men, to know no distinctions but those of merit, and no rule but that of justice. Was it true, then, he asked, that the partiality of the Government had inclined to the officer, in preference to the soldier? Is it not evident, on the contrary, that in every case the former has been treated with distrust, and the latter with indulgence. Upon what can the soldiers predicate a claim for additional compensation? Upon the ground of the depreciation, and no other. The losses of the officers, on this account, were as much greater than those of the soldier, as the relative difference of their pay; and yet this bill contains no provision in their favor upon that subject. This, then, can form no objection to the proposed allowance. But, sir, in relation to the relative condition of the officer and soldier when they entered the service, General Washington informs us in his letters to the States, contained in the book which I hold in my hand, that the private soldiers had this signal advantage over the officers. They received at the time of enlistment, from the States, by which they were raised, a bounty of from two to three hundred dollars, in good money, or provision for their families. No such advances were received by the officers. What, Sir, said Mr. V. B., has been the subsequent conduct of the Government? The average pay of the officers calculating from a colonel downwards, was forty dollars per month. That of the soldier was six dollars and a quarter.

Now, by the pension act of 1818, the allowance to officers and soldiers, reduced to poverty, was, for the officers, twenty dollars per month, and for the soldiers eight dollars per month. Giving to the officer less than half-pay, and to the soldier, more than full pay. So, said he, would it ever be. Whatever might be the declamatory appeals upon this subject, there was no danger that the partiality of Congress would ever be manifested for the officer, to the exclusion of the fair claims of the soldier. To prevent misapprehension, said Mr. V. B., I will proceed further. I have said, that I am not insensible to the feeling which had been so strongly pressed into the argument. As an evidence of the sincerity with which he spoke, he expressed his willingness to adopt any measure in favor of the soldier, that the gentleman opposed to him, could reasonably desire. Most of the soldiers, said Mr. V. B., had been placed upon the pension list. The limited number who had not, must average seventy years of age. Let, said he, a section be prepared, placing all who had enlisted for the war, upon the pension list, at eight dollars per month, without requiring evidence of poverty. For a measure like this, he would readily vote; if even more were proposed, it should receive his deliberate attention, and if possible, his concurrence. Frauds might be practised; but they would, of necessity, be of short duration. Even now, the expense would not be felt; in a few years it would cease to be remembered; while the fame that would attend it, would constitute one of the most valuable legacies to posterity that can be left behind us.

Instead, then, of opposing the bill because it contains no provision for the soldier, might he not with some propriety ask of gentlemen to propose a remedy for this defect, and not condemn for omission—whilst making no effort to have that omission supplied?

Another cause of apprehension from this bill, as a precedent, arises from the supposition that if it be intended to provide for losses incurred by the depreciation of commutation certificates, the Government will be bound to compensate for similar losses, whether incurred by the Army or the public creditors. These fears, said Mr. V. B. I consider visionary. The bill does not propose a compensation on account of depreciation. This would be impracticable, because no data could be obtained by which an estimate could be formed to justify a legislative

SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 28, 1828.]

act. The depreciation of the commutation certificates has been referred to solely for the purpose of enforcing the equity of a claim originating in a contract, never satisfied by the act of commutation, but from which you are legally absolved by the acts of limitation. Until the soldiers can plead a similar contract, and the equitable considerations which the officers have urged, they can have no right to place their claims on an equal footing. Still less, Sir, said Mr. V. B. can it be said that this bill will afford a pretext for reviving the dormant claims of the public creditors. Their case is widely different from that of either the officers or the soldiers. While the pay of the Army was fixed and stationary, its actual value was reduced by the depreciation of currency, which they were compelled to receive at par. But the suppliers of the Army the great mass of public creditors, regulated their contracts by the fluctuations in which they expected to be paid, and the prices demanded bore an exact proportion to its depreciation in market.

It has been urged, too, as an objection, that provision had not been made for the officers who did not serve to the close of the war, and for the militia. It was sufficient to say that with them the government had entered into no such engagement. The surviving officers of the revolution, who had been called from service before the end of the war, generally by public considerations, would not, he was persuaded, repine at the success of their brethren in arms, or make it the basis of unfounded complaint. It has been stated by the venerable and worthy Senator before me, [Gen. S. SMITH,] that this bill will not embrace his case, for the reasons he has given. Who would have more cause to complain than he, if, indeed, any cause could be found in the measure proposed? Of his conduct and services in two wars, it would be superfluous to speak. They are familiar to us all; and he wished he could add, had been as well appreciated by the Union as by the State whose interests he had promoted in peace, and whose safety he had defended in war. The solicitude which he had manifested for the friends of his youth, and his companions in danger, must have awakened the sensibilities of those who witnessed it; while his zealous, though disinterested support of the bill upon your table, constituted a convincing proof that it would be viewed by others, who might be excluded from its provisions, with equal satisfaction.

The last, and, to his mind, the strongest objection against the passage of this bill, was its making no provision for the widows and children of deceased officers, who were entitled to half-pay. By whom, Sir, said Mr. V. B. has this objection been adduced? By the parties themselves? No, Sir; by those who have had no conference with the parties. Do they advocate the claims of the heirs and widows because they have heretofore been importunate for relief? No, Sir; from the first agitation of this question, in 1810, to the present moment, he was authorized, he believed, to say, that not a single petition had been presented in their behalf. Sir, said Mr. V. B., we resist the claims of the living by exorcising the spirits of the dead. The gentleman from Georgia declares that he will not vote for the bill, because the heirs and widows are not included, and that he would not vote for it, if they were. It has been asked by the Senator from South Carolina, whether a positive debt, a vested interest, does not descend to the heir, and whether a government, any more than an individual, is discharged by the death of its creditor? The objection thus presented is plausible in appearance, but he was persuaded, easily surmounted. He had already, in his opinion, given a satisfactory answer. Whatever might have been the original character of the claim, it could no longer be regarded as legally binding on the government. It was barred by the statute of limitations—a measure sometimes harsh, but not the less founded in policy and justice. This shield, interpos-

ed by the government for justifiable ends, might be removed, at the option of the government, only in the cases which policy and justice might demand. It has a perfect right to permit it to operate upon the officers, their widows, or their heirs—and neither might, in strictness, have a legal ground of complaint. I have endeavored, said Mr. V. B. to show that equity requires, and policy does not forbid the allowance proposed for the surviving officers. The claims of the widows, stood, in his opinion, on a different foundation. But he should not be willing, for one, to oppose them. Their number must be small; not half as great, in all probability, as that of surviving officers; say one hundred at the outside. Give them a gratuity of one or two thousand dollars each; and if necessary, deduct it from the sum you would otherwise give to the surviving officers. They, he was well assured, would not utter a complaint. On the contrary, the value of what they received, would be doubly enhanced by the cause of the deduction. The supposed claims of the heirs could not be presented to your attention with equal force. Of the two thousand four hundred and eighty officers of the revolution, two thousand two hundred and fifty are no more. Their temporal interests, whatever they were, have been distributed, in some cases, among successive generations. To ascertain and distribute the respective shares, to which the heirs would be entitled, of the small amount now proposed to be given, if not wholly impracticable, would involve an expense that would consume the means of your bounty; and without being productive of substantial benefit, your resources would be exhausted. But, said he, these are considerations of an inferior character, founded on expediency only. Your refusal to grant to the heirs, may be placed on the highest ground of principle. Whatever you now do in favor of the officer, must be voluntary, proceeding from your liberality and gratitude. All other obligations have been cut off by time. All your endowments springing from such motives, being for the reward of personal services, may with propriety be confined to those by whom those services were rendered. This, said he, is not a new principle in your legislation. It lies at the foundation of the act of 1818, providing, not for the heirs, but certain portions of the revolutionary officers and soldiers, by the operation of which, millions have in his opinion been beneficially applied. It was called indeed a pension act, but with no more propriety, according to the established principles of the Government, than the bill upon your table.

What, according to these principles, are the grounds upon which pensions have been granted? They were, exclusively, disability produced by known wounds received in the public service, and half pay for a limited time, to the widow and infant children of those who had fallen in action. Since the date of our independence, these only have been the legal and appropriate causes for being placed on the list of pensioners. The annual allowance to a limited number of the officers and soldiers of the revolutionary army, by the act of 1818, was founded on no such consideration, otherwise the widows and orphans of the deceased officers and soldiers would have been as much entitled to your bounty as they can be now. They did not receive it; and the only justifiable reason which could then have been given, was the one which may now be assigned. You had a right to make your donation personal. You had a right to enlarge or contract the circle of your beneficence, according to your own views of the state of your treasury, the exigencies of society, and the claims of humanity. Among the most powerful motives for its adoption, was a desire to rescue the country from the reproach of seeing those to whom it was indebted for its liberties, thrown, in the evening of their days, amidst the prosperity they had been instrumental in producing, upon the cold charities of an

JAN. 28, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

unfeeling world. It was to prevent the vivid and heart-rending picture of Roman ingratitude, which, though the invention of modern days, has so long interested the world, from being only descriptive of real life in the streets of this proud capital.

Mr. V. B. said he would say nothing as to the amount. Full justice had already been done to that subject. The general object was to make up, in part, the loss sustained by the officers, out of the profits made by the government, by the successful result of its compromise with them. Let us, therefore, said he, pass the bill upon your table. Let this body have the credit of originating it. Let no narrow or weak views impede our course. No matter where those honorable and patriotic men are from; whether from the North or the South, the East or the West; whether from the old States or the new. In every State where the blessings of a free government are enjoyed, there they had a name, if not a local habitation, that could not fail to work its way to the hearts of their fellow citizens. It was true, he said, that by the list submitted, it did not appear that any of the officers resided in seven of the new States, and he was not sorry for it. If he were not deceived in the character as well of the people of those States, as of their representatives on that floor, they would rejoice that an opportunity was thus presented to evince their devotion to the cause of the revolution, and their gratitude for the services of those who fought our battles in that day, without even a suspicion of a selfish or local object. This will be the more gratifying to them, because it was not their good fortune, as States, to be in a situation to take part in that great struggle, out of which grew this mighty empire, and all the blessings of civil and religious liberty, that we now so pre-eminently enjoy. He had not a doubt that all that remained for them to do, they would do well. If evidence of the fact were wanting, he had only to allude to the small but patriotic State of Illinois, which alone had instructed her representatives on that floor, upon the subject under consideration, in a spirit reflecting upon herself the highest credit, and affording the most flattering presage of her future greatness.

Mr. V. B. said, that he was distressed by the consciousness that he had already trespassed too much upon the kind indulgence of the Senate. In any other case he would have considered it reprehensible to have done so. He would therefore (although there were yet many considerations which he intended to have urged,) draw his observations to a close. There was, however, one point upon which he felt too much solicitude to suffer it to pass unnoticed. If by any one he had been understood as casting as much of censure or reproach upon the old Congress, he desired to correct so erroneous an impression. He could not indeed have done so consistently with his own long cherished opinions. On the contrary, he did not believe that the world ever witnessed, or ever again will witness a body of men more patriotic or enlightened. He would not believe that it was in their nature to be indifferent to the just claims of the revolutionary army. The question with them was not what they would, but what they could do. The embarrassments under which they labored from want of power, and the backwardness of the States, who themselves were struggling against the exhausting effects of a cruel, bloody and protracted war, were known to all. As little did he wish to cast reproach upon the counsels of the nation. Every thing could not be done at once. Much had been done under the present Constitution, to satisfy the claims of justice, and vindicate the character of the republic. It is our good fortune that something still remains for us to do. Fear not, that in doing it, you will go beyond the wishes of your constituents—your feelings lag behind them. Speaking for his immediate constituents—and he had not the presumption to suppose that they were more just or public spirited than their

neighbors—for them he could say, with confidence, that, having some share in the national funds, and contributing no inconsiderable part of their amount, they would willingly pour them out, like water, in a cause so righteous. With them, a million more or less of public debt, compared with the preservation of the public faith, would be as nothing. He gloried in the consciousness that he was a representative of a people influenced by such elevated sentiments. Every day, said he, makes the remnant of this band of worthies more dear to the American people. When that period arrives—which a majority of the Senate may expect to see—when the last of the officers of the revolutionary army shall be called from time to eternity, it will be the cause of keen regret, and self reproach, if, upon a review of the past, it shall appear that any thing was omitted that ought to have been done, to smooth their passage to the tomb.

One word more, and he had done. The Senator from Maine, [Mr. CHANDLER,] who, although he had lost his father in the struggle, had felt it to be his duty (and there was no man, he believed, who more implicitly followed his sense of duty,) to oppose the bill, had, with his characteristic shrewdness and pertinency, asked—did General Washington, whilst at the head of Government, ever recommend this subject to the notice of Congress? The worthy Senator well knew what the answer must be, and the train of reflections it would give rise to. General Washington did not—but why? Before and after the war, he spared no pains to make the States sensible of what was due to the officers on this very point. His letters have been read. He urged them by all the considerations that belonged to the subject, to act efficiently for their relief. He failed. After he came into the government, the officers themselves evinced no disposition to revive their claims, and it certainly would not have become him to be the first to bring them forward. It is not difficult to conceive why the officers were, at that day, willing to avoid all applications for pecuniary aid. New prospects opened—they were probably not exempt from those feelings of ambition and hope of preferment, which actuate mankind. They have out-lived them, and they humbly ask for justice. But, Sir, what was the language of the Father of his Country, when the subject was an open one? In his circular of June, 1783, to the Governors of the States, he said:—"The provision of half pay for life, as promised by the resolution of Congress, was a reasonable compensation offered at a time when Congress had nothing else to give to the officers for services then to be performed; it was the price of their blood and your independence, and as a debt of honor, it can never be cancelled until it be fairly discharged."

One question, said Mr. V. B., and I have done. Has it been fairly discharged?

Mr. PARRIS was disposed, he said, to withdraw his amendment, with the understanding that he should have an opportunity to renew it. While up, he would remark that it was true that the soldiers had, to a great extent, been paid; but there are many who have not been paid, and who never will be paid, unless they are paid now, side by side with their officers. It is the officers alone who have kept the claims of the soldiers alive. The soldiers cannot meet in conventions, issue circulars, frame memorials, and get up all the necessary machinery for acting on the public sympathy. If they do not succeed with the officers, their claims are lost. He withdrew his motion, but should renew it when the question had been taken on the bill as reported.

The question then recurred on filling the blank with \$1,100,000.

Mr. RUGGLES could not vote, he said, to fill the blank with that sum merely for the officers. He thought, also, that those officers who, on the first alarm of war, left the plough for the ranks, were as well entitled to remuneration as the officers who served to the end of the war.



SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 28, 1828.]

Mr. SMITH, of Maryland, was, he said, one of those officers who entered the army at an early period, and resigned before the close of the war. He had, therefore, no claim, and never had advanced any. None who left the army before the close of the war can have any claim. In the year 1778, General WASHINGTON addressed Congress on the state of the army, which was near dissolution. In 1779, many of the officers resigned; and to prevent more from resigning, the act of 1780 was passed. No one, then, who resigned before the close of the war, can be entitled to any benefit from the provisions of that act.

After some remarks from Messrs. HARRISON and WOODBURY—

Mr. RUGGLES, in reply to Mr. SMITH, of Maryland, said, that many meritorious officers, who had resigned before the close of the war, were as much entitled to remuneration for their services, as any who had served to the close of the war. He would cite the case of an officer whom he knew: He was a soldier at the battle of Bunker's Hill; and, for his gallantry, received a commission as a Lieutenant. He was for some time engaged, with great credit to himself, in the severest enterprises of the war. He then resigned from ill health. This man fought before the war was legalized; he fought, in its earliest struggles, with a halter about his neck. Surely, upon every principle of justice, he was as much entitled to remuneration as those who entered after him, and continued to the close of the war. This man recently died, and left a helpless family. If his children were not provided for, he would vote for no provision.

Mr. CHAMBERS said he could not consent to give a silent vote, after the declaration of the honorable gentleman from Maine, [Mr. PARRIS,] that he should hereafter offer the amendment which he had just withdrawn: and after the remarks of the honorable gentleman from Ohio, [Mr. RUGGLES,] that he could not vote for filling the blank with any sum until a provision was inserted in the bill for the other officers and soldiers of the Revolutionary Army. The only difficulty, Mr. C. had long believed, which would be opposed to the recovery of this claim, was the one now presented by the proposed course. He did not believe that the good sense of the American people, or the justice of Congress, could ever permit a direct rejection of this claim. He was only apprehensive, therefore, of the indirect mode of attack, which had heretofore proved fatal. For a long series of years these claimants have addressed themselves to the liberality, to the generosity and to the charity of the Government. They had associated themselves in this appeal with other officers and soldiers of the Revolutionary war, and had surrounded their case with all the material, and had connected with it all the considerations which could operate upon the sympathies and sensibilities of a noble and generous nation. They had told over the well known story of the hardships and sufferings of a Revolutionary war, the scars, the wounds, the hunger and nakedness and poverty—the courage and constancy of those who fought and bled in that mighty struggle which resulted in securing to us the means of enjoying every civil and political blessing. They appealed in vain. Year after year has rolled away, and age, disease, and death, have thinned their numbers to a little remnant, who now hover over the grave, most of them in indigence and want. They have now made a last effort to engage the notice of the Government: not by an appeal to its charity or its generosity; not as mendicants asking its bounty; not as pensioners, sir. Let me say to the honorable member from Maine, [Mr. PARRIS,] who has introduced this term, that the wealth of this nation is too little to place these men in that character. Exhaust the annual revenue of the nation in filling their coffers and multiplying their luxuries, and yet, sir, the present generation must ever remain pensioners to the veterans of the Revolution, whose

toil and blood are the source whence this revenue is derived. No, sir, said Mr. C. it is not as objects of charity, that these men now come. They present you a copy of your contract; they tell you it has been violated to their pecuniary loss; that the obligation of the Government has not been redeemed, and they give a statement of facts from which they say the principles of acknowledged law authorise them to demand satisfaction at your hands. They refer to the page and letter of your own records, and to the undisputed history of the day, as making out a case which calls for the decision—the judicial decision of this tribunal. Does any honorable member on this floor dispute the facts, or deny the application of the principles of law and equity to those facts? This would be a fair and legitimate ground of discussion. If the terms of the contract are not as set forth, if the rules which should govern that contract are not as they are stated to be, let this be urged as a reason why this debt should not be paid. But a very different course is suggested. Other claims, resting on other grounds, and properly to be governed by other considerations, are referred to, and we are told that this debt ought not to be paid until those other claims are ascertained and adjusted. The Government, like an individual, ought to be controlled by the great moral principles which enter into all pecuniary transactions. Good faith and the observance of contracts are demanded from a Government to the same extent as from an individual. Let, then, the case be supposed, that an individual is applied to for the discharge of a fair debt: will any honorable man feel himself justified in turning an honest creditor from his door, with no other reason than that he is indebted to sundry other individuals, in large amounts, and he must ascertain the nature and extent of his engagements, before he can pay the claim which is presented to him? and if the creditor could also urge his pressing necessities, his indigence, his age and decrepitude, would it not be still less excusable to repulse him with such an evasive reply? And if when impelled by the extremity of his distress, the creditor should assert and the debtor concede the highly meritorious nature of the services charged, the great peril to his life and the certain destruction to his fortunes, which were encountered in the performance, and the great advantage and abundant wealth derived by him from whom was asked but a portion of that price which, by his bond, he had promised to pay, would, Mr. C. again inquire, would any honorable man feel excused for again repeating his refusal to discharge, nay, even to examine the claim, until other transactions were adjusted, involving matters having no connection with it? Would not the moral sense of the community be disgusted with such conduct, and merited indignation overwhelm its author?

Is not such the case of these officers? They claim the same privilege which is extended to the most humble individual in the community—the privilege of demanding justice from the Government. They have submitted, in respectful terms, an argument to sustain their demand. Their memorial has been examined by an intelligent committee, and the exposition by the Chairman appeared to him to demonstrate the obligation of the Government to pay their debt. To the arguments thus urged, and to his mind conclusively urged, no member of the Senate had opposed contrary arguments, and in that state of things he did not intend to add one word more on that part of the case. His object was to resist the fatal influence of proposed amendments, which the honorable gentleman from Maine [Mr. PARRIS] must pardon him for saying were calculated to destroy all prospect of final success. The gentleman had said, and no doubt with great sincerity, that he was not influenced by a motive to embarrass this bill; but, let the motive be what it may, such is the effect. Delay alone is fatal. The few surviving patriots



JAN. 29, 1828.]

*Surviving Officers of the Revolution.—Memorial of E. V. Sparhawk.*

[SENATE.]

who now apply for a portion of their debts, are rapidly disappearing from their country and from the world; they, too, owe a debt which all must pay to nature's law, and which will, ere long, call them to rewards of a higher order. All they can hope for is to smooth the rugged path which separates them from the grave, and which, however short the distance, is beset with thorns which age and infirmity does not enable them to remove without your aid. And why should you refuse your aid? The gentlemen from Maine and Ohio, [Mr. PARRIS and Mr. RUESELZ,] deplore a separate legislation for these officers, as a positive injury to others. Mr. C. said he venerated the character of the Revolutionary soldiers, and was willing to do ample justice to every class of them. No man would go farther in extending the beneficence and the charity of the nation to those persons. But their claims were not now before us.

The question of separate legislation ought to have been made forty years ago, and more. The separate legislation of the old Congress, for the very class of persons now before the House, formed the specific subject of their claims. On matters growing out of the general legislation for the army, they claimed nothing. They had sustained equal loss by depreciated paper, by want of pay, by want of food, by nakedness, and sufferings of various kinds; these they encountered in common with their fellow officers and fellow soldiers: and for these sufferings he should be proud to aid in giving some compensation. Yet let it not escape the attention of the Senate, that these claims were discarded by these men; such items formed no part of the account rendered. Their demand rested on specific *separate* legislation, which no other officers and no soldiers in the army had any common interest in. It is entirely too late, therefore, to urge objections to separate legislation. Mr. C. said, he was equally surprised to hear from the gentleman from Ohio, [Mr. R.] the objection he had alluded to. It was in the knowledge of the Senate, that that gentleman, as Chairman of the Committee of Claims, was frequently called to act on claims preferred by individuals who had sustained injury during the late war, either by violations of contract on the part of the government, depredations by the enemy, or from various other causes. He would ask the honorable Chairman, if he had ever made it a cause of objection to either of these claims, that there were numerous other claims, arising upon the same or somewhat similar principles, yet unsettled? He knew such an objection had never been urged, and could never have been sustained. It was as competent to these individuals as to any others, to have separated their claims; and if one amongst them had presented his case alone to the Senate, Mr. C. did not perceive how they could have refused it their notice. The other officers of the army—the soldiers of the army, were not included in the memorial. Those officers alone believing, and he thought correctly, that their case did not resemble the case of officers and soldiers who were not embraced by the resolution of 1780, had asked an examination and decision of the rights of those who were included by the terms of that resolution. They had exerted the common privilege of every citizen in asking a decision upon their claims. If fairly examined and finally rejected, their history and their character did not permit any one to doubt of their acquiescence. The memorials of their virtues were too intimately connected with the history of the nation, and the plaudits of a grateful people had sounded too loudly their praises, to permit his feeble voice to extend the circle of their fame; but he would say, that men who could resist the seductive appeal made to them by the author of the Newburg Letters, were not now to be taught obedience to the constituted authorities, or respect for the laws of the land.

He had declined adding one word to the argument of the Chairman of the Committee, on the law and the equity of the claim. Before he concluded, however, he would remark, that the sum conclusively demonstrated to be due to these officers, had gone into the treasury of the nation. The two-seventh parts of their pay, not included in their certificates, if funded, would have been on interest, according to the express terms of the contract. The Treasury, therefore, is by so much the less indebted; and the sum from which it is thus relieved has been applied to other objects, which would otherwise have been paid by other funds. An arithmetical calculation will demonstrate the fact, that the unpaid two-seventh parts of the amount for which certificates should have been issued, and the loss by deferred interest, with interest on those sums to this period, will constitute an aggregate greater than the sum now proposed by the Committee. This sum, therefore, you hold; this sum you have made available to the general purposes of your government; and it is surely not extravagant in these claimants, after a lapse of more than forty years, to ask you to repay to them this forced loan. Mr. C. hoped, for these reasons, that the blank would be filled with the sum recommended by the committee, and that the Senate would steadfastly resist every attempt to superadd amendments to the bill.

TUESDAY, JANUARY 29, 1828.

The CHAIR presented the following memorial, accompanied with an affidavit, from E. V. Sparhawk, which was read:

*To the Honorable the Senate of the United States:*

The Memorial of the undersigned (accompanied by an affidavit of the facts) humbly sheweth, that, having been subjected to insult and violence, in the room of the Committee of Claims of the Senate of the United States, from a person called Duff Green, an officer of the Senate, on Friday, the 25th of January, instant; and having been threatened by said Green with further violence, in case your Memorialist should "ever write a line about him"—considering that said violence was not, in any manner, provoked by your Memorialist, and that it was committed within a room devoted to the use of the Senate: Therefore, your Memorialist humbly prays that such notice may be taken of this matter as may, in the opinion of your honorable body, comport with its dignity, and extend protection to individuals while within the precincts of the Senate.

EDWARD VERNON SPARHAWK.

*Washington City, Jan. 28, 1828.*

The affidavit accompanying the memorial was read.

Mr. MARKS moved to lay the memorial on the table; which motion, on a division, was lost.

Mr. WILLIAMS inquired what question was before the Senate.

The CHAIR observed, that it was an application laid before the Senate by him, at the request of the Memorialist, and it remained to be disposed of by them.

Mr. COBB said it was a very *grave subject*, and he would move its reference to the Committee on the Judiciary; but was understood to have withdrawn the motion.

Mr. MACON said he thought the matter worthy inquiry; and he should be in favor of laying it on the table. He had known a similar case in the other branch of Congress; but did not know how it would be taken up by the Senate.

Mr. COBB signified his assent to a motion to lay it on the table.

Mr. ROWAN said he would make another motion, which was, to allow the memorialist to withdraw his memorial. It appeared by the affidavit that the affair took place after the adjournment, from which it was plain, that

SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 29, 1828.]

it did not come under the jurisdiction of the Senate. They, therefore, had no more control over this matter than if the affray had taken place in the street. They might as well interfere in the quarrels of two hackney-coachmen, as in this. If violence was committed, there were laws in the District to which the aggrieved party might appeal. These were his reasons for moving that the petitioner have leave to withdraw his petition.

Mr. FOOT made a few remarks which were not distinctly heard. He was understood to be in favor of laying the memorial on the table.

Mr. BERRIEN made some remarks, which were not distinctly heard, which were, in substance, that this matter was one which the Senate ought to consider not only with regard to what ought to be done in relation to the application of the memorialist, but what was also due by the Senate to itself. He then moved to lay the memorial on the table; which was agreed to.

#### SURVIVING OFFICERS OF THE REVOLUTION.

The unfinished business of yesterday, the bill for the relief of the several surviving Officers of the Revolutionary Army, was then taken up.

The question being on filling the blank in the bill with 1,200,000 dollars—

Mr. SMITH, of South Carolina, rose and said: He was opposed not only to filling the blank, but was opposed to the passage of the bill under any circumstances, and would ask the indulgence of the Senate whilst he offered some of the reasons upon which he grounded that opposition. Although he was far from entertaining any ungrateful feelings towards the surviving officers of the revolutionary army, yet he could never yield his assent to the assertion that they held exclusive claims, either upon the justice or gratitude of this government.

The gentleman from Ohio [Mr. HARRISON] felt such devoted zeal on this occasion, that he had declared he would take the last cent from the treasury to discharge this demand; nay, he would go further, he would give up the Alleghany canal, he would give up the Cumberland road, and would even dispose of his churches to raise a revenue for that purpose, and would worship his God in the open fields, and in the shades of the forest. Mr. S. said, if he believed this claim was founded in justice and good faith, he would go further than the gentleman from Ohio: he would not only dispose of his churches, but would worship his God in sack-cloth and ashes before he would withhold a just debt. Yet he feared he should not pay that homage in spirit and in truth, were he to withhold that same justice from the widows and orphan children of those revolutionary officers, who have deceased since the passage of that commutation law, whose claims are entitled to the same justice, and to a much deeper sympathy.

It has been stated by the Chairman of the Committee [Mr. WOONAUBT] which reported this bill, that there were only 230 surviving officers to provide for. To satisfy the claims of these survivors, it was necessary to fill the blank with the sum of \$1,100,000. At the close of the war, the whole number of officers then surviving, entitled to half pay, were 2480; deduct from that number 230, will leave 2250; in the ordinary course of mortality, it is fair to suppose, that the average deaths would allow a calculation of 1125 entitled to full pay, in equal degree to the surviving officers, now sought to be provided for. This would require an additional sum of \$5,380,434, which, with the \$1,100,000, asked for the survivors, would make an aggregate of \$6,480,434. If either justice or gratitude require the Senate to make provision for the surviving officers, the same measure of justice and of gratitude, require provision to be made for the widows and children of the deceased officers, whose rights were as well founded, and whose rights were as

perfect, up to the times of their respective deaths, as that of the survivors.

Mr. S. said, he had yet to learn by what rule of law, or by what rule of gratitude, this discrimination could be made. It was a settled principle of municipal law, of almost the whole civilized world, founded in nature itself, and fully recognized by every State in this Union, to its fullest extent, that in all cases after death, the relations of the deceased, whether his widow or his children, his father or his mother, his brothers or his sisters, or relations in any other degree, were by inheritance entitled to the whole of his estate, in whatsoever it might consist; whether in lands, goods, moneys, or debts due, either from private individuals or from governments. If therefore, this be a debt of obligation, founded on contract, to the survivors, it is equally a debt of obligation, founded on contract, to the legal representatives of the deceased officers. And it would be a perversion of one of the soundest maxims of law, to suppose, that the death of a creditor cancels the debt, or lessens the obligations of the debtor.

Mr. President, we have heard it stated, during this debate, by a Senator from Ohio, [Mr. RUGGLES] that a revolutionary officer of distinguished merit, died in his neighborhood but a few weeks ago, and left a family of twenty children, two of them twin girls, only four years old. Are we, Mr. S. asked, to close our eyes upon the claims of these tender and helpless infants, because their father has been taken from them by the hand of death? who, had he survived but a few weeks longer, would have shared in the bounty of the government asked for in this bill. Are we to forget the dead, however meritorious their claims, claims founded on the very same law, governed by the same rules of construction, and enhanced by the piteous condition of the objects to whom it must be equally due, if due to any, merely because we behold the living presenting themselves personally before us? This would be an exhibition of feeling but little to the credit of the Congress of the United States!

The Chairman, [Mr. W.] as Mr. S. understood him, had placed the claims of the surviving officers on the principle of annuitants. And fixing the length of time of the half pay at two lives, or 14 years, would demand as an equivalent, full pay for seven years, to constitute a fair commutation. But he, Mr. S. had made a calculation, and it would be found that five years full pay, paid promptly, with its accumulating interest, would amount to more than 14 years' half pay, only paid annually as it became due, with its accumulating interest also. [Here Mr. WOONAUBT asked to explain, and said he had been misunderstood.] To this Mr. S. replied, he supposed that he must have misunderstood the gentleman from N. H. But laying that argument altogether out of the question, he could nevertheless assume that position without resorting to the annuity tables of any foreign country. Seven years were computed a life by our laws, and so understood in the calculations of life estates not otherwise provided for. And 14 years, the term of two legal lives, was a fair average computation upon which to found the commutation; the half pay for which was not equal to the five years' full pay, calculating the accumulating interest on each. But at the time this commutation was made, there were no calculations of this sort contemplated. The officers knew nothing about annuity tables, neither did the government.

Congress had in 1781, almost at the close of the war, promised, by a resolution, half pay for life to all such officers as should remain in service to the end of the war. This was considered an odious distinction, and became excessively unpopular. It did not suit the genius of this country, and was opposed to the principles of that liberty for which we were then struggling, and was one of the features of the British Government which produced the

JAN. 29, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

contest. These officers viewed it in that light themselves, and wished to get rid of it; and in December, 1782, after the preliminary articles of peace had been signed, voluntarily stated, in a petition to Congress, their belief of its odious character, and said in that petition, "We are willing to commute the half-pay pledged, for full pay for a certain number of years, or for a certain sum in gross, as shall be agreed to by the Committee sent with this address." (1)

These are their own words, and their own Committee, sent with that address, consisted of Major Gen. H. Knox, Brig. Gen. Patterson, Col. Crane, Col. Maxwell, Brig. Gen. J. Huntington, Col. Webb, Col. Huntington, Col. Cortland, Col. Cummings, Maj. Scott, Wm. Eustis, Hospital Surgeon, Brig. Gen. Hazen. Officers of high standing, selected and deputed from among themselves, with full powers to make the arrangement with Congress, what commutation should be given for the half pay. And among the members of Congress appointed on the Committee to make this arrangement with the Committee of officers, was Gen. Alexander Hamilton, who had gone through the whole war himself, knew the relative claims of these officers, and whom he was one, and who was as just as he was generous, and as generous as he was brave; which was really surrendering almost the whole matter into their own hands to settle, and it was settled to be equal to five years' full pay, and no more. And when settled at that, it was not made compulsory by the resolution of Congress, but left optional to accept the five years' full pay or hold on to the half pay for life.

(2) Nine States: New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, accepted it by lines; and not a murmur was heard for twenty-seven years afterwards, when, for the first time, they brought it up. And at the distance of forty-four years, the Senate are told the commutation was unjust, arbitrarily settled at the discretion of Congress, and forced upon those officers without any alternative, to take that or nothing; and that they come now to ask justice and demand a fulfilment of the compact. And gentlemen affirm that upon principles of law and equity, it is a contract not yet fulfilled, and which in a court of justice the government would be bound to fulfil.

Mr. S. said, he was not brought up at the foot of Gammaliel, but he understood the law of contracts better than that. To render a contract binding on both parties, nothing was necessary, but that the parties were capable to contract, were willing to contract, and actually did contract. And if capable and willing to do so, they could make, and could change that contract as often, and into as many forms as they pleased. It required no lawyer to know this. It was every day's practice, with every man in the Government. But we have a fashion of paying Government contracts as often as they are asked for. What was the contract? First, that the officers who should remain in the army to the conclusion of the war, should be entitled to half pay for life. Who asked to change it? The officers themselves. When it was changed, to whom was it submitted for acceptance? To the officers themselves. Who did accept it in the very form in which Congress had placed it; to be paid in securities, on interest of six per cent. per annum, instead of the half pay promised for life? 3) After they had done so, it would be sporting with the rights of the Government, to say the contract had not been fulfilled on her part. If the Government has any rights, it has the same rights of individuals, governed by the same rules, and entitled to the same privileges. And it would be idle to say, when the Government had done no more

than to meet the very wishes of the officers, and gave them what they asked for, that the contract was not fulfilled, because the operations of the change had not proved as prosperous as some of them had wished.

Mr. President, our gratitude has been invoked on this occasion. The gentleman from Ohio, (Mr. H.) has read various letters written by Gen. Washington to Congress, stating the discontent of the officers of the Army, the hardships they endured, and concludes by saying, they would have quit the Army, had not Congress promised them the half pay: and asserts, it is to those officers that we are indebted for our civil and religious liberty, as well as for our independence as a nation, and the freedom of debate we now exercise in this Senate. Mr. S. said, it was by no means his wish to detract from the military merits of those officers; and much less would he have supposed they were actuated by the hope of pecuniary reward, to continue in the Army, had not the gentleman himself affirmed, it was the promise of the half pay which kept them there. He was willing, himself, to ascribe to them better motives for remaining in the Army, than the hope of pecuniary reward. He was willing to believe it was patriotism that kept them in the Army. All your gallant men prefer the thick of battle, and seek death itself, as the highest reward of the brave. And can it be a motive to an American Senate, to pay those officers a second time, because they would have left the Army in the time of its greatest peril, but for the promise of half pay?

Mr. President, it is an error that is gaining ground in proportion as we recede from the period of the revolution, that the independence of this government was achieved solely by the regular army. It is an error that has been promoted by the very officers themselves, and to which gentlemen very naturally subscribe who witnessed no part of those times which tried men's souls. That war was a war without a parallel. It was forced upon the people of this country when they had neither money, arms, nor experience: and not more than three millions and a half of a population. In this situation they had to meet a brave and experienced enemy, with a veteran army, and experienced and gallant officers at its head. The most determined doubted; but their appeared to be no alternative, and a general enthusiasm pervaded the whole community, with a few exceptions; and all who valued freedom were eager for battle, in defence of their homes and their fire-sides, and death or liberty was the universal motto. It was this proud eminence assumed by the American people, that gave them liberty, independence and freedom of debate: not the sordid mercenary hopes of pecuniary reward.

But, said, Mr. S., it has nearly come to this, since time has thrown a veil over those scenes and achievements that ought to characterize that war, that we are taught to believe that, during that war, every thing was quiescent, and every body happy at home in the enjoyment of their families and fortunes, except the regular army; and that there was but little praise due to any but the officers. The arguments seem to go upon the ground, that this is the correct history of the revolutionary war. Gentlemen who entertain this opinion, know but little of that war, as it was carried on in the three Southern States, of North Carolina, South Carolina, and Georgia.

The Chairman [Mr. W.] has told us, these officers broke up their connexions in life, and left their families and their homes to serve their country. And so devoted was one of them, that he left his dead father unburied, to enter the Army. This, all will admit, was patriotic. But what does this weigh, when compared to the bloody scenes that spread horror and desolation throughout the two Carolinas and Georgia, during the years of 1779, 1780 and 1781; a good part of which time you had no regular Army there. Whilst the British Army were there

(1) See 4th vol. Journals Old Congress, page 307.

(2) See 4th vol. Journal Old Congress, p. 166.

(3) See 4th vol. Journal Old Congress, p. 166.

SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 29, 1828.]

ravaging the country wherever they went; not a horse in the country upon which they could lay their hands, that they did not take, to repair the waste in their own cavalry, or for the use of their baggage wagons. All the cattle, hogs, sheep, flour, wheat, corn, and every description of forage, fell a prey to their rapacity. And what was not consumed, was wantonly burned and destroyed. The tories, following in their train, burning dwelling houses, out buildings, and fences, and laying waste with fire and sword all that came in their way. Plundering the defenceless women and children of any little remains of provisions that the Army might have left, and stripping them of their wearing apparel, and the very bed clothes that covered them by night. Mothers and daughters who had seen better times, labored in the field to procure a scanty subsistence: whilst the fathers and brothers were harassing the enemy, and fighting the battles of their country. Not in the regular Army, but in volunteer and self-created bodies; self-trained, and mounted on their own horses, and armed with their own rifles, and other arms, such as they could procure; all at their own expense, without the aid, or even the knowledge of the General Government. They annoyed the enemy by hanging on their borders, killing their light troops, cutting off their foraging parties, shooting their sentries at their posts, and destroying and dispersing the tory parties wheresoever they assembled. No friend of his country could remain at home in safety. Many who ventured there for a moment, were dragged from the bosoms of their families, and butchered at their own doors. Others who were taken in arms, were treated as rebels, and hung upon the limbs of trees, on the road sides. These scenes became so familiar, that the spilling of human blood lost the most of its horrors.

While this undisciplined warfare was carried on by the community at large by a spirit of patriotism unrivalled, General Sumpter, with no other authority than a commission from the Governor of the State, for the legislative body was dispersed by the enemy, drew to his standard a respectable number of volunteer militia, who displayed as much bravery, and fought to as much purpose, as any continental troops belonging to the regular army. They distinguished themselves, and were victorious in almost every battle they fought. Their leader was as gallant a soldier as ever drew a sword, with all the qualities of a cool circumspect general. His successful operations were more confined to the middle and southern parts of the State.

General Marion, who acted under a similar commission, only from the Governor, confined himself more to the eastern part of the State.—Whose partisan corps were entirely volunteers, also. Mr. S., said that he might be more accurate as related to his operations, he would read it from Ramsay's history of the United States. Speaking of the promotion and successes of General Sumpter, he says: "About the same time Marion was promoted to the same rank, who in the northeastern extremity of the State, prosecuted a similar plan. Unfurnished with the means of defence, he was obliged to take possession of the saws of the saw-mills, and to convert them into horseman's swords. So much was he distressed for ammunition, that he has engaged, when he had not three rounds to each man of his party. Various schemes were tried to detach the inhabitants from co operating with him. Major Wemy's burned scores of houses on Pedee, Lynch's Creek, and Black River, belonging to such as were supposed to do duty with Marion, or to be subservient to his views. Having no houses to shelter them, the camps of their country became their homes. For many months, Marion and his party were obliged to sleep in the open air, and to shelter themselves in deep swamps. From these retreats, they sallied out, whenever an opportunity of harassing the enemy, or of serving their country, presented itself."

Marion was a man of large fortune, and lived at his ease. He abandoned it all, made the morasses his dwelling place, and his rations were parched corn and potatoes, when he could get them. He may be justly called the Leonidas of the South. He never was defeated, nor could the strongest threats, or the most flattering promises from the enemy, induce him for one moment to forsake the cause of his country. Sumpter and Marion could have had any promotions they would have asked for in the British army, if they would have accepted it. Or if they would have laid down their arms, even at the most gloomy moment of that perilous time, they could have been protected in their persons and fortunes by that army. But they were inspired by other considerations, of a higher character. They were inspired by a patriotism and love of country that never tired, and taught them to look upon pecuniary rewards as trash; not to be put in competition with a soldier's honor nor with a patriot's love of liberty. Their troops, composed as they were entirely of volunteer militia, from the mass of citizens, were equally inspired by the same motives. There never was a regular army belonging to the government, from the beginning to the end of the revolutionary war, that endured such hardships, who fought more, or more successful battles, or rendered more essential service. These men never received a farthing from the general government, neither for their services nor their arms, which they furnished for themselves for the most part. Nor has a single man among them, however hacked or cut to pieces, ever been placed upon your pension roll.

Many of the first citizens of South Carolina were seized, incarcerated in prison ships, and sent to St. Augustine, and other unwholesome climes, to subdue their patriotism; many of whom perished. Col. Laurens, the elder, was sent to England and imprisoned in the Tower, to subdue his own patriotism, and strike terror in others. These tortures were endured by men who lived in the lap of ease and fortune, all of which was abandoned to the reckless ravages of the enemy, rather than they would abandon the cause of that independence in which they had embarked. Was there any officer in the continental army who suffered such hardships, and made such sacrifices for the cause of freedom? Who is there, that would not rather rush upon the spear of his enemy, and hazard his life in battle, than be confined in the hold of a prison ship, in an unwholesome clime? At the same time these scenes of horror and discomfort were going on in South Carolina, Georgia and North Carolina were also engaged in those of a similar character, except that the British army remained principally in South Carolina. The three States were destitute for a long time of even the semblance of a regular army. It was the gallantry and patriotism of the farmers of North Carolina, who quit their ploughs and embodied under Col. Caswell, a militia officer, that totally defeated and dispersed a large body of Scots tories, that had collected to the royal standard, on Cape Fear River, in 1775, and gave a shock to the formidable tory party in that quarter, from which it never recovered. This was effected by their own means, without the aid of a continental officer or soldier; or so much as a sabre furnished by the general government. For which they never received, nor did they even ask, a farthing.

These achievements were followed up by the battle of King's Mountain, in the autumn of 1780, under Col. Campbell, of Virginia, Col. Cleveland, and Col. Shelby, and others of North Carolina, Col. Lacey, Col. Hill, and others of South Carolina, who assembled the volunteer militia of their neighborhoods, to stay the high-handed career of the enemy; and the historian says, "They had so little of the mechanism of a regular army, that the Colonels, by common consent, commanded each day alternately. The hardships these volunteers under-

JAN. 29, 1828.]

Surviving Officers of the Revolution.

[SENATE.]

"went were very great. They subsisted for weeks together without tasting bread or salt, or spirituous liquors, and slept in the woods without blankets. The running stream quenched their thirst. At night the earth afforded them a bed, and the heavens, or the limbs of trees, were their covering. Ears of corn, or pompions thrown into the fire, with occasional supplies of beef or venison, killed in the woods, were the chief articles of their provisions."

Under all those disadvantages, these volunteer officers and citizens, without a moment's training, met a veteran officer of great experience, and as brave a partisan officer as any in the British army, on ground chosen for the occasion by himself; and with a very small loss on their part, killed and wounded 225, among them Col. Ferguson, their commander; and took 800 prisoners, with all their arms, ammunition, and baggage. The annals of the whole revolutionary war do not afford a more brilliant achievement, or one effected with more cool and deliberate bravery, by any portion of the regular army.

It were these resistances and these successes that gave the first check to the British arms. It destroyed their hopes of submission; and proved that freemen, without training and without discipline, were too brave to be conquered.

These men and officers did not fight your battles for money. They never cost your government a single cent. They furnished their own rifles, with which they principally fought. They furnished their own clothes, and their own horses; and their slender and humble rations they picked up where they could find them; and, like the other citizens who fought our battles, without the aid of government, if any were wounded or disabled, the government has positively refused to place them on the Pension Roll, but has left them to beg their bread, or starve, if they could find no other relief. And yet we are confidently told by gentlemen, in this debate, that we owe our independence as a nation, and the freedom of debate which we enjoy in this Senate, exclusively to the officers of the revolutionary army. Gentlemen who assert this fact, have never known by what means the revolutionary war was carried on in the Carolinas and Georgia; otherwise, they must have forgotten it. If they had not, they could not say that freemen, whose blood had streamed in torrents in the prosecution of that war; whose valor in battle had been unrivalled; who had sacrificed their fortunes, and abandoned their families and their homes, and every private comfort, for its support, owed their independence, and freedom in debate in this Senate, to the prowess of any other arm but their own.

Mr. S. remarked that it had been affirmed that the regular army had defended the Southern States. Some portions of the regular army had been there, it was true, but had rendered no sort of service, whatever, until the arrival of General Green, in 1781.

When the British navy made an attack on Fort Moultrie, on the 28th of June, 1776, before the declaration of Independence, with a view of reducing Charleston, General Lee, a continental officer, next in command to General Washington himself, instead of defending the fort, as he ought to have done, declared it impossible, and ordered the fort to be surrendered; when Col. Moultrie, of the militia, refused to obey the order; but said, he would continue the defence of the place, and would take the responsibility of a failure upon himself. Your Continental General retired to a place of safety, and Col. Moultrie, with the gallantry of a veteran, sustained the attack, for ten hours in succession, against ten British ships, two of which were fifty gun ships. The siege terminated in the loss of one of the enemy's ships, and a total repulse of the whole fleet. This was the first essay of a Continental officer in the South.

The next was General Lincoln, an experienced continental officer, who, on the 12th day of May, 1780, sur-

rendered to the enemy, without the fire of a gun, the city of Charleston, both the continental and militia army, with all the munitions of war, and upwards of 400 pieces of artillery; and put the enemy in the strong hold of the Southern States, from whence they could, and did play in every direction, to the great embarrassment of the Southern Section.

Col. Buford, with a regiment of continental infantry, and some horsemen, was sent to the relief of South Carolina. They were assailed by Col. Tarleton, and after the first fire, laid down their arms and sued for quarters, which was denied them; and they were literally cut to pieces. And a great portion of those who were not slain on the field, had their hands or arms cut off, or their heads and bodies hacked to pieces.

General Gates, another experienced continental officer, was sent to South Carolina with a few more than 900 regular troops. To these were added 3,000 militia from the neighboring States. With these 4,000 men, he met the British army, near Camden, in South Carolina, and a battle ensued. No sooner did the enemy display their columns and commence a heavy fire, than General Gates fled. Nor did he stop until he reached Hillsborough, a distance of 150 miles, and then but for a short time. The continental soldiers under Baron de Kalb, and some of the militia, under their own officers, fought with distinguished gallantry. But they were overpowered by numbers, and were all either killed, wounded, or taken prisoners. But not a vestige of the regular army remained for active operations. And with them were taken all the artillery and 200 baggage wagons. The State was again left to the alternative, either to submit as rebels, and seek protection from the enemy, or fight their own battles, without the least hope of assistance from the General Government. They preferred the latter, which they carried on with an enthusiasm that was never surpassed and but rarely equalled.

This state of things continued until General Green went on the next year; and even then, much was done by the militia. At the Cowpens, the British had 1100 men, and the Americans not more than 800: two-thirds of them were militia, who were under the command of Col. Pickens. They formed the first line a few hundred yards in advance, and received the first fire; then fell back, as they were ordered to do, and immediately rallied and joined the regulars in charging the enemy with fixed bayonets, which threw them into complete confusion, and five hundred of the British army laid down their arms to the militia.

When General Green took command of the Southern Army, it consisted of only 2,000 men; more than half of whom were militia (1). The battles he fought at Guilford and Eutaw, were said to have been the two best fought battles of the Revolution; and more than half his army, at each place, were militia. He was a man of superior skill, and of distinguished bravery; and did honor to the cause in which he was engaged. But the bravest Generals could not fight without an army, and his regular soldiers were but about 1,000; and these were kept as a reserve. His militia were always placed in the front of the battle; many of whom were killed. And that was the last the General Government knew of them. It neither gave them pay, honor, nor provided for their suffering families.

The war in South Carolina was so protracted, and raged with such violence, that, in addition to the volunteer services of almost every man in it, that State, instead of paying one-thirteenth part, which would have been more than its proportion, paid more than one-fifth part of the whole expense of the revolutionary war. (2) Whilst the great State of New York paid but \$1,200,000, South Carolina paid \$4,000,000, (3) although ranked

(1) Ramsay, U. S. &amp; vol. page 408.

(2) Public Laws, 2. vol. p. 128.

(3) Ibid.

SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 29, 1828.]

among the small States. The State of Maryland paid but \$800,000. Notwithstanding, it is urged that we owe our liberty and independence to a very small regular army, from whose efficiency the Southern States received but little assistance, when compared with their own unceasing efforts. This claim of the petitioning officers is placed on another ground, as extraordinary as it is novel. Which is, that the certificates given in commutation for the half pay, had been purchased from them by speculators, for a very small consideration. The answer to that argument is plainly this:—If the government were bound to protect its citizens from the grasp of speculation, it would have more than a Herculean labor to perform. Where could such a requisition end? The government had fulfilled its engagements, and it belonged to those who were interested to guard against imposition.

Another and a louder complaint against the government is uttered: that in establishing the funding system, Congress had done injustice by deferring a portion of the interest for ten years. But upon a fair calculation the interest will average more than five per cent. And four per cent. is considered a very high per cent. when secured upon the faith of the government, as this was. It is far beyond any per centage produced by your best agriculturists. Moreover, these claims were placed precisely on the ground of the claims of every other citizen. And who were they that settled the principles upon which the public debt was funded? General Hamilton, and many other revolutionary officers were among the most prominent members of that Congress. And General Washington was the President of the United States, who, by virtue of his constitutional powers, could have negatived the law. And can we for a moment suppose he would not have done so, had he seen any thing like injustice contained in it? We do not believe he ever slumbered over the rights of those officers whom he had commanded, and whom he respected.

The truth is, that the officers of your revolutionary army, had been more liberally provided for than any other class of men, in this or any other country. In addition to their pay during their time of actual service, they were promised half-pay for life, after they should retire from the army, which was commuted for five years' full pay—which was a mighty stretch for a government at the dawn of its struggle for freedom—and were promised and received large tracts of valuable lands. Each officer, from a Major General down to an Ensign, had his lands, and that placed upon the most fertile spots. In addition to this, the southern States gave their officers large tracts of the finest lands in the world. Virginia gave largely and liberally in lands to her officers. South Carolina did the same. North Carolina gave to each Brigadier general, 12,000 acres; to a Colonel, 7,200; to a Captain, 3,500; and to General Green, that State gave 25,000 acres, that were said, at one time, to be worth \$500,000. To that meritorious officer, Georgia gave \$22,500 in money, and South Carolina gave him \$45,000 in money. These were free-will offerings, after the war ended, which those States were prompted to make, to exalted merit, for distinguished services; and surely they would redeem the Carolinas and Georgia from the crying sin of ingratitude.

But, said Mr. S., there was another, and a very different view to be taken of this subject, which would prove, beyond a doubt, how much further the government had gone to promote the interest of the military men, over that of every other class of your citizens. The revolutionary war continued seven years. The supplies for the armies, during the first five years of that war, were furnished by the citizens, exclusively for paper money; then called Continental Money, and States' Money. The continental money was issued by authority of Congress, and bore on its face a pledge that it would be redeemed with

gold or silver. The Congress issued \$241,552,780; to secure the currency of this money, on the 11th of January, 1776, Congress passed a law in the following words:

"That if any person shall hereafter be so lost to all virtue and regard for his country, as to refuse to receive said bills in payment, or obstruct and discourage the currency or circulation thereof, and shall be duly convicted thereof, such person shall be deemed, published, and treated as an enemy of his country, and precluded from all trade or intercourse with the inhabitants of these colonies. (1.)

On the 14th January, 1777, the Congress passed another law to support and enforce this currency, in these words:

"Whereas the continental money ought to be supported, at the full value expressed in the respective bills, by the inhabitants of these States, for whose benefit they were issued; and who stand bound to redeem the same," &c. And thus it goes on to make it as penal as the English language could express it.

Under these very penal laws, and from their devotion to their country, the citizens received this money, \$241,552,780, for the support of that war; and when the war ceased, the money ceased to circulate, and fell dead in the hands of the last holders. Not a single cent of that enormous amount of continental money, without which your army would have been a cipher, has yet been paid to your honest farmers who supported your armies upon the plighted faith of your Government, that it would be paid at the conclusion of the war. Not a militia man has ever received a farthing for his services, nor the widows or children of such as fell in battle, have, in one instance, received the bounties of the government. Pay your debts before you talk of your gratitude. Had these classes of your citizens looked to their pecuniary interests in the hour of peril, instead of devoting their lives and their fortunes to the public service, and the public good, notwithstanding all your Revolutionary officers, and your Revolutionary armies, you would yet have been British subjects, and these States British provinces.

It has been said by the gentlemen who advocate this claim, you are unable to pay your militia, and unable to redeem your continental money. Is this the justice, said Mr. S. of which you boast? This one-sided justice; is this to characterize the justice of your country, pay your favorites a second time, and permit yourselves to slumber over the rights of all others, because you cannot spare the money to pay them, from your thousand projects? This would be justice with a vengeance.

Mr. WOODBURY referred to Milne on annuities, to shew to what number of years full pay the officers were entitled to; because he had in his former remarks been misunderstood. When the officers asked for a commutation, it was not for five years, but for such an one as would be equivalent to the half pay for life. According to all the best authorities, they were entitled to the average of fourteen years' half pay, or seven years' full pay. Thus the senior officers, whose chance of life was smaller than that of the juniors, received their full equivalent by the commutation; which was far from being the case in regard to the juniors.

Mr. CHAMBERS said, he should be wanting in his duty to the memory of the dead, as well as to the fair fame of the living, should he remain silent, after the remarks of the honorable gentleman from South Carolina, [Mr. SMITH.] He regretted that his colleague was at the moment absent from his chair, for to him all these scenes were familiar, having himself been an actor in the battles of the revolution. Mr. C. had no other knowledge but from written and oral history—But sir, said Mr. C. limited as my information is, I must be permitted to tell the gen-



JAN. 29, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

gentleman from South Carolina, he has not correctly given us the events of the southern campaign; no man is less disposed than myself to lessen the just reputation of the militia officers who acquired glory in that campaign, but as a Marylander, I cannot permit the well earned laurels of her brave sons who fought and bled by her side to be tarnished. The gentleman was most unfortunate in his position that the militia alone fought those battles, and still more in his reference to the names of the Cowpens, Eutaw, and Camden, to prove that the officers of the continental army did not perform effective service. Sir, Maryland has lately had to mourn over the bier of her departed Howard. He has gone down to the grave full of years, of honor, and esteem. His gallant conduct as a soldier, was not more estimable than his excellent, amiable, and modest virtues as a citizen. To him was due, as it has been accorded, a large share of the glories which were won in two of those battles: at the Cowpens, his courage and his skill have secured the admiration of his country, for himself, and the brave companies of the Maryland line which he commanded; at Eutaw, he fought and his blood there mingled with that of the patriots, who fell by his side, and I now with surprise find he is omitted in the history of their exploits. I need not ask the honorable gentleman to go far, to find other proofs, that regular officers acquired glory in the South. I point him to one of the monuments of that age, which time has spared—one who now asks your justice—and tell him *there* is another whom Maryland is proud to call her son, who fought, was wounded, and made prisoner, at Camden. [General HARRIS, who was in the lobby.] I will not offend him by sounding his praises in his presence, but I should be treacherous to him, to his departed friend, to others of their worthy compatriots, and to my State, if I did not correct the error of the honorable gentleman.

Mr. SMITH, of S. Carolina, did not mean to detract from the merit of the regular army. If Major Howard's services were so valuable—and he knew they were so—why was not some provision made for his heirs? He was not insensible to the services of the regulars: but he contended in favor of the militia. He repeated that the regular troops retreated and fled at Camden; and he believes they did not stop until they arrived at Philadelphia. He had not said that there was no regular army at the South; but that it was ineffectual. He had not said that General Lincoln had no regular troops; but that they laid down their arms, and delivered up the City of Charleston; and if the militia had done the same, it would have afforded another argument to their prejudice, and in favor of the regulars. He had said that General Green had but a small regular force at Eutaw and Guilford Court house; and he had said, and now repeated it, that his men were chiefly militia, were posted in front, and bore the heat of the battle. As to the Cowpens, if there was a regular army there, it was a very small one; and the victory had always been attributed mainly to the good conduct of the militia. But, if he was mistaken in this, he would ask, if he was not right in his statement, that the whole country was ravaged, at the time when Congress would not send an army to the South. Again, said Mr. S., I would ask, where was your regulars at King's Mount; and whether that achievement by the southern militia, did not give a turn to affairs, when General Washington was flying before the British armies? Immediately upon the decision of that battle, Cornwallis marched his army to the South. I know, said Mr. S., many a man who fought in that battle who is now poor and penniless. Sir, the conduct of the southern militia was beyond my praise. Had they waited until a regular army came to their assistance, the Southern States would have settled down as a British Province. And not only did their acts do much towards our independence—their example gave spirit and confidence to the people. These were his ideas

of the question. He thought these officers came here with no better claim, than any other class of individuals who made sacrifices, and rendered services, during the Revolution. There were thousands of individuals deprived of all they possessed, by the depreciation on the continental money. There were fathers and sons killed at their very doors—and of these we hear not a word. But here at this late day is a band of patriots, who come forward and declare that Congress entered into a compact with them, which has never been fulfilled. I say, said Mr. S. that these officers have no better claim than those other classes to whom I have alluded. He knew no reason why they should be relieved in preference. He knew of no plundering speculations in which others had not suffered as well as they. The history of those times, of the sufferings and privations of the southern people, had never been correctly written. While it was impossible to make up all the losses which had fallen, as the fate of war, upon the people of the whole country—he was against making a distinction favorable to one class in preference to another.

Mr. CHAMBERS said the honorable gentleman from South Carolina must pardon him for another remark. The honorable gentleman has said that the written histories of the events alluded to by him, are not accurate; his emendations are to go to the world, and will no doubt receive, as they are entitled to claim, great respect. A regard for the character of some of those concerned, and a wish to put their claims fairly before the public, induces me to correct an error, into which the gentleman has certainly been betrayed. He alleges that at Camden, the American troops ran away at the first fire; on what authority the gentleman has ventured this assertion, I know not; but this I do know, from an honorable man now living, and fully entitled to faith and credit, and who was an officer in the Maryland line, engaged in that battle, that there was a close, and warm engagement for fifty-four minutes. 'Tis true my informant did not say how many rounds were fired, but Sir, if the battle continued fifty-four minutes, and but one fire was exchanged, the extraordinary character of that fact, could not well have escaped the very marked attention of military men, and have given celebrity to the battle of Camden, for at least one circumstance that has not been usually associated with its history.

Mr. ROBBINS rose, and spoke to the following effect:

In speaking to this subject, I shall speak only to the legal obligation, if any, of the United States, in this case. For though I do not agree with the honorable gentleman from North Carolina, (my friend, if he will permit me to call him so,) that appeals in this case to the gratitude and magnanimity of the nation, imply the absence of legal obligation, or the apprehension of that absence; I do agree that this question is not to be determined on those appeals, nor to be influenced by them, any further than as they are sustained by that obligation. I am the more anxious now to speak to that point, as it has been more particularly challenged by the learned and able gentleman from South Carolina, who has just taken his seat.

The legal question I take to be this—whether supposing the commutation not to be equal to the half pay for life, the United States are under an obligation to make good the difference; an obligation either legal or equitable; for as to Government, there is no difference between the legal obligation and the equitable; both have the same common foundation in justice; their difference is only a difference of forms; and these forms belong to courts, not to governments.

I begin this inquiry by saying, that the act of 1780, providing half pay for life for the officers of the revolutionary army, who should serve to the close of the revolutionary war, became a contract with those officers who did serve to the close of that war. The proposition made



SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 29, 1838.]

to them in that act, was a conditional one; and when the proposition was accepted, and the condition was performed on their part, it became a contract on the part of the United States, strictly and technically so speaking—a contract with those officers, not as a body, but with each individual officer. In 1783, when the treaty of peace was concluded and ratified, these contracts were perfected and perfect, and became from that moment obligatory upon the United States; and are still obligatory, unless they have been rescinded by each individual acting for himself. For several parties to several contracts, cannot rescind those contracts for one another; nor can a majority of all those parties rescind them for all. The idea is preposterous.

If these contracts have been rescinded, it must be, I repeat, by the individual assent of each officer to the rescinding act, whatever that act may be. If that assent has been given, I agree it is not material in what form it was given; nor whether by words or by acts; whether expressed in the former, or implied by the latter: but the fact of the assent, and of the individual assent, is material.

Now as to the evidence of this assent. The votes of the army lines, determined by majorities in those lines, is not evidence of individual assent; not even in those majorities; for it is impossible to say who voted in those majorities; and who did not vote in them; it is impossible, therefore, to bring home the assent to any one individual in particular. And there is no pretence, to say that these votes were unanimous. Had they been unanimous, it would have amounted to the requisite proof, as to each individual; but they were not unanimous; and the proof is that the votes were reported to Congress as majorities merely; a majority of the whole, certainly is not the whole; regarding, then, the votes of these majorities as not being evidence of individual assent—what evidence of individual assent remains?

It is said that the acts of these officers imply this assent; that in point of fact they did accept of the commutation notes, given as a substitute for half pay, and did receive them in lieu of the half pay; that this was implied assent, and was individually given. All this is very true, and would be quite conclusive against the officer, if this assent was voluntary. Here is the turning point of the whole case. If this assent was voluntary, it was conclusive against the officer; but if it was compulsory, it was not conclusive. How was the fact?

If this alternative had been presented to the officer—here, take these commutation notes, or take your half pay for life; and he had taken the commutation notes, the acceptance would have been conclusive upon him, because then it would have been voluntary. But this alternative was not presented to him. The alternative presented to him was this—here, take these commutation notes, or take nothing—yes, or take nothing. That this was the alternative is evident; first, because Congress supposed, and acted upon the idea, that these officers had agreed to accept the commutation in lieu of the half pay; and were to be held precluded. Then in consequence of this supposition, because Congress had made and contemplated making no provision, either immediate or prospective, for satisfying these life annuities, in case the commutation notes should be refused, by these officers, or by any of them. The alternative presented, then, unquestionably was this—either take these notes, or take nothing. And surely an acceptance thus constrained, thus compelled, was not, and could not, be called voluntary. A constrained acceptance a voluntary acceptance! Why, it is a contradiction in terms. You might as well say that a release of a private debt for half its amount, was a voluntary release, and a binding discharge. No: as in that case, the debt would still be a subsisting debt, at least for the unsatisfied balance; so this obligation is still a subsisting obligation, unless the

commutation was a fair equivalent for the half pay. This question then arises—whether it was a fair equivalent; and if so, whether this equivalent has been paid up according to the terms of this contract. But upon these questions I do not propose now to speak. Both have been so clearly explained by the honorable gentleman who made the report, and by others in this debate, that if I made the attempt, I could not hope to shed upon them any additional light. I could but repeat what they have stated, and I fear I should but weaken what I repeated.

Mr. CHANDLER said he was no lawyer, and did not understand the nature of contracts. But he gathered from what had been said, that if any original contract was changed by the consent of the parties, it was still binding. It appears that a majority of the officers did accept the terms of the commutation, and that majority, in his opinion, swept away the original contract. And he looked upon the acceptance of the commutation certificates as a proof positive of their acquiescence in the terms proposed.—Otherwise, said Mr. C., I consider it binding on the claimants to show evidence that they did not vote for the commutation law. If that could be shewn, the case would have been made out.

Mr. SMITH, of Maryland. I remarked on a former occasion that the Southern lines never did vote. General Green never propounded the question to the officers under him—and when they returned home they were forced to accept the certificates.

Mr. WOODBURY observed, that there never was any proof of the acceptance of the law by the officers, with the exception of the Report of the Secretary of the Treasury. But, was it not evident that those who did not vote for the bill were those who were under thirty years of age? They were those alone who were to be injured by it. Besides it is well known that the senior officers had allowed the younger officers to go home on furlough, consequently they were not present when the vote was taken in their respective lines.

Mr. HARRISON said that the Committee had been placed in a very delicate position, as they were probably restrained by motives of expediency from proposing all that their feelings and wishes would have led them to recommend. Mr. H. felt this difficulty himself, and thought it necessary to explain his reasons for opposing the introduction of the claims of the soldiers into this bill. He hardly knew how to oppose a measure, of the principle of which he was in favor. The gentleman from South Carolina has said that he did not censure these applicants; but certainly he has questioned their right and their motives. But said Mr. H., the author of this plan was the Commander-in-Chief himself; one of whose letters I read yesterday, in which he reiterated again and again the promise of Congress to the officers of half pay for life—and in which he declares that it is not only right and just but the only means of keeping the army together. He would now read another passage of the same letter. [Mr. H. then read a passage of the letter of General Washington, in which he urged the measure, not on the ground of the necessities of the officers, but on the single grounds of economy and public benefit.] That this had been the opinion of General Washington after the war, there was abundant evidence.

Mr. H. said he regretted that the gentleman from South Carolina had contrasted the claims of the regulars and the militia. Their merits and services could stand by the side of each other safely. He agreed that the claim of the militia was a valid one, and it was not his fault, if it was not acknowledged. The gentleman from South Carolina was mistaken in many of the facts which he had stated; and Mr. H. would endeavour to correct them. The battle of the Cowpens was gained by regular troops. General Pickens was the commander of the

JAN. 30, 1828.]

*Surviving Officers of the Revolution.—Judicial Process.*

[SENATE.]

regulars, and he acted in this case, as in all others, with the utmost bravery and intelligence. Indeed, Mr. H. was of opinion that his share of the glory had never been awarded to him. He did not occupy the highest position, but he was always to be found at the post of danger. The militia at the Cowpens did all that was required of them; but distinguished themselves in no particular manner. [Mr. H. here read an account of the particulars of the battle.] He had heard a venerable officer doubt if ever a battle was fought before, in which the bayonets of the two parties were crossed; but that here it was the case, and the British were driven. The retreat to which the gentleman from South Carolina had alluded, was caused by circumstances beyond the control of the regular army. And that retreat had placed on high the name of Col. Otho A. Williams, who conducted it in a most masterly manner.

Mr. H. had never heard his friend from South Carolina, with so much dissatisfaction as on this subject. [He here made some allusions to the actions fought during that campaign, in reply to Mr. S., but the reporter has it not in his power to give the detail.] He would make one remark more in relation to the idea that the commutation being accepted, no further claim existed. They had no alternative. The government had no money to give them, and they were induced to take the terms offered. But had they, seeing that they were not paid an equivalent, taken the necessary means, the government would have been obliged to pay a much larger amount. For instance, they might have sold their claims to half-pay, instead of the commutation certificate. It could not be supposed that at a time when the half-pay was first offered them, they anticipated being forced to accept a less valuable consideration, when it is recollected that to this promise General Washington attributed the renovation of the army. In every point of view the army deserved the appellation bestowed upon it by him, of the patriot army; and Mr. H. felt regret that the appeal of these officers should have caused so much discussion, and had met with so much opposition. He felt deeply interested in this bill, and he had thought it his duty to correct the errors of his friend from South Carolina, because, in one of the affairs to which he had alluded, a friend of Mr. H.'s took a part, to whom he owed more than to any other person. But besides, he felt interested in preserving inviolate the fame of the heroes of the revolution, to whom he owed, in common with all, the gift of freedom, to which perhaps he might add, that his dearest friend died upon the field in those days of glorious peril.

Mr. BERRIEN said that he was desirous of stating his views on this bill; but the day was now too far advanced to justify him in troubling the Senate with further debate. He therefore moved that the Senate adjourn.

WEDNESDAY, JANUARY 30, 1828.

## JUDICIAL PROCESS.

On motion of Mr. KANE, the bill for regulating process in the Courts of the United States, in States admitted into the Union since 1789, was then taken up, and the question being upon the amendment offered by Mr. White to insert after the word "now" the words, "may be"—

Mr. WHITE said that some discussion had already occurred on the amendment offered by him, and as provisions were absolutely necessary in some of the districts, rather than embarrass its passage, he would withdraw his amendment.

Mr. ROWAN then rose, and in support of an amendment proposed by him, the effect of which was to take away the power of the Federal courts, to supervise and modify the process laws passed by the State legislatures, expressed himself at considerable length, alluding more particularly to abuses that had arisen in the State of Kentucky. He observed that the judges ought to be made to pub-

lish their rules, for in his State the people had only learned the nature of the rules of Court, by their operation, and when feeling their effect in the progress of their suits. He protested against the right of judges to alter, to annul, or to make laws, and desired to confine the Judiciary within its own proper orbit. He thought Congress was not wandering from its proper sphere, in passing laws which were not to be altered at the discretion of judges. It might be proper for courts to regulate and modify the mere forms; but this prerogative ought to be much guarded; for there never was a power delegated, which was not carried to its full extent by those in whose hands it was placed. It was difficult to get back power when once given; and here a transfer of power was contemplated which might be carried to a dangerous length, as it was in the nature of such grants to steal on gradually in an imperceptible manner, and in the end to defy all redress or retrenchment. If it was necessary, a law to regulate rules of court ought to be passed by Congress. This House was the laboratory in which laws were to be made. And if Congress did not choose to make these laws, let those of the States be adopted, which could easily be done, and would suit the desires of all. He believed the people were the best judges of their own interest, and of what would conduce to their happiness; and the happiness of the people was always the prime object of all governments. They certainly understood better what suited their condition than any central legislative power could do. The people in Kentucky were sore on this subject. They had long protested against the wrongs they had suffered; but being a single State, those evils were scarcely heard. It would be different, Mr. Rowan argued, when any number of the States were similarly aggrieved at the same time. Their remonstrances would then be heard, and heard effectually. What was the objection to the amendment proposed by the gentleman from Tennessee? Were the codes of the States too vulgar for the sublimated comprehensions of the Federal Courts. He could not conceive of such a distinction, for, although we had two separate governments, we had as yet but one people, and what the laws of one could effect, could be done by the laws of the other. It was a scandal that the States were not placed on a footing in law with an honorable gentleman. The confidence placed in them was not equal to that placed in an individual of good moral character; and it was supposed that the States were capable of partial conduct involving a degree of moral obliquity of which an honest man would scorn to be guilty. If the States could be depended on; if they could be trusted to enact process acts for their own people, why should not the Federal Courts be directed by them? Why should not the intellect which regulated the process of the State Courts be applied also to the regulation of the Federal Courts? There was generally as much gravity and industry in the legislatures of the States as in Congress, at least for the purposes to which their endeavors were directed. He hoped the *velo* of the House might be put upon this question. He did not believe that the framers of the act of 1789, intended that the Federal Courts should have supreme controul over process in the States from its incipency to its details. On these grounds he had proposed to amend the bill.

Mr. KANE said that he had hoped that this question would have been settled before the hour had arrived for the consideration of special orders. The measure was so essential to several of the new States that he was very desirous that it should now be disposed of. The gentleman from Kentucky had moved to strike out that portion of the bill which subjects the laws of process to the supervision of the Federal Courts. He (Mr. K.) thought the words ought to be retained. The gentleman had alluded to the difficulties which had arisen in Kentucky. But

SENATE.]

Judicial Process.

[JAN. 30, 1838.]

he considered that those difficulties arose from the fact that no such bill as this had been in existence. He thought it an error of the gentleman from Kentucky that he wished to apply the circumstances of former years to the present condition of things. What was the object of this bill? It was to make the process of the Federal Courts the same as those of the States. This was the general proposition. It did not give the judges power to make or alter process laws; but only the power of modifying them so as to make them consistent, so far as related to forms. He doubted whether any judge since the act of 1789, had undertaken to alter process laws of the States further than related to the forms. He hoped the bill would now be allowed to pass.

Mr. JOHNSON, of Kentucky, made a few remarks in support of the motion of Mr. Rowan. He considered that any measure which should directly or indirectly sustain the power of the judges of the Federal Courts, as now exercised in Kentucky, operated effectually to sanction the principle of tyranny and oppression, which caused the separation of this country from Great Britain. For himself, so help him God! he never would yield to judge or jury, acting under illegal forms, his constitutional rights.

Mr. WOODBURY moved to lay the bill on the table, but withdrew his motion at the suggestion of

Mr. VAN BUREN, who said that the question ought now to be disposed of. Six States were now waiting the result of the legislation on this subject. This was the second year which this subject had been before Congress, and he was very desirous that its decision should be no longer delayed; and it was quite certain that the bill could be disposed of at once.

Mr. V. B. then made some remarks in a very low voice, the whole of which were not heard by the reporter. He was understood to express regret at being forced into collision with the opinions of a gentleman for whom he had the highest estimation. The motion offered by the gentleman from Tennessee, had proposed to give the legislatures of the States the power of prescribing rules, still preserving the supervision of the Federal Courts. That proposition had been withdrawn, leaving the bill as it originally stood, proposing to put the new States on the same footing with the older branches of the Union.

Now, sir, said Mr. V. B., I sincerely regret that an attempt should have been made to change the system by a new proposition, the operation of which will be to place the new States on an entirely different footing. And I shall oppose such a measure with as much zeal as is shewn by the gentleman from Kentucky, in its advocacy. I have heretofore spoken of the difficulties experienced by those who first regulated the judiciary of the country. They were obliged to observe the various powers of the States—and they had therefore to avoid any measure which should change or infringe the then existing laws of each member of the Union. They could not do away the State laws, and it would be recollected that many of the then existing laws threw important obstacles in the way of the Federal Courts growing out of the English laws from which they had been adopted. They therefore took the laws of the States as they found them, and upon that multifarious basis, built up the Federal judiciary of the country. In one, two, or perhaps three instances only, had any difficulty occurred between the State powers and the Federal Courts. In Kentucky the ferment that at one time existed, had happily been quieted. The only difficulty in that State had been that the rules of court originated with the Federal Court, instead of emanating, as they should have done, from the State legislature, subject to the supervision of the Federal Judges. But, said Mr. V. B., I think my friend from Kentucky is in the wrong. It appears to me that it was the duty of the State legislature to have adopted rules; and if they did not establish them, it was their own fault.

The Courts, in the performance of their duties, finding none, were forced to make rules to govern their process. The gentleman from Kentucky has adopted a mistaken idea in supposing that legislation could be exercised in matters pointed out by the constitution as coming peculiarly under the province of the Supreme Court. That Court adopted the State laws as far as was practicable; and they could go no farther.

It was admitted, that in the formation of the Federal Courts, the best system that the nature of things would allow, had been adopted; they could not have framed a better plan. It could not be done now. He was very desirous that the bill should pass as it came from the committee; as he thought no State had reason to complain of the law as it now stands.

Mr. ROWAN would detain the Senate but a few moments. He did not agree with his friend from New York, as to the necessity of keeping up the present system, or in the opinion that it was the best that could be framed. That gentleman argues that there is a necessity operating, which in certain cases may involve the laws of a sovereign State. Has that necessity existed for half a century? Is it from that cause that the gentleman argues that, in a time of profound peace, we are forced to cherish a germ of poison within the bosom of the country? If discretion must be given, I ask whether it is not safer in the hands of the million and a half of freemen in the State of New York, than intrusted to the judges of the Federal Courts? If this matter must be trusted to somebody, is it not better to place it in the hands of the people themselves, than in the discretionary power of two or three individuals, who may be strangers to the interests and welfare of the people of the State?

The laws were not made to be unalterable; they were not framed never to be revoked. And now, when an opportunity offers to change what has produced such evil consequences, it is put off until a more convenient time. Agrippa-like, gentlemen looked forward to the more convenient season to take hold of this all important subject. I ask again, said Mr. R., if it is not more safe for the judges to agree to the views of the people of the State in which they preside, than by any arbitrary laws framed by themselves, to destroy public confidence, and injure local interests. Will you trust the confluent intellect of a million of citizens or the isolated opinions of two individuals? The latter has already given rise to contests of the most serious nature; and I say, if you have not time to frame a code to embrace all points, I am for adopting the codes of the States. For, although we are but one people, we have two governments, and the local laws of this people ought not to be neglected. To the general government they are liege subjects, without thereby losing sight of what is due to State rights. They fight your battles; they contribute to your wealth, yet they will not yield their rights to the general government. You may send out your viceroys to make laws; but a perfect code will never be framed, until the rules of court be made to rest upon the concentrated discretion of the States themselves. And he did not fear to say, that there was as much virtue and integrity in the State legislatures as in the general government.

Feeling the kindness and courtesy of the gentleman from New York, and fully reciprocating the respect and esteem which that gentleman had expressed toward him, Mr. R. regretted that they should differ so widely. The gentleman from Illinois would excuse him for delaying the present consideration of the bill, by moving to lay it on the table, in order to give time for its full investigation. He would barely remark, in conclusion, that his object was not precisely the same as that of the gentleman from Tennessee [Mr. WATTS] but was enlarged so as to embrace all of the States.

The bill was then ordered to lie on the table.

JAN. 30, 1828.]

Surviving Officers of the Revolution.

[SENATE.]

## SURVIVING OFFICERS OF THE REVOLUTION.

The bill for the relief of certain surviving Officers of the Revolutionary Army was then again taken up for consideration. In support of this bill,

Mr. BERRIEN addressed the Senate as follows: I have, said he, hitherto abstained from taking any part in this debate. Having satisfied myself that the memorialists have a claim on the justice of this Government, founded on the most rigorous legal principles that can be invoked for the decision of questions of private right, sustained and enforced, if such support were necessary, by that high and ennobling feeling of gratitude for meritorious service, which ought to distinguish us as a nation, and which, as individuals, we should be proud to cherish: having listened to the very lucid and impressive exposition of the subject, which has been given by the Chairman of the Committee, I have not heretofore permitted myself to believe, that this measure was fated to encounter the opposition by which it has been recently assailed. Even now, when under the influence of feelings thus called into exercise, and yielding to the wishes of my associates, I present myself to the notice of the Senate, I entreat gentlemen to believe, that it is in the discharge of my duty, as a member of the Committee, that I am induced to make even this brief trespass on their time.

I owe it to myself to make one preliminary remark. Educated in feelings of deep and habitual reverence for those illustrious men, by whose exertions, under Providence, this great Republic was ushered into existence, I have nevertheless silenced their suggestions, in the decision of this question. I came to its consideration with a perfect and unchangeable conviction, that, to entitle these memorialists to the allowance of their claim, it was necessary to do something more than merely make out a case, which should appeal to the gratitude of the American People, however meritorious and brilliant the services on which that appeal was founded. The claim was upon the Public Treasury of that People, preferred to agents of limited authority, who must allow or reject it, in the exercise of their constitutional functions, not under the influence of individual feeling. I presume not to question the motives of any Senator, who may differ from me, when I say, that we are not the almoners of the American People, the dispensers of their charity, but agents, with limited powers, entrusted with the control of the public purse, for the sole purpose of applying it to the current exigencies of the Government, in the advancement of great principles of public policy connected with the exercise of powers substantively conferred upon us, and in the discharge of individual claims arising from our own, or the engagements of our predecessors. I am very well aware, that this limited construction of our powers will often be productive of embarrassment; that many cases will arise, in which my feelings will strongly urge a more extended interpretation. In my view, however, it is forbidden, by considerations higher even than charity, by considerations of fealty to the Constitution, which we have sworn to preserve.

If I err, then, on this occasion, it is from my incapacity to estimate a claim of mere right, to determine an ordinary question of *metum* and *timor*, on the principles of that science, to which I have devoted (negligently, if you will, Sir, but still with some little ardor, however transient,) the best years of my life. Why should I repress the expression of the feeling which rises unbidden to my lips? The proudest privilege which that profession has ever accorded to me, is that which I this day enjoy, of vindicating, on this floor, under the clearest convictions of my judgment, the claim of these gallant veterans upon the justice of the country.

In the formation of my opinion on this subject, I have excluded every consideration of the character of the service on which this claim is founded, of the individual or

collective merits of those who performed it. For all the purposes of this inquiry, that question is *res judicata*. It has passed into judgment by the decision of our predecessors, in the Congress of 1780, and 1783. The claim is of record, and the single question for our determination, is, whether it has been discharged.

While, however, in order to exclude from this inquiry every consideration which does not legitimately belong to it, I abstain from speaking of the character of the service, which it is the object of this bill to compensate, with any view to invoke your gratitude in aid of your justice, I cannot listen in silence to observations, of which the tendency, however unintentional, is to diminish the just estimate of its value. I present this as a claim of right, resting in contract, and having the character of an express conventional obligation. But, if gentlemen will look behind that contract, to the consideration on which it is founded, for the purpose of instituting an unfavorable comparison between these memorialists, and those of their companions in arms, although I cannot be tempted to say aught which may detract from the merits of the latter, it is my right, it is my duty, to defend those who have defended us; to rescue from all unfriendly judgment, the hard earned reputation of those gallant men, who breasted the storm in the perilous struggle of our Revolutionary conflict. If I could shrink from the performance of such a duty, I should be faithless to the best and purest feelings of my heart. That eye is forever dimmed, whose living, indignant gaze, I could not brook, if I were thus recreant from the claims of nature and affection.

Sir, is it at this day a question, whether those gallant men, whom Washington so often led to victory and renown, with whom he so often shared privations and sufferings, infinitely more trying to the spirit of the soldier, than danger in its most appalling form; is it at this day, a question, whether they have or have not deserved all that a grateful country can bestow? Fifty years have rolled on amid the annual recitals of their achievements, while they themselves have, for the most part, passed away, leaving to us the rich legacy of their heroic deeds. Sir, the reputation of the Revolutionary patriot is the moral treasure of the nation. In ages yet to come, it will constitute that nation's strength.

I repeat the declaration, I do not found the claim which I am now advocating before you, on the consideration that it was dearly, nobly won. I do not assume for these memorialists any pre-eminence of merit over their companions in arms, or their fellow-laborers in the councils of that dark and trying hour. I can turn with an enthusiasm as glowing as that of my respected friend on my left, to the brilliant scenes of Bunker's Hill, of Bennington, and of King's Mountain; to those illustrious men, who led our militia to victory in many a stormy fight; ay, and to the militia themselves, whose individual valor has often snatched victory from the disciplined phalanx which opposed them. I can deplore the mutability of fortune, which the victor of Burgoyne was destined to experience on the plains of Camden. But, I am a Southern man; and need I remind him that some of the most brilliant scenes of our Revolutionary strife were exhibited in the campaign of the Carolinas, under the auspices of Green, emphatically denominated the second savior of his country? Sir, while I cheerfully accord the meed of merited praise to Sumpter, and Marion, and Pickens, I cannot forget that Wayne, and Lee, and Howard, and Williams, and Morgan, and Moultrie, and a host of other worthies of the regular army, were foremost in the struggle of Southern strife.

But, why this unprofitable comparison, between the merits of the regular army and the militia, in the war of the Revolution? Why disturb the repose of the tomb, or mantle the cheek of the survivors with the glow of honest indignation? The reputation of both is the com-

SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 30, 1828.]

man property of the country. Is it our interest to diminish either? The effort would be as gratuitous as it would be unwelcome and unjust. I will proceed to state, as briefly as I may, the legal view which I have of this claim.

In May, 1778, Congress passed a resolution promising to give seven years' half-pay to officers, who were then in the army, and should so continue until the end of the war. In October, 1780, they resolved that all officers, who should continue in service until the end of the war, should be entitled to half-pay during life, to commence from the time of the reduction.

Here, for a moment, let us pause. The present memorialists were embraced in these resolutions. They were officers of the American army, and served with fidelity until the close of the war. With them, these resolutions, that of 1780, particularly, constitute a contract, a promise that they should receive half their regular pay, during their lives, on the performance by them of the stipulated condition. That condition they have performed, and the contract has become absolute on the part of the Government. The single question for our inquiry is, Has it been fulfilled? Unless this can be affirmed, its obligation remains, however successfully you may resist its enforcement, by applying the statute of limitations as a bar to the remedy, or by the exercise, for any other cause, of your power to refuse this application.

Has this contract been fulfilled? How—in what manner has it been fulfilled? In March, 1783, Congress resolved that these officers should be entitled to receive five years' full pay, in money or securities, at six per cent. per annum, as Congress should find most convenient, instead of the half-pay for life, promised by the resolution of October, 1780, under certain provisions to which I will hereafter advert more particularly. The confederated Government was then without funds, and without the means of raising them otherwise than by the contributions of the States. Nevertheless, the certificates were issued to the officers, in 1784, for the amount of this commutation and their arrears of pay, and as well in that year as in 1783, Congress resolved that requisitions should be made on the several States, to provide funds for the discharge of the demands of the army. But, these requisitions were not complied with by the States. The inevitable consequence was, that the certificates fell to about one-tenth of their nominal value, and at this depreciated rate, the necessities of the officers compelled them for the most part, to dispose of them. Then came the funding act of 1790. The arrears of interest were funded at three per cent. instead of six, and payment of one-third of the principal was deferred for ten years, without interest.

Upon this state of facts, my proposition is, that the original contract of October, 1780, is still subsisting and obligatory upon the Government; that payments made under the resolution of 1783 are applicable to it as credits, but cannot be pleaded in discharge.

Those who deny the continued subsisting obligation of this contract, must affirm one of two things. Either that the resolution of 1783 became obligatory upon these memorialists, by their acceptance of it, as a substitution for the contract of 1780, and by the performance on that part of the Government, of its stipulations; or that the certificates issued and received in 1784, were, of themselves, and independently of the resolution of 1783, a sufficient satisfaction of the contract of 1780. The latter ground has not been taken by the opponents of this bill. It is too obviously indefensible to be maintained. It will suffice, therefore, to direct our attention to the inquiry, whether the resolution of 1783, and the subsequent transactions between the parties, are sufficient to discharge the contract which it created?

On this subject, I maintain these positions:

1. That the propositions contained in the resolution of 1783, never were obligatory on these memorialists, be-

cause, after the period limited for their acceptance, and within which time it is not pretended that they were accepted, they ceased to be obligatory on the Government, and reciprocity of obligation is of the very essence of such a contract.

2. That there was no acceptance of these propositions by these memorialists at any time—and

3. That the receipt by the memorialists of the certificates issued in 1784, cannot be pleaded in discharge of the contract of 1780.

Let us look very briefly at this subject in the first view. The resolution of 1783, which proposed the allowance of five years' full pay, instead of the half pay due by the original contract, expressly subjected it to this condition—that the election of the officers to accept it, should, in the manner specified in the resolution, “be signified to Congress through the Commander in Chief, from the lines under his immediate command, within two months, and through the Commanding Officer of the Southern Army, within 6 months from the date of the resolution.” It is unnecessary to enter into details upon this point. It suffices to state, generally, what is, on all hands, admitted, that the condition attached to the offer contained in the resolution of 1783, was not, in fact, performed by those to whom the offer was made, within the time prescribed. At the expiration of that time, it ceased to be obligatory upon the Government. The contract between the parties was in precisely the same condition as if the resolution of 1783 had never been passed, and consequently the contract founded on the resolution of 1780 was in full force and operation. An ineffectual attempt had been made to substitute for the original contract one, the terms of which were specified in the resolution of 1783—but the failure to accept those terms in the manner, and within the time prescribed in the offer, necessarily prevented its consummation. No legal obligation could attach to the party making the offer, because of the failure of the party to whom it was made to accept it, according to the specified terms. Each party was therefore remitted to his rights as they existed anterior to this unsuccessful attempt to modify them. I submit to my professional associates on this floor, whether this would not be the legal effect of such a state of things between individuals; and to all, the inquiry, whether this Government can, with propriety, absolve itself from the obligation of those principles, which, through its judicial department, it would enforce in transactions between its citizens.

I maintain, then, that, on the failure to accept the offer made by the Government in 1783, on the terms, and within the time prescribed, the resolution containing that offer became *fundus officio*; that the original contract between the parties still subsisted, unaffected by this unsuccessful attempt to agree upon a substitute; and that all subsequent transactions between them, in the absence of express individual stipulation, are necessarily referrible to this as the only subsisting contract.

I have said that there was no acceptance of the offer contained in the resolution of 1783, within the time prescribed for its acceptance, and, consequently, that it was not binding upon the Government; and if not binding upon the party making the tender, certainly not so upon the party to whom the tender was made, since reciprocity of obligation was of the essence of such a contract. I now assert, that the acceptance of this offer by those to whom it was addressed, within the time, and in the very terms specified in the resolution, would not have operated as a legal bar to the claims of these memorialists. The contract entered into by the United States with the officers of the Revolutionary Army, the terms of which are set forth in the resolution of October, 1780, was a contract with the several individuals described in that resolution, which gave to each of them an individual right to half pay during life—of which right he could only be de-

JAN. 30, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

prived by his own free consent, on the receipt of a fair equivalent. I inquire of gentlemen of the profession, if this proposition can be denied? If the individual right of an officer thus acquired by this resolution, could have been surrendered by the conjoint act of every other officer in the American Army, without the individual assent of that officer? I presume no one will assert this as a proposition capable of being maintained on legal principles. It might as well be affirmed, that the release by a majority of the officers of their right to their regular and current pay, would have operated to discharge the claims to such pay, of those who did not concur in their lease. But, if I am right in contending that the contract of 1780 could only be released by the individual assent of those with whom it was made, then I maintain that the resolution of 1783 was, from its very terms, incapable of becoming obligatory upon these memorialists. It was not addressed to them. They could not become parties to it in the only character in which their acceptance of it could have operated to discharge the contract of 1780. It was addressed to the lines and corps of the army. If it had been accepted in time, and in conformity to its own precise terms, it would still have been a contract between the Government and those officers of the army who accepted it—not between the Government and the individuals of which that army was composed—and could no more have affected the rights of those individuals than it could have influenced your rights or mine. Unless, then, it can be successfully asserted that the act of a majority of the officers of any line of the army, without any specific authority from the individuals comprising that line, can operate to release the rights of those individuals, it cannot be pretended that the acceptance which is relied upon, even if it had been made within the time prescribed by the resolution of 1783, could have operated to release the obligation imposed upon the Government by the resolution of 1780. If this could be, it would follow that the right of an individual, resting on the plighted faith of the Government, might be divested without his consent. Who is prepared to affirm this proposition? In despotisms, sir, the subject reposes on the word of Majesty—and, in general, reposes securely; because the honor of the Throne is the interest of the Throne. In Republics, the free citizen places his reliance on the principles of justice, which emphatically belong to such a Government. But if it can substitute its own will for the obligations which it has assumed to the individual, and coerce that individual by the acts of those to whom he had delegated no authority to represent him, the difference between these Governments is but in name, and its practical operation is to his disadvantage.

I repeat, then, that, up to the issuing of the certificates in 1784, the original contract, created by the resolution of October, 1780, remained unimpaired and unchanged; that neither the resolution of 1783, nor the agreement by certain lines and corps of the army to accept the proposal it contained, could operate to divest the rights of these memorialists, as derived from that original contract. These remained unchanged and unchangeable, except by their own consent, freely given, and for a fair equivalent. We may refuse their allowance; but it must be—I speak it with great respect—by a perversion of the principles of justice. We may presume the acceptance, by these memorialists, of the offer contained in the resolution of 1783, and require them to negative the presumption; but it must be—I speak it with great respect—by a perversion of the rules of evidence. Will the Government of the United States avail itself of its power to do this, in this its own peculiar forum? And against whom? Against the war-worn veterans of the Revolution—your champions in the day of their strength—suppliants before you now—not for charity, but for justice, in the season of their poverty and decrepitude.

VOL. IV.—14

We have thus traced this inquiry up to the period of the issue of the certificates in 1784; and now this question presses itself upon our attention: Assuming the fact that these memorialists were among those who accepted those certificates, did not such acceptance operate as a ratification of the proposal contained in the resolution of 1783, and a release of the contract of 1780? The answer to this inquiry will be found by considering these questions:

Was the acceptance voluntary?

Did the Government pay a fair equivalent?

Were these certificates received on account, or in full satisfaction?

No one will pretend that the constrained and involuntary acceptance of that which was not a fair equivalent for the stipulations of the contract of 1780, could, either at law or in equity, be considered as a release, or discharge, or satisfaction, of that contract. The questions recur. Let us look to the situation of the contracting parties, at the moment when these transactions occurred. That examination will prove that the issue of the certificates, as well as their acceptance, were alike acts of necessity on the part of the Government and the officers. At the moment of passing the resolution of 1783, promising the half pay for life, the Confederate Government, exhausted by the Revolutionary struggle, and entirely destitute of funds, and of the means of commanding them, relied upon being enabled to comply with their engagements, by requisitions upon the States. These requisitions were accordingly made, and urged with great earnestness in the Summer of 1783. But the States themselves were not in a condition to meet the exigency. They, also, were in a state of exhaustion. It is difficult, at this day, to realize the extent of the exertions, the sufferings, and the privations of our forefathers, in the dark and trying hour of their struggle for the right of self-government, which we now enjoy. The requisitions were not complied with. The Confederate Government found itself without funds. It became necessary to disband the army. The officers had claims for arrearages of pay, and the stipulated half pay for life was to be provided for. While this question was pending, incendiary letters, clothed in language the most persuasive and seducing, had been circulated in the army. The officers were eloquently urged, by every consideration which could appeal to their feelings or to their interests, never to lay down their arms, until their demands were complied with. It was an hour of deep and awakening interest; but the patriotism of the army was equal to the trial. Their conduct was duly appreciated by the Congress of 1783. It was no longer a question whether the just expectations of such men should be satisfied to the utmost extent of the resources of the Confederation. The commutation for half pay was stipulated. Requisitions on the States were made and urged with the energy which belonged to the occasion; and, when these failed, Congress gave—it was all they had to give—the certificates of 1784. They were not given in full payment, in satisfaction, of the claims of the officers, in discharge of the obligations of the Government. They were expressive of the sense which the Government had of the services of the army; an acknowledgment of their actual inability to compensate them as they had stipulated to do. The very terms of the receipt which was taken, are strongly indicative of this. It was not a receipt in full, a clear and express acquittal of the Government of all demands upon it. No. It was a simple acknowledgment, in each case, of the mere fact of the receipt of the certificate—clearly implying that the question of final compensation was open, and subject to future adjustment. It could not have been believed by Congress that these certificates, not resting on any adequate funds for their redemption, could be considered as even a legal compliance with the engage-



SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 30, 1828.]

ments of the resolutions either of 1780 or 1783. They were aware that securities, thus issued, must be liable to constant and excessive depreciation. These views of the Government were common to the officers; but even the miserable pittance afforded by this depreciated paper, was demanded by their necessities, and they received them with a simple acknowledgment of the fact of the receipt, confiding in the justice of the Government for future and adequate compensation. I do not trouble you with a repetition of those calculations which prove the magnitude and extent of the losses thus sustained by the memorialists, from this operation; for they have been clearly and satisfactorily stated by the Chairman of the Committee, and cannot indeed be the subject of controversy. I speak not now of the loss sustained by the Officers, from the depreciation of the public paper, which, in common with the private soldiers, and with all classes of our citizens, they were destined to bear, and which they have borne without complaint; but of that which arose from the failure to comply with the stipulations of the contract of 1780, from the inadequacy of the allowance of five years' full pay, as a commutation for the half pay for life, and from the rigor and injustice, as it related to these memorialists, of the funding act of 1790.

Can it then be pretended that these certificates were given and accepted in full satisfaction of the claims of the officers—that they were voluntarily accepted—that they constitute a full and fair equivalent for the claims of these memorialists, under either of the resolutions so often referred to in this discussion? I do not ask if it was an equitable fulfilment of your contract? I inquire not if it was such a fulfilment, as it will comport with the dignity of a great, and free, and flourishing nation, to urge against the veterans in her Revolutionary strife, bending under the pressure of poverty and decrepitude? I make no appeal to your gratitude:—to those high and ennobling feelings which spontaneously swell in our bosoms, when our thoughts are thrown back upon that interesting struggle.

For all the purposes of declamation, the theme is most fruitful? but it is not my purpose to declaim. I inquire simply, and I address the inquiry particularly to my professional associates on this floor, if in law, or on principles of strict right, as between individuals, the acts done by the Government, and submitted to by the memorialists, can be considered as a discharge of the contract of 1780? The clearest convictions of my judgment, assure me, that they were not—that these memorialists have still a subsisting claim for half pay, subject to all fair deductions for what has been received—or at the option of both parties, to two years' full pay, with an allowance for the loss sustained by the failure to provide adequate funds for the redemption of the certificates, and from the provisions of the funding system.

But, here it is objected to the provisions of this bill, that the claims of the representatives of the deceased officers, as well as that of the private soldiers, and of the militia, are equally strong with those of the memorialists, and yet, are not provided for. There are various answers to this objection. In the first place, the supposed claimants are not applicants for relief. They have made no demand upon the Government; and have, thereby, afforded a silent, but emphatic evidence, of their own opinion on the subject. It will be time enough to announce our view of such a claim, when it shall be presented.

But I propose an inquiry to Senators by whom this objection is urged. Admitting, *argumenti gratia*, the equal claim with these officers, of the various classes referred to, is that an answer to the claim of the former? Because there are other classes of persons, who have just claims upon you, which have not been presented, are you absolved from the obligation to pay those, of which the payment is solicited? I thank God, Sir, this Government is now solvent and competent to the payment of all just claims upon its Treasury.

I propose another inquiry. Senators who so strongly and feelingly urge the claims of these other classes, are of course satisfied of their correctness. They cannot doubt the solvency of the Government, or the willingness of the American People to discharge all just claims upon them, especially those contracted in the war of Independence. Sir, that People are always in advance of us in those questions which appeal to their justice or to their liberality. Are those Senators willing to provide for those claims? Will they support the present bill, with an amendment which shall provide for them? If they will not, let the objection stand upon its real ground, which is co-extensive with every claim for Revolutionary service.

Let us, however, for a moment examine the character of these claims—and first, of those, of the representatives of deceased officers—Consider their claim to half pay, under the resolution of 1780. Half pay is in the nature of an annuity for life. It is designed by the Government for the comfortable support of the officer, and not as a provision for his representatives. It is agreed, however, that any arrears which may be due at the time of his death, constitute a part of his personal estate, and will descend to those representatives. But the half pay was limited to the life of the officer—and those whom these claimants represent are dead. When they died—whether the amount of half pay, to which they were then entitled, exceeded or fell short of that sum which they had received, in the certificates issued in 1784, are questions which you are not prepaired to determine; and your inability to do this, furnishes no excuse for postponing the just claims of others, who still survive, and are consequently still entitled.

Then consider it upon the footing of the commutation, under the resolution of 1783, and the discrimination is still stronger in favor of the present memorialists.

The Congress of 1783 fixed upon five years' full pay, as a commutation for half pay for life. How was this done? To junior officers of the army—to men between twenty and thirty years of age, it was manifestly not an equivalent. A reference to the annuity tables, and the reflections of every one who hears me, will convince us, that they were entitled to full pay for a longer term of years? that, in the ordinary calculations of human life, they were authorized to expect a prolongation of it, beyond the term which was assumed in the estimate. For the senior officers of the army—for those of forty five years and upwards, the estimate was, perhaps, too large—it was probably more than an equivalent for half pay for life, calculating the probability of its duration in their case, in the same manner as in that of the junior officers. What then was the principle adopted in making the estimate? It was by taking a single life, the age of which was ascertained by the average of the ages of all the officers of the army, and calculating its probable duration, as the measure of the projected commutation. Now, the Chairman of the Committee has satisfactorily shown, by a reference to the most approved annuity tables, that, even on this assumption, the commutation actually allowed was too small. But that is not the point of the present inquiry. The complaint of the junior officers is this: that the amount of the commutation, to which they were entitled, was diminished, and that of the senior officers was increased, by assuming an average. In truth, the only fair principle on which such commutation could have been regulated, would have been by establishing different rates of allowance for different ages, and then applying them according to the state of the fact, when the certificates were issued, in the same manner in which annuities for life are converted into sums in gross, in transactions between individuals. Instead of this, the junior officer was deprived of a portion of the benefit of the prolonged life, which he was authorized to expect, which was given to his senior. It by no means, therefore, follows, that, because the claims of these me-



JAN. 30, 1828.]

Surviving Officers of the Revolution.

[SENATE.]

memorialists, who were among the juniors of the army, are sustained on the ground that they did not receive an equivalent, that a like claim exists in behalf of the senior officers, or their representatives. On the contrary, although the commutation, on the average assumed, was inadequate, it is a very reasonable presumption, that, to the senior officers, it was a fair equivalent. It is in right of these senior officers, that representatives would, for the most part, claim—and to them, therefore, in general, this answer might be safely and justly given. Many senators may recollect individual instances, which will seem to be variant from this view; a closer scrutiny will, however, show that they are exceptions, which do not conflict with the rule; and that they do not exist to any important extent.

It is thus, then, that these memorialists distinguish their case from that of the representatives of the deceased officers. That they were among the junior officers of the American army is proved by the fact, that they are, at this day, applicants at the bar of an American Senate. They tell you, that, in settling the commutation allowed, you took from them, to give to their seniors, without their consent, in the only way in which that consent could have been given, namely, by their individual voice. They tell you, that the acceptance of that commutation was by their seniors, who derived a benefit at their cost; and they deny that the allowance of their claim, now, to what was then taken from them to be given to those seniors, can constitute the basis of a claim on the part of the representatives of those seniors to a similar allowance. In truth, Sir, it would seem that all to which those representatives would make any claim would be to the amount of the loss sustained by the short funding of the certificates, under the act of 1790.

The claim of the memorialists would be either for the arrears of their half pay, deducting what was realised from the certificates, or to the difference between five and seven years' full pay, with simple interest, and to the amount of the loss sustained by the funding.

The deficiency of the commutation, with simple interest, would amount to - \$ 534,000  
One year's full pay, by short funding and simple interest, to - \$ 175,000

It is only to the latter that the representatives of deceased officers could make claim, on the principles, and subject to the conditions, which I have attempted to explain.

It is objected that this bill contains no provision for the private soldiers of the American Army, and Senators have spoken of them in terms of well-merited eulogy, which it would be delightful to hear, if it were not pronounced in opposition to the just claims of these memorialists. But the discussion is wholly gratuitous and irrelevant. The character of the service rendered by the American officers was determined by the Congress of 1780 and 1783. They adjudged it to be faithful service, and they stipulated to reward it by a specific compensation. The memorialists ask from you, in the discharge of your constitutional obligation, the performance of that stipulation. Whatever may be the claims of the American soldier on the gratitude of the country, and it is cheerfully admitted that they are founded on distinguished valor, and the purest patriotism, unless they can shew the contract of the Government, their claim is on its gratitude, but they cannot appeal to its justice; and the effort to assimilate it to the claim of these memorialists is merely nugatory.

But, independently of your contract with the officer, would the analogy contended for exist? The soldier received a bounty on his enlistment, and was clothed by the Government, by whom the depreciation of the purchase money was borne. The officer, out of the monthly stipend which was paid to him in this depreciated currency, was compelled to provide for himself. Your con-

tract with the soldier has been complied with on its face. Nevertheless, you have made a distinction in his favor in your pension law. The soldier has received land, bounty, pay, pension. What have you done for the officer? If he will approach you as a suppliant, in *forma pauperis*, you admit him on your pension list. But, when he presents himself before you as a claimant, and asks the fulfilment of your contract, you turn a deaf ear to his demand.

But the bill does not provide for the militia, and, therefore, it is objectionable. Sir, I am at all times willing to accord to the militia of the Revolutionary Army whatever distinguished valor and the loftiest patriotism can entitle them to claim. But, I repeat, this application is based on your contract with these memorialists. They do not urge upon you the pre-eminence of their services, or seek to disparage those of their associates in arms, who belonged to the militia. They ask the fulfilment of your contract with them. With the militia you have no such engagements. They were called into service by the States, by whom they were compensated, and the States have received an allowance for these disbursements in the general audit and adjustment of their accounts with the National Treasury. It cannot be, therefore, that the omission to provide for the militia can constitute a tenable objection to this bill.

Sir, the inquiry recurs: If provisions for all these various classes were included in the bill under discussion, would the difficulties of the objectors be removed? Or, are the claims of those classes urged upon us to give an alarming view of the magnitude of the obligations of the Government, and thus to defeat the present claim, without any view to ultimate provision for them? I apprehend the latter is the real state of the fact. I trust, therefore, that this discussion will not excite expectations which are too surely destined to be disappointed, and my earnest hope and desire is, that the Senate will decide the present application with a sole view to its own intrinsic merits. Whatever is due to justice, the Government is competent to perform. Whatever justly belongs to these gallant veterans, we ought to accord to them freely, promptly, and with gratitude.

But the appeal of these memorialists is not addressed to our gratitude; it is a claim upon our justice. The demands upon the former, it is beyond our power to cancel. The claims upon the latter, we are competent to fulfil. These veteran soldiers do not—it cannot be too often repeated—they do not come before us as suppliants for our charity. No, sir; struggling with adversity, bending under the weight of years, they still retain enough of the sturdy independence of their youthful spirit, to avoid this humiliation. They claim the fulfilment of a contract. They demand, respectfully, but earnestly, the award of justice.

Sir, let it be the honest pride of this Government *sum cuique tribuere*. Render to every man his due; fulfil your plighted faith; redeem the solemn pledge which you gave at a moment, when, besides that pledge, you had nothing else to give. Enable us to meet the little remnant of this band of heroes, who yet survive, the objects of their country's reverence, with a consciousness of having at least dealt justly with them.

Smooth their descent to the tomb, by giving to them the means of providing those comforts to which they are justly and of right entitled. Do not allow the sense of their country's persevering injustice to give an added pang to the last struggles of expiring nature. Be just, and fear not. The universal acclaim of a grateful People will consecrate the act.

Mr. COBB said, he asked the indulgence of the Senate for a short period, while he attempted, very briefly, to express his opinions, in relation to the measure under consideration. He felt himself constrained to oppose the

SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 30, 1828.]

passage of the bill. In doing so, he was conscious that he exposed himself to the charge of a want of feeling. This, however, should not deter him from discharging, in the best manner he could, what he conceived to be his duty. Or two former occasions, it had been his fortune to be exposed to a similar charge. He alluded to the bill granting pensions to the indigent officers and soldiers of the Revolution, and the bill making further provision for General Lafayette. These measures, like the one under consideration, were said by their friends to be required by both the justice and the gratitude of the nation. He had thought differently; and, upon the maturest reflection, he had never seen cause to repent of the vote he had given upon them. But in his opposition to this bill, he was equally conscious that he was not impelled by a want of a proper sense of the merits of the objects of it. He was sure that, in common with the whole community, he felt the liveliest gratitude for the services they had rendered, and the privations and sufferings they had undergone in the cause of liberty. Far be it from him, then, to say aught to their disparagement.

Mr. C. said, his opposition to the bill was founded in the opinion entertained by him, that it was required by neither the justice or the gratitude of the nation. Its advocates had supported it upon the principle that it was equally demanded by both. His colleague, [Mr. BERRIEN,] in his very eloquent and impressive argument, had declared that he considered it an act of mere justice; and the whole tenor of his remarks, if I comprehended them rightly, seemed to be, that the provision made by the bill, was one to which the Officers of the Revolution were entitled as a matter of right, and in the fulfilment of the most solemn obligations arising out of the pledged faith of the old Congress. Others seem to place it upon a different foundation. They do not claim it so much as an act of justice, as of national gratitude. As he had just remarked, he believed that it was demanded by neither the one nor the other. He thought it improper and impolitic, notwithstanding the very imposing circumstances under which it was brought before the Senate. The measure was recommended by the President of the United States, in his message at the opening of the present Congress, and seems to receive the warm support of gentlemen of great weight of character and talents, and who are known to be the fast friends of the present Administration. Insofar as such a recommendation and support can make it so, it must be considered as an Administration measure. But it is also advocated by gentlemen of equal eloquence and talents, who are believed to be leading individuals in the Opposition to this Administration. So great has been the zeal and ability displayed by each party in support of this bill, that it will be difficult, hereafter, in case of its passage, to determine to which of them shall be awarded the merit of having procured it. Mr. C. said, he knew not to which party, the Administration or the Opposition, he might be said to belong. Entertaining the opinions that he did upon a great many subjects, he feared he would be claimed by neither the one nor the other. But upon that subject he was not at all uneasy. He must confess, however, that he felt the delicacy of his situation, on the present occasion, in having the temerity to venture into conflict with such an array of talents of all parties. He could hardly hope for success in a contest with either of them—much less could he expect to be victorious against the fearful odds of their united forces; yet, in defence of his honest convictions of duty, he would make an effort with such weapons as were ready to his hand.

What, then, he would inquire, is the measure under consideration? The bill proposes to distribute \$1,100,000 among the surviving officers of the Revolution. What is the exact number of such survivors, whether one, three, or five hundred, is not known, and, consequently, it cannot be known what sum will be given to each.

And here, Mr. C. said, he would take occasion to remark, that some of the friends of the bill seemed to speak of this amount of \$1,100,000 as a very small thing—as an inconsiderable sum, not requiring much consideration as to the manner in which it should be disposed of. To be sure, said Mr. C. to borrow an expression which he believed he had first seen in some farce—\$1,100,000 is “neither here nor there.” That is, it was neither in his (Mr. C.’s) pocket, nor in the pockets of the advocates of the bill—so far it was a matter of no consequence. But he feared that, when the accounts of the year came to be settled up, such a disposable amount would not be found in the pockets of the Treasury, and more especially if the statements made by some of the members of the Committee on Finance, when the bill making appropriations for the Revolutionary Pensions was under consideration, be correct. He would infer from those statements, if he understood them correctly, that the Treasury was not overflowing with superabundant means. The committee who reported the bill under discussion appear to have been aware of this fact themselves; and, therefore, they have so framed it as not to distribute that amount in money, but to provide for the issuing certificates of stock to the amount of \$1,100,000. This gets over the difficulty of the want of money, to be sure; but it does so, by increasing the public debt to that amount, in a stock redeemable at the will of the Government. He thought that such a provision would in the end prove to be an ingenious piece of machinery, contrived to divert that amount of the sinking fund from its legitimate object, to wit: the extinguishment of the existing debt.

Mr. C. said, he would now proceed to an examination of the justice, the strict justice, by which it is contended the Senate should be influenced to the passage of this bill in its present shape.\* Gentlemen contend that the Government entered into a solemn contract with the Officers of the Continental Army of the Revolution, which has never been fulfilled. Let us examine this matter, and see how it really occurred.

On the 21st of October, 1780, the old Congress, acting upon the report of a committee to which had been referred a letter from Gen. Washington, among other resolutions having relation to the organization of the Army, adopted the following: “That the Officers who shall continue in service to the end of the war, shall also be entitled to half pay during life, to commence from the time of their reduction.” It is believed that this is the contract which constitutes the foundation of the claim now made on behalf of the officers; and certainly, if no change had been made in it, the old confederated Government, and subsequently the Government as now organized, would have been bound to fulfil it, by allowing the stipulated half pay for life. But it would appear that the measure was by no means a very popular one. It met, as would presently be shown, with the most serious objections. It was said that great discontent existed as to the manner in which the officers were to be rewarded. There were strong prejudices expressed against the half pay system. That such a system seemed to belong peculiarly to monarchies, by which the monarch was enabled to attach the army to his own person. That it was somewhat in the nature of sinecures, &c.; and, said Mr. C. had I lived in those times, I should probably have entertained the same opinions—for they are certainly such as I now entertain.

These discontents and prejudices led to a reconsideration of the measure. And at whose instance? At that of the People, or the State Governments? By no means: but at the instance of the officers themselves. He had before him their memorial upon this and other subjects, a part of which he begged the leave of the Senate to read.

\* The bill subsequently was entirely changed in its provisions before its passage. As it passed, it is strictly a pension act.

JAN. 30, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

[See vol. 4, Journals of Old Congress, page 207.] "We are grieved," say they, "to find that our brethren, who retired from service on half pay, under the resolution of Congress of 1780, are not only destitute of any effectual provision, but are become objects of obloquy. Their condition has a very discouraging aspect on us, who must, sooner or later, retire, and from every consideration of justice, gratitude, and policy, demands attention and redress.

"We regard the act of Congress, respecting half pay, as an honorable and just recompense for several years' hard service, in which the health and fortunes of the officers have been worn down and exhausted. We see, with chagrin, the odious point of view in which the citizens of too many of the States endeavor to place the men entitled to it. We hope, for the honor of human nature, that there are none so hardened in the sin of ingratitude, as to deny the justice of the reward. We have reason to believe that the objection, generally, is against the mode only. To prevent, therefore, any alterations and distinctions which may tend to injure that harmony which we ardently desire may reign throughout the community, we are willing to commute the half pay pledged, for full pay for a certain number of years, or for a sum in gross, as may be agreed to by the committee sent with this address. And, in this way, we pray that the disabled officers and soldiers, with the widows and orphans of those who have expired, or may expend their lives in the service of their country, may be fully comprehended."

Mr. C. said he would not detain the Senate by reading further extracts from this document. He had read all that was necessary to shew that great objections and prejudices existed, and had been openly expressed, against the half pay system. That the officers themselves too plainly saw that it was about to bring upon them the hatred and obloquy of the community. To avoid this, and as they apprehended the "objection generally was against the mode only," they suggested that a commutation should be made of the half pay for life, for "full pay for a certain number of years," or "for a sum in gross."

It was upon this memorial of the officers, that Congress proceeded to discuss the subject, and, after rejecting many propositions, finally they adopted a resolution on the 22d March, 1783, [see 4 vol. Journals Old Congress, page 178, 9,] agreeing to make the commutation in the shape of a proposition to be submitted to the officers of the Army, by Lines and Corps, for their adoption or rejection. The proposition was to commute the "half pay for life," for "five years full pay," such "full pay for five years," was to be made "in money, or securities on interest at six per cent. per annum." These securities were to be such as should "be given to other creditors of the United States," and, finally, it was submitted to the "option of the Lines of the respective States," and not to "the officers individually, to accept or refuse the same." Subsequently, on the 31st October, 1783, it appears by the Journals that most of the lines of the several States, and many of the corps and individuals of the Army, not attached to any line, did accept the proposition for commutation, as thus tendered. It is true, there is no evidence that some of the Lines did accept. But it may be said, with equal truth, that there is likewise no evidence that any of them refused to accept. On the contrary, it seems now to be conceded that they all did receive the five years' full pay, and, therefore, it may with truth and propriety be said that they all accepted.

And here, Mr. C. said, it should be remarked, that the preamble to the resolution of 22d March, 1783, proposing the commutation, expressly recites that it is because the officers themselves "did solicit a commutation," that one was granted.

Thus far, Mr. C. contended, it would seem that the officers had no right to complain of any injustice. They had been promised half pay for life. They discovered that this made them odious in the eyes of the People. They solemnly and formally solicit Congress to commute it for full pay for a certain number of years. Congress granted their request, and submitted a proposition of commutation for their adoption or rejection. They agreed to accept in the manner proposed, and, subsequently, actually received the five years' full pay. In the whole transaction, as far as it has been examined, there appears nothing unjust, nothing unfair, nothing forced. So far from it, Congress only acted in accordance with their own solicitations. The commutation, then, was a fair contract, agreed to upon full and mature consideration, and in which the Congress constituted one party, and the officers the other party.

It has been said, however, that the contract for half pay for life was made by the Government with the individual officers, while the contract for "five years' full pay," in lieu thereof, was made with them collectively, and in a manner in which the voice of the individual officer could not be heard. This, Mr. C. said, did not, in his opinion, alter the case. It certainly gives no greater plausibility to the bill upon principles of strict justice. The manner in which the proposition for the commutation was offered, does not appear to have been objected to from any quarter. There is not only no evidence of the officers having remonstrated against it, but the advocates of the bill do not pretend that the officers objected to it at the time. There is not on record one petition, or memorial, or protest against it. Those surviving officers who are now at the Seat of Government, acting in behalf of themselves and their brethren, urging and watching the progress of this bill, have made no representations, and submitted no evidence, that they themselves, or any other portion of the officers, objected to the manner in which the proposition was submitted, or to the proposed commutation itself. The irresistible presumption, then, is, that all were content, all accepted, and were satisfied.

But, again, it had been urged, and with great force, by the Chairman of the Committee, [Mr. Woodbury,] that the commutation was inadequate, because it was not of equal value with the half pay for life; and, for the purpose of proving this, reference had been made to the annuity tables. Mr. C. acknowledged that he had but little skill in the calculation of the value of annuities; but he thought that he could demonstrate, that, at the time of the passage of the commutation act, there were persons engaged in it whose skill and capacity could not be doubted, and that the subject underwent a full and deliberate examination. It is known that Col. Hamilton, who so much distinguished himself, subsequently, as Secretary of the Treasury, was himself one of the officers of the Army; that he had resigned his commission and gone into Congress for the express purpose, as had been suggested to him, of advocating the claims of the officers. Of his ability to calculate the value of life annuities, no one could entertain a doubt. The Journals of Congress afford abundant evidence that he was an active member upon this subject. It appears that there was, in the report of the Committee who brought in the resolution, a blank as to the number of years of full pay to be granted. Col. Hamilton moved to fill it with "five and a half" years. This was negatived. Mr. Gorham then moved to fill it with "five" years, and this motion was agreed to, and the resolution passed in that shape. [See p. 167 of vol. 4, Journals of Old Congress.] Here, then, is abundant evidence that this very point of the adequacy of the proposed commutation was fully discussed and deliberately settled by those who well understood what they were about; and it seems that the only difference between them was about

SENATE.]

*Surviving Officers of the Revolution.*

[JAN. 30, 1828.]

"one half year's" full pay. Finally, Mr. C. said, on this point, he would say that it does not appear that the officers themselves, at the time, protested against the commutation because of its inadequacy in value. Even after they had, many of them, sold their certificates, at immense discounts, to the speculators, it does not appear that they complained that the Government had cheated them, or dealt unjustly towards them. But, had the commutation been deemed inadequate at the time, is it not probable that General Washington, their friend and father, either then or subsequently, when President under the new Government, would have remonstrated against it, or recommended additional compensation? Who can doubt his capacity to understand the subject, or his willingness to come forward and claim justice, if he believed any thing due them—in favor of his companions in arms, who had so often sustained him in the most trying times of the war? Yet, from the time of the adoption of the commutation act, to that of the termination of his administration as President, a period of fourteen years, it does not appear that he ever mentioned the subject.

The strong conclusion to be drawn from these circumstances, is, that General Washington, Col. Hamilton, and all others, then believed that the Government had done the officers ample justice; had given them all they had a right to claim, and, indeed, all that they had asked; that, in accepting the commutation, the contract with the Government was executed by both parties, and all the demands of justice fully satisfied; nor was it supposed that the subject could ever again be agitated.

But it is said that the commutation was not paid in money, but in certificates, which the necessities of the officers compelled them to sell at a greatly depreciated value. This was a point, Mr. C. said, which his colleague [Mr. BERRY,] the great advocate of the strict justice of the provisions of this bill, has not thought fit to press. But, as allusion had been made to it by others, he would make one or two remarks on it. He would not deny but that the commutation was paid in certificates, bearing an interest of six per cent. per annum, and not in money. The fact was, that the Government had no money wherewith to pay. But this was as well known to the officers themselves as to any others. Indeed, from the very words of the commutation act, it was announced that the Government had its option to pay in money or certificates—and knowing that there was no money in the Federal Treasury, the officers expected to be paid in certificates, and in nothing else. The Government had nothing else to give at the time. It gave the officers what it gave all its other creditors; and, by the terms of the act, they were to be placed on the precise footing of the other creditors. Yet they did not remonstrate or object, so far as could be learned from any evidence before the Senate. From the moment, then, that they accepted that which was agreed on and tendered, being all that they had a right to expect, and being that to which they did not object, the Government was legally and morally absolved from all obligation to them upon the score of justice, other than the redemption of these certificates, so soon as the means of its Treasury would permit. In the course of time, this was done; not, indeed, by the Government of the Confederation, but by that now existing under the present Constitution. So soon as it was organized, it made provision for funding these certificates, with all others issued upon the faith and credit of the former Government, and provided ample funds for their redemption. Those who held their certificates, then, received their full par value. Such of the officers as had retained theirs, then received, in money, the amount which had been promised them. It may be, as had been said, that the necessities of many of them compelled them to sell, before this period, at a greatly depreciated value. This was, indeed, unfortunate for

them. But no Government can provide against the necessities of its citizens, whether such necessities were the result of misfortune or imprudence. The Government paid as soon as it could.

But if the Government is bound to make good to these officers the loss incurred by the depreciation of their certificates, the same principles of justice would create a similar obligation to make good the loss incurred by all other creditors of the old Confederate Government, for the depreciation of their certificates. It would extend to the families of all the deceased officers and soldiers. It would extend to all certificates for whatever purpose issued. It would extend, with equal strength, to those who were paid in depreciated currency, during the late war. It was known to him, Mr. C. said, that the Georgia militia, in that war, were paid in a paper currency which, in Boston, could not have been sold for half its nominal value. It is also known that many persons were paid in Treasury notes, which, likewise, greatly depreciated in value. Surely, if a part of the creditors of the Revolutionary war was to be indemnified for their loss by depreciation, all the creditors of that war were entitled to a like indemnification. To indemnify these would require an immense sum. If to these be added the creditors of the late war, who incurred losses in the same manner, the whole revenues of the Government, applied to that sole object, for years to come, would be insufficient to satisfy the claims. Mr. C. asked gentlemen what they would say to a claim of this kind, made by those who lost by the depreciation of the currency in the late war? Doubtless they would reject it—and yet, in Mr. C's opinion, these had as fair a claim upon the Government, upon a principle, as the favored objects of this bill. It is true, no such claim has yet been made by the officers or soldiers of the late war; but, should this bill pass, at some future period he should not be surprised if one should be brought forward.

In every aspect, then, in which he, Mr. C. had been able to view the subject, he could see no ground upon which a claim to the provisions of this bill could be urged, in behalf of the surviving officers of the Revolution, upon the principle that there is any debt due them, or that strict and ample justice has not been done them. If the bill passes at all, its passage must be founded upon a different principle, and that is, that it is demanded by the gratitude which we owe them, for the services they have rendered. This, said Mr. C. places it upon the ground of a mere gratuity of \$1,100,000 to be made to some two or three hundred individuals.

And here, Mr. C. said, he would venture to express an opinion, which might appear to be novel to many. It was, that he did not believe there was any power in Congress, derived from the Constitution, to bestow the public money in gratuities. It is true, that the Federal Government possesses an unlimited power of taxation; but it does not follow that it possesses a like unlimited power of appropriation. On the contrary, he thought that the objects to which the revenue, raised by this unlimited power to tax, could be appropriated, were all defined and limited by the other grants of power in the Constitution. Among these other grants he did not find one, either expressed or implied, to make gratuities of the public treasure. Upon this ground, alone, then, he could not give his support to this bill. He believed that such a mode of appropriating the money, raised by taxing the labor of the people, was of the most pernicious tendency, and at war with all the sound principles upon which a republican form of Government should be administered.

But, said Mr. C. if gratuities are to be bestowed, they should be granted upon principles of equal and impartial justice. Our grateful feelings, he thought,

JAN. 30, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

ought not to be expressed to the surviving Officers of the Revolutionary Continental Army alone. There were others equally entitled to our gratitude and our bounty. In adverting to these, as he should now do, he hoped he should not be considered as making unjust comparisons, or drawing invidious distinctions—such was not his intention. Against the surviving Officers of the Revolution, and the particular objects of this bill, he was sure he felt no unkind prejudices. On the contrary, he entertained the profoundest respect for their characters, and a grateful sense for their services. He would not utter a word that could tarnish the lustre of their deeds, achieved in the glorious war of the Revolution. He would not breathe a thought, which, in its effects, might blight the laurels they have won, and which yet bloom in the undiminished vigor of youthful growth upon their wrinkled brows. But, yet, he must be permitted to say, that there were others equally meritorious with them, and for whom, or their families, every principle of justice or gratitude, by which the Senate may be actuated to pass this bill, should equally impel it to make provision.

The first class of these to which he would call the attention of the Senate, was the Soldiers of the Continental Army.\* To use the language of their zealous and eloquent advocate, the Senator from Maine, [MR. PARRE], they fought by the side of the officer: their hardships, their privations, and their sufferings, were far greater; their reward and their expectations far less than those of the officers. It has been said that, at least, they were clothed at the expense of the Government. If there is truth in History, this was not the fact; they were promised clothing, yet they seldom received enough to cover their nakedness. This bill, in its present shape, makes no provision for these. Yet, he thought their claims upon the gratitude of this Nation not less strong than those of their officers. Why, then, not make them also participants of this gratuity? But they had, in the gentleman from Maine, [MR. PARRE] a more efficient advocate than himself, and to him he would leave the support of their cause.

Another class of persons, to whom he would next advert, were such Officers as resigned their commissions before the conclusion of the peace, and, therefore, may be said not to have "served to the end of the war." The venerable Senator from Maryland, [MR. S. SMITH] who warmly advocates this bill, informs the Senate that he was one of them, and that he makes no claim to the provisions of this bill. Yet he [MR. C.] could not see why they were not equally entitled to our gratitude and bounty. Many of them performed the most glorious services, and encountered the greatest perils of the war. Many never resigned until hostilities had ceased, and the enemy had been expelled, though peace was not actually concluded. Who were more meritorious than these? But their brother in arms, the Hero of Mud Island, [General SMITH, of Maryland,] renounces their cause, and refuses to be their advocate! It was, then, not to be expected that he [MR. C.] should urge their claims, or defend their rights.

There was a third class of persons, for many of whom our warmest sympathies should be excited. These were the families of those deceased Officers, who, like the present applicants for the provisions of this bill, had served to the end of the war, and received the commutation. Whether the passage of this bill is to be referred to a sense of justice or gratitude, its provisions should extend to this class also. Are the Senate about to make this provision for the surviving Officers, because it is believed that there is a debt due them, and that it is but just now

to give them that to which they were long ago entitled? The same debt was due to the deceased Officers, and was withheld from them in like manner. Are we about to express our deep sense of gratitude to those who contributed so much to achieve the liberties of our country, by making a gratuity of one million one hundred thousand dollars to a certain number of them? Those who are deceased were not less ardent or conspicuous in the glorious struggle, and many of them probably more so. It is urged that many of the survivors are poor and needy, and tottering upon the verge of the grave, without the means of comfortable subsistence. So, also, many who are gone, died in poverty, and bequeathed to their families naught but suffering and want. He [MR. C.] had been personally acquainted with five of those Officers, who had died in Georgia, within the last five or six years. Of these, two, Major Worsham and Captain Stevens, he knew to have died poor, and left their families in a dependent condition. They were both pensioners when they died. The latter had been supported for years by the industry, and cherished by the affectionate care of a son and son-in-law. Some years before his death, he made application to be placed on the Revolutionary Pension List. He was refused, because he was yet master of a piece of poor land, and a house, wherein he could shelter himself. He finally determined to visit Washington, and exhibit himself personally to the President. His visit was at a fortunate period. Lafayette had just landed upon our shores, and every heart beat with gratitude. In Captain Stevens he recognized a companion in arms. At such a period he presented his palsied frame at the War Department, and, as Mr. C. had been informed, was on the next day placed on the pension list. He lived but little more than a year thereafter. And is nothing to be done for the families of such men as these? Upon what principle of justice or gratitude shall provision be made for those surviving Officers whose necessities have never driven them to beg a pension, and all provision be withheld from the families of those who have died in want? Justice and gratitude revolt at the idea.

Another of these Officers had died in comfortable circumstances, though not rich. He was formerly a member of the other branch of Congress. He meant Gen. David Meriwether. From his knowledge of the man, he was impressed with the belief that, were he now a member of Congress, he would never give his assent to this bill, or any other, founded on similar principles.

The fourth and last class of persons, said Mr. C., of whom he would speak, was the Militia, already alluded to by the gentleman from South Carolina, [MR. SMITH.] He repeated that he did not intend to make any uncharitable comparisons. Yet he thought the merit and services of these equal to those of the applicants for this bill, or, indeed, any other class of persons engaged in the Revolution. If gentlemen would revert to the history of that war, they would find that, in the Southern States, and especially in Georgia, upon them was placed the burthen of the contest—they were the bulwark of our defence. The aid derived from the regulars was comparatively trifling. The British forces were not the only ones with which they had to contend. The Southern States were filled with Tories; and, in these, they encountered enemies a thousand times more rancorous than the British. During periods of disaster, to which a militia, contending with a regular force, are always more or less subject, they were hunted, by these, from the fields to the recesses of the forest, and again driven from thence to the caves of the mountains. From these fastnesses they would watch their opportunities, and, as these were presented, they would emerge from their hiding places, and, turning upon their enemies, make them feel the full weight of their vengeance.

\* The provisions of the bill were altered, subsequently, so as to extend to them.

SENATE.]

*Letter from Duff Green.—Surviving Officers of the Revolution.*

[JAN. 31, 1828.]

Mr. C. said that he had at that moment upon his table a petition from a man who had served in the militia during the whole war.\* No man had encountered more perils, or passed, with life, through more dangers. He had been hunted from place to place like a wild beast, by enemies determined upon his destruction, by whom he was frequently shot, and who finally inflicted upon him what they believed to be a mortal wound. But he survived it, and yet lives. He states himself now to be in very reduced circumstances, and prays a pension, or some other provision. He has never received a dollar for all his services, his perils, or his wounds. I have not yet presented his petition, because I know that, under the provisions of the existing laws, he can obtain no relief. But, when we are about to bestow gratuities for services rendered in that memorable contest, who is better entitled to a share of them than such a man †

It had been stated, the other day, on another occasion, that General Sumpter, whose name is identified with the war of the Revolution in the South, was reduced to beggary, and had been dragged to the threshold of a jail. Of the value of his services there was no doubt. It would seem that his indigence was greater than most of the objects of the bill under consideration. Why is it that no provision is to be made for him?

It had been inquired, by some of the friends of the bill, whether, if it should be so altered as to extend its provisions to all those of whom he had spoken, would gentlemen, now opposed to it, give it their support? Answering for himself alone, Mr. C. said he would not. His reasons he had already endeavored to explain. He thought there was nothing due to them, which they had a right to demand, upon principles either of justice or gratitude. The old Congress had done all that it had promised, in such manner as the circumstances of the times permitted. It had done all that the officers expected, or had a right to expect. He believed that the system of pensions had already been carried to too great an extent in this country. He believed that the gratuitous appropriation of the public treasure was unauthorized by the Constitution, and pernicious in its political tendency. Yet, if the public money was to be thus appropriated, he thought that it should be applied in a just and impartial manner. Let all who were equally meritorious be equally rewarded.

Mr. C. said he was unwilling, at such a late hour, to impose longer on the patience of the Senate. He felt himself constrained, he repeated, to vote against the bill.

Mr. VAN BUREN then intimated that he designed to address the Senate, to-morrow, in favor of the claim.

THURSDAY, JANUARY 31, 1828.

The VICE PRESIDENT communicated a statement of facts, of great length, from Duff Green, in explanation of the provocation which produced the outrage complained of in the memorial of E. V. Sparhawk, the substance of which was, that a letter having appeared in the *New York American*, accusing Mr. Randolph of a concert with the editor of the *Telegraph* in misreporting the speech of Mr. R. in which he spoke of hanging any one who would introduce the "Irish" or "slaves" (on which the debate arose) into Virginia; that he (Duff Green) having received, from John S. Mehan, information that Mr. Sparhawk had acknowledged the authorship of the correspondence in the *American*—to use the language of the document, "Felt as every honorable man, he trusts, would feel in his situation, as the editor of a public journal of extensive circulation, the usefulness of which must mainly depend upon the character of the editor for veracity, which he has ever been anxious to maintain"—and that, accordingly, he (Duff Green) met Mr. Sparhawk, and inquired of him if he

was the writer of the letter; and, not receiving a satisfactory answer, he (Duff Green) proceeded to assault Mr. Sparhawk, having no intention to offer personal injury to him, his sole object being, not to hurt, but to disgrace him. "Nothing was further from his (Duff Green's) intention, than to infringe, in any degree, on the dignity of the Senate," it being impossible that he could feel any other sentiment towards that body, than the most profound respect. He remarks that, "if Mr. Sparhawk be under the protection of your honorable body, in consequence of a permission to have a seat in the Chamber, as a reporter of the Debates, the duty which has been assigned by you to the undersigned, places him equally under your protection; and if it be an injury to Mr. Sparhawk to be disgraced, as he was, it is no less an injury (although accompanied by no disgrace) to be represented as a profligate instrument of falsifying the reports of the proceedings of the co-ordinate branch of Congress." The document concluded by an apology for its uncommon length, and the expression of regret for consuming the time of the Senate.

On motion of Mr. COBB, the letter of Mr. Green was ordered to lie on the table.

#### SURVIVING OFFICERS OF THE REVOLUTION.

The bill for the relief of certain surviving officers of the Revolutionary Army, being the unfinished business of yesterday, was then taken up. On the question of filling the blank with \$ 1,200,000 :

Mr. SMITH, of South Carolina, in prefacing a speech of considerable length, observed, that Mr. VAN BUREN, who had moved the adjournment on yesterday, had yielded the floor to him, being desirous, before addressing the Senate, of hearing all the objections that were to be made to the bill.

Mr. VAN BUREN followed Mr. S. at great length, in favor of the claims.

[The Editors have been unable to obtain accurate reports of either of the above speeches.]

FRIDAY, FEBRUARY 1, 1828.

The unfinished business of yesterday—A bill to provide for the relief of certain surviving Officers of the Revolutionary Army—was taken up.

Mr. BRANCH, who moved the adjournment of yesterday, addressed the Senate in opposition to the bill.

Mr. MACON rose, and, after some general remarks, pronounced a high encomium on the military services of the gentleman from Maryland, [Mr. SMITH.] As to the claims of these officers, we all know the straits to which the Government was put to get along, at that time; and that the Old Congress was so hard run that they tried to get lands to pay their debts with. And, before the Constitution was adopted, the State of Virginia surrendered her lands to the United States; whether wisely or not, I don't pretend to say. The Government wanted these lands to raise funds to pay off their obligations. The States could not help them. A great portion of the country had been so destroyed that it was as much as the People could do to live. Almost every man had been burnt out at the end of the war; and that family which had a cow left, was considered fortunate. Well, sir, you now call on these People, or their descendants, to help these officers whose families were better off during the time of danger.

Sir, had I a talent for description, I would display to you a picture of those times, which would shake the stoutest heart. I would show you the wretched women, (whose husbands were defending the country in the militia ranks,) with their hungry, barefoot, almost naked children hanging round them, contemplating the burning ruins of their homes—without a shelter, and without a

\* His name was Ezekiel Harris.

† Mr. Harris has since died.



FEB. 1, 1828.]

*Surviving Officers of the Revolution.*

[SENATE.]

morsel to supply the wants of their weeping babes. These things have passed away; and thousands of instances like this are not now remembered. The Old Congress had the most difficult task to settle the accounts of the States. His own State paid millions, besides the vast amount of private losses. The People entered into the contest with the utmost spirit, and followed the enemy with as much avidity as ever Col. Boone followed an Indian in his life. There was a continual skirmishing kept up; and, on the British side, when the Americans were taken or surprised, it was whipping, hanging, and burning. When the paper money run out, what was to be done? It could well be recollected what was the state of the country after the battle of Guilford. The paper money had run out, and there was no specie. Congress then took up a new plan, and the Continental bills run down to one eighth of their nominal value, which the gentleman from Maryland very well knows. In my State there was but little Continental money. The State struck some paper of its own, which sold at 10 per cent., and, when the confiscated property was sold, the notes were redeemed. This was not done by any other State; and many of the States paid the interest on the Continental certificates. The last cow and the last horse went to keep up the contest; and perhaps nothing was less thought of than individual interest. There were no better troops in the war than the Lines of Maryland, Pennsylvania, and Delaware; but it was no safer for the inhabitants to be with them, than with the enemy. The regular troops were, he knew, very much distressed; but were they more so than the militia? They were all paid alike with the Continental certificates. Every body was compelled to make sacrifices; and it was worse for the People to get along than settling a new country. The contributions had been so closely levied, and the ravages so great, that, where the two armies had been, there was no provisions, and few houses. The Continental money was the only currency in the country.

Gen. Hamilton was a man who undertook few things that he did not understand; and he took great pains to get this commutation done for the officers. It could hardly be supposed that he would do what would be injurious to his fellow officers. The gentlemen of the Committee had mentioned the climates of Carlisle and Montpelier as standards. They are both healthy places. But do they suppose that they will apply to this country? Col. Hamilton was sufficiently acquainted with the matter, and knew the rates of annuities, and he fixed upon five years. The commutation was, no doubt, a matter of gratification to the officers at the time. But it was maintained by the gentleman over the way, and by the gentleman from New York, that every individual among the officers did not assent to it. But it was decided by the majority of the Lines, and that was sufficient. The same principle applied on the adoption of the Constitution. That was done by the vote nine States. It was then argued that it must be done by the vote of the whole; but the majority ruled. And so it ought to in this case. It is said that the elder officers made a good bargain, while the younger ones suffered. But, is it to be supposed that the senior officers would make a good bargain for themselves and a bad one for their juniors? Nothing has the effect to produce mutual attachment more than mutual suffering; and these men had suffered together. Would General Wayne or General Smallwood, who began the Revolution, and went through it, have done so? I do not believe it. I say, sir, that, with regard to this bill, no man has any claim upon the Government for more than he received: neither these officers nor the militia. But, should I admit their claim, and allow that it was, as the gentleman tells us, founded on equity, will it be urged that a man's claims of this kind don't descend to his heirs? Does the gentleman from New York think so? But every thing was now different. Every thing was turned upside

down. It was once supposed that when a man died he paid his last debt, and settled his accounts with the world. But it is not so now.

The history of the Revolution, as to the partizan warfare in the Southern country, had never given any idea of the truth. The memory of Sumpter and Marion was held in high esteem; but half that they did was never told, except by some old people to the children of the present day. But history don't stoop to the militia. The battle of the Cowpens is almost the only action that figures in the history of the war in the South. But I have a gentleman in my eye who did as gallant a thing in the militia as was ever done by regular troops. Nobody had a greater respect for the regulars and militia who fought at the Cowpens: but there was another action performed by—[The name of the officer escaped the Reporter, (he thinks it was Col. Tazewell,) as also the location of this battle. Mr. M., at this point of his remarks, directed his speech to another part of the Chamber, and was, consequently, not heard.]—That, he considered the most important event of the war. There were among the humbler officers many striking examples of bravery and patriotism. There were many others who sacrificed vast fortunes in supporting the cause of the Revolution. In the State of New York there were some striking instances of the kind. Governor Clinton was more honored by his actions than by the Vice Presidency; and his stubborn whiggery gave him the strongest hold on the affections of the People.

It was impossible to go into the Revolutionary war and make selections of individuals, or do justice to any one set of men. It was utterly impossible. He recollected when Mr. Monroe's bill was introduced in the other House, only four hundred thousand dollars was asked for. The sum has gone on increasing—and it only shows that this thing is like putting your hand to the plough—you never can get off again. You take one step, and you must go on. It is an unpleasant thing to oppose any measure which the Senate thinks founded in justice—but it was his honest opinion that this bill ought not to pass. He should be sorry to hurt the feelings of any one. The bill would have suited him better, had it pointed out how much each grade of officers was to receive. He should then have liked it better, although, even in that form, he should not have voted for it. The sum now put in was in the lump; and he did not know how it was to be divided. As to the sufferings of these officers, other classes of people had suffered equally. He knew instances where individuals had had their houses burnt over twice.

The gentleman from New York said, the other day, a great deal about the glory and honor of the country. But I like some other things much better. For, Sir, when I hear of glory and honor, I always think of war and bloodshed. The happiness of the People seems to me much better, and I should be more pleased to see the duty on salt taken off, than increased by a war, in which the country was to gain honor and glory. But the gentleman from New York don't want to see it lessened.

[Mr. M. here made an allusion to John Hancock and Samuel Adams, which was not heard by the Reporter.]

We are told, by the gentlemen over the way, [Messrs. WOODBURY, BERRIER, and HARRISON,] that it is a debt, which this bill is to pay. But I should like to know how, under that argument, they can bring forward their claim, with a receipt in full staring it in the face. And I ask whether this bill is any more a fulfilment of the contract than the commutation act? Do you propose to pay the full amount of the half-pay? No, you give them the old certificates, with interest. Fashions are continually changing. The time is within my memory when we were a free, content, and happy People. We go now for glory and honor, as the gentleman from New York observes. We are told continually that this is a great and growing People. I think we are growing rather too fast. The



SENATE.]

*Surviving Officers of the Revolution.*

[FEB. 1, 1828.]

poverty of the People is never taken into consideration. We count the numbers only. I ask, if this was a claim, why it did not go to the Committee on Claims? What need was there for a Select Committee? It was, I suppose, to give force to the application. The real reason why the commutation act was passed was that pensions were thought disgraceful. This induced the Officers to consent to commute their half-pay. He thought the principle of this bill no better than that proposed in the time of Mr Monroe.

[Mr. BERRIEN here handed Mr. MACON a paper—on which Mr. M. made an acknowledgement of being in error—but in what respect, the Reporter could not hear.]

The gentleman from New York has said that it is a reproach upon the country that this debt has not been paid before. I should like to know who caused this reproach. If we had the wealth of all the world, we could not get rid of it. Do all you can, you cannot satisfy all the claims. You may live to be as old as Methuselah, and you could not do it. Some gentlemen think it could be done with a few millions. But we have enough to do to take care of ourselves. The gentleman also said that the commutation was inadequate—and, in the same breath, he praised the old Congress, who framed it, in the highest manner.

Mr. VAN BUREN explained. He had not attributed the deficiency of the commutation to any unjust or unfair intention towards the Officers. But he had said that seven years' full pay was their just equivalent, and that, the present applicants having lived so long, the operation of the act upon them was unjust.

Mr. MACON resumed. I'll say no more on that point. We've been told about Shylock doings, &c. What the remark applies to, I don't know. I believe I have said enough to show that it can't apply to the old Congress. I don't know but it may refer to those who vote against this bill. It must apply to somebody. Really, he did not see how this country could have been more lavish in expenditures. But every means must be taken to increase them. We must fund the public debt, and divide five millions among the States. Next to the army which achieved our independence, those men will deserve the thanks of the nation, who shall wipe the public debt from the records of the country. It had been said that one-third was lost by the funding system. I never heard that fact: for, as soon as the funding system began, there were riders from Philadelphia, and New York, and the Eastward, scattered all over the country, as thick as ever tin pedlars were, gathering up the paper—which gave a spring to the business, rather than otherwise. There were no post roads then, but people could travel, when their interests were concerned, without them. Will any gentleman lay his hand on his heart and say that he thinks there was any unfairness in the funding system? If gentlemen will examine the funding system, they will find that there was a plan to make speculators disgorge their ill-gotten wealth.

I look upon the object of this bill to be to take so much money out of the pockets of the descendants of the soldiers, to pay to these individuals. We are more disposed to help people whom we know, than whom we don't know. We feel more for our neighbors than for indifferent persons. We associate with the officers, and we sympathize with them. But we know nothing of the soldiers. As to the statement that the Maryland Line did not agree to the commutation, he believed they accepted it, and that was agreement enough. He had heard much of suffering women. If their husbands did not provide for them, he knew that they had a hard struggle. Women have no political rights, and are necessarily passive sufferers. There were no petitions from women, and no Committee appointed on their claims. They sat at home and exercised the virtues of patience and industry.

I am not for glory and honor. I go on a different principle. I do right if I can; and, if I do wrong, my people will tell me of it. I wish that equal justice should be done—not give one a silver spoon, and the other a horn one. It was curious to look at the two Houses—one debating on economy, and the other opening roads and canals in every direction.

Mr. M. here reverted to some circumstances which occurred several years since, relative to certain applicants for pensions, and observed that he had then as much zeal in favor of the Soldiers of the Revolution, as lack of it now.

Mr. BELL said that he agreed with the gentlemen of the Committee that these applicants had a just claim—but he differed with them upon the amount. He believed it was the same as that of the Revolutionary Soldiers. They endured the same privations together, and ought to be provided for by the same bill. His object was to strike out the whole bill, and to propose another, as an amendment, which should remunerate the Officers and Soldiers for their losses by the depreciation of the Continental money.

Mr. B. then handed in his amendment—but,

The CHAIR said he was under the impression that the motion was not in order, as the question before the Senate now was that of filling the blank.

Mr. BELL moved that his substitute be printed.

The CHAIR said it was not in order, unless the Senate consented.

Mr. WOODBURY said that there was no objection to the printing—and he would now observe that the Committee were ready to consider any modification at the proper time.

The printing was then ordered.

Mr. TYLER, in reply to the several gentlemen who had supported the bill, then said, that he owed an apology to the Senate for taking part in the discussion of the question now under consideration, after the somewhat protracted debate which had arisen on it. Did he listen to the admonitions arising from his state of health, as well as the conviction under which he labored, that he could impart no new interest to the subject, he should certainly remain silent. But there were considerations operating upon him which he could not disregard. The solicitations of some of the members of this body, united with the strong desire which he had to remove from him every shade of imputation which might rest either on his justice or gratitude, led him to obtrude himself upon the notice of the Senate. He trusted that he was incapable of either injustice or ingratitude. He felt, also, that this country could not be accused either of the one or the other, and his remarks would be intended to relieve himself and the country from the imputation of either.

The chairman of the committee who reported the bill now under discussion, and the Senator from Georgia [Mr. BERRIEN] who so eloquently advocated its passage, placed it exclusively on the footing of a legal claim. We were told by those gentlemen, that the Government rested under an actual, existing, and binding obligation to pass it. That it was a debt due and unpaid. The gentleman from New York [Mr. VAN BUREN] who addressed the Senate yesterday, while he seemed disposed to concede the legal obligation, sought to enforce its enactment upon principles of liberality and equity. The horizon of this debate has become, therefore, greatly enlarged, and the question to be settled is one of no ordinary interest. I propose to examine both propositions in their turn.

Does there rest, then, a legal obligation on the Government to pass this bill? In other words, does it stand indebted to the memorialists, in virtue of contracts entered into during the Revolutionary war? If so, Mr. President, it is our solemn duty at once to cancel the debt: but, if it be so, then, sir, I should be led to blush for my coun-

FEB. 1, 1829.]

*Surviving Officers of the Revolution.*

[SENATE]

try. Deep is the stain which rests upon its honor. For nearly half a century it has been guilty of the gross injustice of withholding from the hardy veteran of the Revolution, the earnings of his toil and blood. At the close of that glorious war, upwards of two thousand of the comrades of the present memorialists survived. All have descended to the grave, save the small remnant of two hundred and thirty. The same promises were made to all alike; and if those promises have not been fulfilled to the survivors, they were also violated to those who are no more. Many have died in penury and want, and have left to their descendants nothing but their honor as an inheritance. If, then, sir, this Government has withheld from them that to which they were entitled, the Revolution accuses it of injustice; all that is associated with the past or the present, loudly proclaims its injustice to the world. We have committed an irremediable sin. Tears of penitence may be shed, but they are shed in vain; they cannot awake the dead. Justice may be done to those who now show us their many scars, received in the days of their youth, in support of the holiest of causes, but that justice can only reach the living. The honor of our country is thus implicated in this claim of legal right, which is now asserted, after the lapse of forty-four years, and it behooves us to look narrowly into the subject ere we form our opinions.

Upon what, then, does this legal claim rest? The plain state of its origin is this: In consequence of the worthless currency in which our armies were paid, the officers and soldiers had suffered so much for the means of procuring even the smallest comforts, that dissatisfaction with the service had increased to such an extent as to require imperatively at the hands of Congress the adoption of some expedient calculated to retain a sufficiency of officers in the Army. Resignations had become numerous and alarming. General Washington addressed himself to Congress, and urged upon them the propriety of enacting a law which should promise half pay for life to such officers as should remain in the service until the end of the war. Congress adopted the expedient, and accordingly, in 1780, passed the act containing the provision and stipulation which had been recommended to their adoption. By that act, all officers who served to the end of the war became justly entitled to half pay for life. Has the Government acquitted itself of the obligation which it had thus voluntarily assumed? If not, sir, then has it been guilty of a violation of its plighted faith, and the claim now set up is well-founded.

I contend, sir, that the act of 1783 totally changed the character of the provision which had been made for the officers by the act of 1780, or, in other words, entirely abrogated its provisions. The act of '83 commuted the half pay for life into five years' full pay, and the only question which remains, would seem to be, whether the officers had accepted the act of 1783 in discharge of the act of 1780. If so, the old bond, to speak with greater precision, created by the act of '80, is discharged, and the new bond, created by that of '83, is accepted in its stead. Of that acceptance there is no question. In the absence of all positive proof upon the subject, the presumption which arises from the lapse of time, would, of itself, be sufficient. No man can believe that a claim so interesting to a large majority of those entitled, would have been permitted to slumber for nearly half a century. But this question is rendered no longer debatable, by the confession made by the memorialists themselves. They admit the acceptance, by them, of the commutation, and seek to place their claim upon another footing. Complaints are now urged against the act of '83, and the measure which it dealt out, is pronounced unequal and unjust. I have a ready answer to make to these complaints. The act of '83 was passed at the earnest entreaty of the officers themselves. They memorialized

Congress, and urged strong and satisfactory reasons for its interposition. Congress listened to their entreaties, and the commutation act was accordingly passed. The motives which influenced the officers to solicit the commutation, were of two sorts—those of patriotism, and self interest. The Revolution had overturned the privileged orders, and whatsoever looked even remotely to the creation of a privileged class, was extremely obnoxious to the People. The act of '80 was considered—I will not stop to inquire with what justice—as producing this effect. The officers, wisely and properly, concluded to get rid of the odious idea of being pensioners on the Government, and therefore asked the passage of that law. They resolved to lose, as speedily as possible, the officer in the citizen, bearing about them no other badge of distinction than that furnished by honorable scars. I do them no injustice when I also ascribe to them the influence of self-interest; that is acknowledged to be the main-spring to human actions, and operating, to a greater or less extent, over all men. Their fortunes had, no doubt, suffered severely during the war, and it became, therefore, a matter of high moment to them, individually, that they should be able to control as large a sum as circumstances would permit. This was effected by the commutation of their half-pay into full pay for five years. They thereby were placed in possession of Government securities to a large amount, which, if their situation justified it, they might retain until brighter days beamed on the finances of the country, or, if compelled to sell, would place in their possession larger resources. It was objected, by the Senator from New York, [Mr. VAN BUREN] that they did not receive cash. This is admitted—but they received Government certificates, the Government having stipulated, by the act, to pay either in money or securities. Nothing justifies the belief that the officers, when they asked the commutation, expected to receive payment in cash. They knew the wants of Government most thoroughly—a dollar in specie was scarcely any where to be found—two hundred millions of dollars of paper money had been thrown into circulation, which had depreciated to a rate so low as to be worthless. The only means that the country had to meet its engagements with the officers, or its other creditors, was by issuing certificates. With a full knowledge of these facts, the commutation was asked, and was granted; and now, Sir, after so many years have elapsed, we hear complaints uttered against it. Nor does there exist, Mr. President, the slightest circumstance to induce the belief that the officers received an unjust measure by the terms of the commutation; but, on the contrary, every thing opposes that idea. I have said that they themselves asked Congress to commute; that they acquiesced in that commutation up to a very recent period—that all but a mere remnant had descended to their graves, and that no complaint had, until lately, been uttered against the Government. These facts could not fail to be satisfactory—but there exist other facts, equally conclusive, upon this head.

The time which was selected for the application was, of all others, the best for their interests. The battle had been lost and won. The banner of America floated in triumph. After having annihilated the power of Great Britain in this hemisphere, nothing remained to be accomplished, but to obtain a recognition of our rights as a free, sovereign, and independent Nation—and this recognition soon thereafter followed. Like the Israelites of old, our fathers had passed through the wilderness of doubt and danger, and had already entered upon the possession of the promised land. Every breast was filled, and every eye beamed with gratitude towards those gallant men, who had fought the good fight. This was the era of their application to Congress, and one more fortunate in itself could not possibly be imagined. But the time of their application was not more propitious than

SENATE.]

*Surviving Officers of the Revolution.*

[FEB. 1, 1838.]

was the tribunal to which they applied peculiarly favorable. That tribunal was composed, in part, of their brothers in arms, and, for the residue, of those ardent patriots who achieved victories in the cabinet, as great as had been won in the field. Such was the tribunal to which the appeal was made—and I, for one, will not, for a moment, believe that it was capable of practising injustice towards those who, in their very presence, had poured out their blood and devoted their lives in defence of their country's rights. No, Sir, I will not agree, by any vote which I shall give, to stamp upon their memories this seal of dishonor. Their fair fame constitutes no small portion of the wealth of this Union, and I will not consent to throw a stain upon it. I might repeat what has been said by others, that the Chairman of the Committee who reported and advocated the commutation law was General Hamilton, a distinguished officer and civilian. That Gen. Washington, when President, never called this decision in question, as he would most assuredly have done, had he esteemed it unjust; nor was it ever adverted to by any of his successors. Who, then, is now at liberty to infer that the commutation was based on improper principles, or that a hard measure was dealt out to the officers? Shall we, at the distance of forty-four years, undertake to reverse this decision of our predecessors, and to brand their memories with the charge of injustice? They stood in the midst of the era for which they were legislating, and were surrounded by those for whom they legislated. They weighed all the circumstances applicable to the case, and were qualified to decide correctly. We, on the contrary, are but the men of yesterday, and have but a dim and indistinct view of the condition of those times. We are not, then, Sir, qualified to legislate understandingly upon this subject; and, for one, I shall leave untouched the decision which was pronounced in 1783.

But, Mr. President, if the Senate felt at liberty to go into this matter, at this day, and to inquire into the correctness of the basis on which the commutation was placed, the bill upon your table would find in that inquiry no claim to our support. The officers had a life annuity, and sold out for a ten years' purchase, paid in advance; the five years' full pay being rather more than equal, including interest, to ten years' half pay. Would any discreet man be willing to purchase an annuity, even from the most youthful and healthy annuitant, at a greater purchase? Considering "the various ills that flesh is heir to"—the numberless enemies to human life—I ask if a period of ten years is not a liberal term to allot for its continuance? The common law has been said to be the essence of pure and correct reasoning, and the period which it has prescribed as the ultimate thule of life is seven years. If one be gone beyond seas, and shall be unheard of for seven years, that law numbers him with the dead—dis-solves the tenderest of ties—pronounces his wife a widow, and delivers over his effects to his legal distributors.

It has been urged, however, sir, by the advocates of this bill, that the Government has gained by this proceeding a large sum of money, by reason of the elongation of the lives of the present applicants. The memorialists may have lost; but it does not, therefore, follow, that the Government has gained. Recollect, sir, that this commutation law embraced about two thousand four hundred and eighty persons, of whom but two hundred and thirty have lived to this day. Now, in order to have a correct account of profit and loss stated, we should ascertain the various periods at which each of the decedents have departed this life. For all who died within the first ten years the Government necessarily sustained a loss equal to the unexpired term of the ten years. Upon all such losses, interest should be calculated up to this day, as has been done in the case of the memorialists, and the balance might then be fairly struck. Do I hazard any thing in the conjecture that the Government has lost by the operation?

We have no correct data on which to proceed in making up such account; but I do not think it unfair to conclude, that the want of those very data constitutes an objection to this claim. If the gain of the Government be rested on in support of the claim, the Senate has a right to require it to be shown, and the burden of proof devolves properly on the memorialists.

It has been intimated, that the Government also gained in the process of funding. It is true, that, although the certificates were funded in the year 1791, at their nominal amount, yet that the interest on a part of the amount was deferred for a few years. But can any man doubt but that the funding system was most eagerly desired by the holders of the certificates? We know the fact to have been so. That measure met with decided opposition from many parts of the Union; but it nevertheless prevailed, much to the gratification of the certificate holders. It was a day of jubilee to them, and made the fortunes of many. If the officers had parted with their certificates, it was their misfortune, but not the blame of the Government.

Thus, then, Mr. President, this commutation was made at the request of the officers themselves; was accepted by them; was based upon fair principles; and the certificates, issued in pursuance thereof, were funded at the request of the holders. Forty-four years have passed by, and no murmur of discontent has been expressed. No debt, then, is due from the Government, and it stands acquitted from the charge of injustice.

An appeal has been made by the gentleman from New York [Mr. VAN BUREN] to our liberality; our equity. I listened to the gentleman with great pleasure; and if I had dared to have given audience to my feelings, turning a deaf ear to the suggestions of duty and sound policy, I might have been led captive. Before we yield the reins to our feelings, it behoves us to inquire whither, and how far, they will carry us. The gentleman seemed to admit the claims of the dead to be equally strong with those of the living. Sir, the rights of the representatives of the deceased officers must, of necessity, be as strong as those of the survivors. The acts of 1780 and '83 embraced all alike; and if, as has been contended, the full pay should have been allowed for seven instead of five years, it is equally due to all who were embraced under its provisions. Then, sir, if 1,200,000 dollars be due to the survivors, 230; if the representatives of the deceased, of the 2,480 be included, the Government must necessarily make provision for the payment of \$11,860,869, that being, upon the hypothesis assumed, the sum that would now be actually due. This is the first fruit of a liberal policy. A result from which there is no escaping. Let us not be deceived by the expectation that the widows and orphans of the deceased officers will not apply for their share of this claim. They will apply. This morning I have received an application on behalf of one of them, and the applications will become constant and unceasing. Nor is this the only consequence which should, I will not say will, flow from it. The soldiers of the Revolution, who stood by the side of this corps of officers, and encountered the heat of the war, are equally entitled to the exercise of our liberality. The gentleman from New York, has said that the officers stand on a different footing from the soldiers—that their claim rests on a compact with the Government. And I would ask, sir, if the soldier might not rest his claim also on a compact? Did not the Government agree to pay him six dollars per month? Has it complied with this contract? I contend that it has fulfilled, as far as could have been demanded of it, its agreement with both officers and soldiers; but I inquire of those who hold a different opinion relative to the officers, to say, whether the soldiers have not equal, or greater cause to complain? They were paid in paper money, in miserable trash, which depreciated a thousand

FEB. 4, 1828.]—

*Surviving Officers of the Revolution.—Statement of Mr. Agg.*

[SENATE.]

for one. The payment became merely nominal. From the lips of one of those who had shouldered his musket during the whole war, I learned that, practising great economy, he had treasured up a part of his pay, up to the end of the war; that then he had found the Government wholly unable to redeem its paper, and that he had given it to the winds. And yet, sir, it is said that the soldier has no claim upon that liberality which is invoked on behalf of the officer. But it is urged that the act of limitation, of 1794, bars the soldier's claim—and why not that of the officer? It is equally applicable to all Revolutionary claimers. How feeble, Mr. President, would have been the defence, arising from that source, yesterday. The barrier reared by the act of limitation would have yielded before the fervid and glowing appeal which the gentleman made to our liberality. The Treasury would have found no security behind it. And I cannot admit the justice or propriety of disregarding its provisions as to one class of men, and enforcing them as to another.

Acting upon the principles which the gentleman attempted to enforce, there still remains another class of Revolutionary sufferers, who should possess our regard. I allude to those who fought our battles in the cabinet, "who legislated with halters round their necks," who gave their all, and died bankrupts in fortune. I will name but one of them—Robert Morris. Who than him was more deserving! Who adventured more largely, or suffered more severely? He literally gave all to his country, and died either at the door or within the walls of a jail! Here is a theme for impassioned eloquence—one which addresses itself almost irresistibly to the feelings. The gentleman referred us to certain acts which had passed into laws, as incitives to the passage of the present bill. I will not analyse them minutely. The Government must, at all times, exercise a sound discretion, and I have no doubt but that it acted wisely in the instances alluded to. But, if precedents of recent legislation are to be urged in support of the bill, why do not gentlemen report a bill to remunerate the Jerseys, and other States, for losses and injuries which they sustained in the Revolution? An example of liberal legislation was at hand, in the law making provision for the sufferers on the Niagara frontier during the late war. Sir, we cannot repair losses which were then sustained. To do so would make bankrupt all the exchequers in the world. It was a revolutionary war. The husbandman can oppose no resistance to the tempest, which prostrates, in its course, whole forests; neither can Governments repair the ravages of revolutionary war. It is a political tempest, fraught with lightnings that render desolate the face of nature.

To these surviving worthies, then, sir, I would say, Brave men, your country venerates and reveres you. Your honorable scars and silver locks are your passport to her affection and gratitude. She has done for you all that justice required—that you yourselves demanded. She commuted at your request, and funded as you desired. She has thus cancelled the debt which she imposed upon herself. She cannot discriminate in your favor without creating thereby a burthen which would bankrupt her exchequer. Let not these hoary-headed veterans indulge in vain regrets. Sir, they have sources of consolation, and of rejoicing, which can never be dried up. They have the recollection of a well-spent life to brighten the decline of their years. They have fought the good fight, and their lives will terminate in honor. Would they exchange their well-bought honors for all the wealth which could be poured out upon them? Would the honorable Senator from Maryland (Mr. SMITH) (I beg his pardon for alluding to him personally) exchange the glory which he won at Mud Island Fort, and at Baltimore in the late war, for aught that could be offered him? Would those gallant men exchange a single scar which they obtained under the banners of liberty,

for all the money in the world? No, sir; it would be exchanging immortality for mortality—an undying name for the perishable wealth of this world.

This country has not been unjust—it has not been ungrateful. When was it, sir, that a Revolutionary man, possessing worthiness, asked for office, that he did not receive it? Offices have been dealt out to them by State and United States' Governments, with a liberal hand; and to secure them against suffering and want, this Government has provided for them a liberal resource, in an existing law. I must then, Mr. President, enter my dissent from the idea that we have either withheld what was due, or denied what should have been granted.

The Senate adjourned to Monday. -

MONDAY, FEBRUARY 4, 1828.

The CHAIR presented a communication from Mr. John Agg, in relation to the concert to misreport the speech of Mr. Randolph, assumed to have been entered into between the reporters of the *Intelligencer* and *Journal*, by Duff Green, in his statement in answer to the memorial of E. V. Sparhawk.

Mr. EATON remarked that he did not think it at all incumbent upon the Senate to go into the examination of the matter contained in this communication. It had no direct relation to the affair which had brought the memorial and the answer before the Senate. In the first place, Mr. Sparhawk came forward and complained of an injury. They had consented to receive his memorial; and were therefore, in a manner, bound to hear Mr. Green, in answer. But he thought they ought to go no farther. If both sides were heard, it was surely sufficient without going into the consideration of affairs which had no bearing upon the matter in hand. He understood the question now to be, whether the statement of Mr. Agg should be received. He hoped it would not be, and made a motion to that effect.

Mr. JOHNSTON, of Louisiana, thought that the paper was already received.

The CHAIR stated that the receiving of a memorial, or other application, was a matter of course. But it was always in the power of a Senator to make a motion that it be not received. The gentleman from Tennessee having made that motion, the question was now before the Senate.

Mr. JOHNSTON, of Louisiana, said that he did not see any good reason why this paper should not be received. If one communication upon this subject were received, he thought all should be. The subject was an unpleasant one to enter upon at all; but as the memorial had been received, as well as the answer to it, he wished that whatever had any legitimate connexion with the affair in question, might be laid before the Senate. In relation to the cause of the first complaint, he knew very well that, as a criminal matter, they had nothing to do with it. As an assault and battery, it was a case to be settled by a court of justice. But he was far from thinking that the Senate had no jurisdiction over the place in which the offence was committed. They had, it was true, no legal jurisdiction; but they had a police jurisdiction, and he thought they ought to act promptly to its enforcement. The building in which they held their deliberations had been appropriated to the use of Congress. The part in which this body sits, is allotted to the Senate, and a police jurisdiction over its apartments undoubtedly exists, which is placed in the hands of the President. The members were, doubtless, willing on all occasions to aid him in any measures which he might think necessary to adopt for its regulation and execution. He was very far from supposing that the body had any punishing power. But he considered that if, in any case, the Chair did not see fit to act in relation to a violation of good order, it was the duty of

SENATE.]

*Statement of Mr. Agg.*

[Feb. 5, 1828.]

the body to take up the subject, and express their opinion upon it. It was not for them to say whether the parties were right or wrong, or whether the offence of one party deserved chastisement from the other. But the time and place were to be considered. The commission of violence in the rooms appropriated to the use of the Senate, ought to be strongly reprobated. Such acts ought never to be countenanced, whether a member, a citizen, or an officer of the body, were the persons committing them. He thought the matter came within the power of the President of the Senate; but if it did not, it was certainly in the power of the body to pass upon such conduct. The Senate had a perfect control over its apartments. It could admit citizens or stenographers upon its floor, or it can reject them. And having admitted them, it could make such arrangements for their benefit as it might think proper. He did not at all intend to enter into the merits of the affray to which their attention had been called. But, as the Senate had given seats in the chamber to the reporters, he considered that they ought to be so far under the protection of the body as that they should not be prevented from pursuing the duties for which they were admitted by menace or force. He had merely risen to express his opinion on the power of the Senate to act in the matter. He thought that means should be employed to prevent persons from coming into the rooms occupied by them, to push their quarrels, or to commit violence on any one.

The CHAIR remarked, that, as the power of the President had been mentioned by the gentleman from Louisiana, he would state, that his power only extended to the regulation of the chambers, and to the providing rules for their arrangement. The Chair had certainly no power of punishing offences.

Mr. SMITH, of Maryland, observed, that he did not apprehend that the communication of Mr. Agg had any thing to do with the subject of the memorial presented by Mr. Sparhawk. It was a matter totally foreign to the application which the Senate had received from Mr. S. and he saw no reason for its reception.

Mr. ROWAN said, the facts were, that Mr. Sparhawk presented a memorial, to which Mr. Green had replied, and in replying, he had mentioned the journal to which Mr. Agg was attached. He, therefore, presents a statement in answer to that allusion. But Mr. R. considered, that if this were admitted, there would be no end to the statements. The chain would be interminable. This paper had nothing to do with the matter; and if it had, he should be not the less opposed to receiving it. He had been against receiving the first papers presented by Mr. Sparhawk, because the affair of which they treated was not a matter for their consideration. As to the dignity of the Senate, he thought it had been far more compromised by receiving those papers, than by the act of which they complained. He wished that, at this time, the whole subject might be disposed of. He wished to get rid of all this stuff, for he maintained that they ought not to act upon it. As he had said before, it was a subject for the examination of a court of justice, and there it ought, if at all, to be discussed. To the gentleman who said that the Senate had jurisdiction over the transaction, he answered, Where is your jury, your deciding body, before whom the case can be tried? He assured the gentleman there was no power in the Senate for the purpose. They could not go into the examination of the case, for where was the machinery by which it was to be done? There was none. He hoped, therefore, that the Senate would not receive the communication now presented, and that the several individuals might have leave to withdraw their papers.

Mr. SMITH, of South Carolina, expressed his belief that the Senate had no jurisdiction over this subject. How [said Mr. S.] can you proceed? Have you the

power to punish the offence complained of? Have you power to imprison the offender—and if you have, how far can you go in its exercise? How far are you licensed? How are you limited? And, if you go on, where will you end? These questions were of serious importance, and could not easily be answered. Was the business of the Senate to be obstructed by memorials brought in from day's end to day's end, upon every trivial occasion? He thought not. And suppose [said Mr. S.] you were to refer the matter to a committee, and they were to report that one of the parties has assaulted the other in your premises, and triumphed over him—What will you do with him? I cannot conceive. If the application was for the dismissal of an officer of the Senate for malpractices, it would be a different matter. As it was, he thought it a subject on which they could not act with propriety, and he had wished that the memorialist had been allowed to withdraw his papers when the motion was made the other day by the gentleman from Kentucky. It ought to have been withdrawn in its incipient stage. Of Mr. Sparhawk, Mr. S. said he knew nothing. He might have great cause of complaint; but this was not the place for him to apply to. He had nothing to say against accommodating the Reporters. They were useful individuals, and he believed the Public was much indebted to them. There were, he knew, complaints that they sometimes committed errors—but he thought they were generally correct—and indeed to him it was matter of wonder that they did not make ten mistakes where they made one. They certainly exhibited a desire to be correct, and ought to be admitted to all proper privileges. But Mr. Sparhawk's resort for the injury he complained of, was not here. He must apply to a court of justice. If a complaint had been lodged against the Printer to the Senate, he should have been ready to consider it and vote upon it. In the present case, he wished the matter might drop where it was; and hoped that the motion to allow the parties to withdraw their papers might be agreed to.

Mr. JOHNSTON, of Louisiana, remarked, that he did not attempt to assert any right on the part of the person now applying here. But he thought all the papers ought to be put together; and was therefore in favor of receiving the communication.

Mr. NOBLE desired to hear the statement read.

Mr. EATON observed, that it could not be read if it was not received; and that the question upon receiving must first be taken.

The CHAIR said, that, if the motion to read was sustained by the Senate, the paper might be read.

Mr. EATON repeated, that he could not see any just ground for considering it at all, as it had nothing to do with the quarrel.

Mr. KING said, that the reason why the object of all memorials, etc. was stated on being presented, was, that the fact might be ascertained whether they were proper subjects of consideration. The object of this paper had been stated, and it was evident that it had nothing to do with the case before the Senate. For this reason, he was against receiving it.

Mr. NOBLE rose to make some remarks, but

The CHAIR interposed, and observed, that a question on reading could not be debated; and read the rule to that effect from Jefferson's Manual.

The question being then put on reading the statement offered from Mr. Agg, it was negatived.

The question occurred on receiving the communication, when it was rejected.

TUESDAY, FEBRUARY 5, 1828.

[The Senate was principally occupied, to-day, in the consideration of Executive business.]

Feb. 6, 1828.]

*Revolutionary Pensioners.—Discriminating Duties.*

[SENATE.]

WEDNESDAY, FEBRUARY 6, 1828.

## REVOLUTIONARY PENSIONERS.

On motion of Mr. SMITH, of Maryland, the bill making appropriations for the payment of the Revolutionary and other Pensioners of the United States was again taken up.

Mr. SMITH moved to strike out the words "in addition to an unexpended balance of former appropriations, of five hundred and sixty-four thousand dollars, two hundred and thirty-six thousand dollars," and to insert eight hundred thousand dollars.

Mr. SMITH said that he was instructed to make this motion by the Committee on Finance. The Committee, since the subject was last discussed, have had a correspondence with the Secretary of War, on the subject. It appears to the Committee that the sum of eight hundred thousand dollars will be sufficient for the pensions of the year 1828. The unexpended balance, five hundred and sixty-four thousand dollars, added to the sum of two hundred and thirty six thousand dollars, proposed to be appropriated in the bill, will answer the same purpose, so far as regards the pensions of 1828. But the unexpended balance, five hundred and sixty-four thousand dollars, might be called for this year, by those to whom it was due; and, there being no money in the Treasury to meet the demand, the pensioners would be compelled to apply to Congress for relief. The Committee thought it best to leave the unexpended balance subject to the claims upon it, and to appropriate, independently of that, a sufficient sum to meet the pensions of the year 1828.

The Secretary of War thought the appropriation should be made, as proposed in the bill; yet he would have the right to take up the unexpended balance and pay it away if it should be called for. The Committee were not of this opinion. Though this had been the practice of the Government, it was illegal. The act of 1820 forbids it. No inconvenience could arise from the course proposed by the Committee. The sum unexpended would, after the usual time, go to the surplus fund. The Chief Clerk of the Pension Office, Mr. Edwards, had given it as his opinion that the five hundred and sixty-four thousand dollars would be called for. It was also evident, from calculations which Mr. SMITH made, that all those were not dead, whose pensions had not been demanded. Mr. S. had suggested, he said, the propriety of enacting a law that all pensioners, who did not, for two years, apply for their pensions, should be considered as dead. But he had been informed that a law was unnecessary for the purpose, as it could be done by a regulation of the Department.

Mr. HARRISON would vote, he said, for the appropriations proposed by the Committee. The reason why the pensioners had not applied for the sums due to them, was not that they were dead, but that the pension system is complicated. The process of drawing the money was tedious and difficult. Mr. H. would take occasion, he said, at a proper time, to call the attention of the Senate to this subject, and endeavor to devise some easier means by which these meritorious men might be enabled to receive from Government their scanty pittance.

The amendment was agreed to, and the bill ordered to be engrossed for a third reading.

## DISCRIMINATING DUTIES.

The bill in addition to an act, entitled "An act concerning discriminating duties on tonnage and impost," having been taken up—

Mr. WOODBURY said, the bill now under consideration, relates to a subject of no small magnitude. As it is not accompanied by any report of facts or principles in its support, because such a report was made at a former session to this body, I must ask the indulgence of the Senate a few minutes, to recall to their minds

the history and present condition of our discriminating duties, the changes that will be effected by this bill, and the reasons in favor of those changes. The duties imposed on American vessels, coming from abroad, were always, prior to the year 1815, only six cents per ton. Those imposed on foreign vessels, prior to that period, were fifty cents per ton on the vessel, and ten per cent, additional impost on the cargo. Since 1804, these last have also been subjected to fifty cents per ton light money. Thus making the discrimination forty-four cents per ton without, and ninety-four cents per ton with, light money on the vessel, and ten per cent, on the cargo. Since the 3d of March, 1815, the discrimination remains the same, except in certain cases, and as to certain nations which I will now proceed to particularize. In no cases has the duty on American vessels been altered, except the addition of fifty cents per ton, March 1st, 1817, whenever their crew and officers were not two-thirds Americans. But, in respect to foreign vessels, it was proposed, by an act of the 3d of March, 1815, to abolish all discriminating duties whatever, upon them or their cargoes, when the last was the "growth or produce of the country" where the vessel was owned, provided a reciprocal rule was there adopted in relation to this country. Some doubts arose as to the application of this act to countries where no discriminating duties had existed to be "abolished"—and, also, as to cargoes not the "growth or produce" of a particular country, but of some other country, in the interior of a continent, and, transported thence by land, or boat navigation, were "usually first shipped" at the ports of a different nation. Hence, January 7th, 1824, the phraseology was altered from "abolished," &c. to "imposed;" and the privilege of the cargo was extended from the "growth and produce of the country," to any articles "first or usually shipped" at any ports in the Netherlands, or Prussia, the Hanseatic cities of Hamburg, Lubec, and Bremen—and at any ports in Norway, Sardinia, Russia, or the Dukedom of Oldenburg. It is, by the way, somewhat singular, that this last privilege should have been limited to particular places, when the rule is old as the navigation law of 1651, wherever foreign vessels are allowed to bring their own produce, to admit in them all other produce "usually first shipped at their ports;" and, on this principle, Venice, Genoa, and Leghorn, have long been places from which Asiatic goods from the Levant were permitted to be, in their vessels, introduced into England. In this way, now, American produce descending the St. Lawrence, is mostly shipped from Montreal and Quebec, with the character, and all the privileges of Canadian produce. Under the laws of 1815 and 1824 before mentioned, and under certain commercial Conventions, since completed with foreign nations, the following changes as to duties on foreign vessels, have occurred since March 3d, 1815. British vessels, by the Convention of December 22, 1815, pay only the same duty as American ones, unless coming from places where American vessels are prohibited; but when coming from these last places, they pay \$2 per ton, by our act of March 3d, 1817. I say nothing now as to the laws about the Colonial intercourse with the British West Indies. French vessels, by the Convention of June 24th, 1822, and by our act of March 3d, 1823, pay only \$1 duty, per ton, on the ship, and \$5 75 per ton, on the cargo, diminishing one-fourth annually, after September, 1834. Swedish vessels, by the Convention of 1818, are placed on the terms of the act of March, 1815, so that the discriminating duties now exist, as to England and France, only to the extent above named: but as to Sweden, Denmark, Norway, Russia, Prussia, Sardinia, the Hanse-towns, the Dukedom of Oldenburg and Guatemala, they do not exist at all as to their vessels and cargoes, when bring-



SENATE.]

*Discriminating Duties.*

[FEB. 6, 1828.]

ing cargoes of their own produce or growth; nor, in the most of them, when cargoes not of their produce, if usually first shipped at their ports. But, with the exceptions hereafter to be named, discriminations still exist as to all other nations; and, as to those places before enumerated, with two or three exceptions, discriminations still exist on all vessels with cargoes, not of their "growth or produce," nor "usually first shipped" at their ports.

The present act proposes to do away the whole of these remaining discriminations. It removes, whenever a reciprocal rule may prevail, all extra duties on tonnage, in all cases, and all extra duties on merchandise in all cases, whether the last be the produce and manufacture of the nation owning the vessel, or usually first shipped there, though not her produce and manufacture: or whether it be produce and manufacture, however frequently re-shipped; or coming from nations however remote. What are the reasons in favor of these important changes? Do they spring from sound authorities, and are they well supported by principle? More than twenty years ago, some of our most sagacious and intelligent merchants urged this policy upon this country, and one of them, most venerable for his experience and public services, now in my eye, attempted its adoption in vain.

After the embarrassments to our commerce, commencing in 1807, and ending with the peace in February, 1815, this policy was again essayed, in part, by the able negotiator of our Convention with Sweden in 1818. One article in that Convention provided for the admission, without discriminating duties, of any West India produce in our vessels, and for an admission in the same manner, in their vessels, of any produce of the Baltic. But the article was rejected by the Senate. It was not till 1825, that the subject was again renewed and recommended in the annual Executive message to Congress. The Chairman of the Committee of Commerce for that year made a very full report and speech in explanation of the subject, and a bill like the present passed the Senate without a division. But in the other House an amendment was attached to it, embracing the removal of discriminating duties as to the British Colonies; and such was the diversity of opinion, then, unfortunately, entertained on the Colonial question, that the bill, with that amendment, was never pushed through either House. The same fate, from a like cause, attended a separate bill in the Senate, the same Session, on the subject of that amendment, as all who hear me, and were then present, have good cause to remember. This measure, for some reason unknown to me, perhaps the want of time, was not revived during the last Session. But within the past three years we have ratified treaties with Guatemala, Denmark, the Hanseatic Republics, and Sweden, based on the grounds of this bill; and the subject being now re-called to the attention of this body, it remains for the Senate to decide whether the principles in its favor are such as to meet their full approbation. Those principles embrace the great paramount one of all liberal Governments, that trade should be free; that all shackles on commerce should be stricken off; and, in accordance with the lights and spirit of the present age, that every thing in navigation should be left to the fair competition of industry, enterprise, and skill. That, in a country which justly boasts of the freedom and superiority of its institutions, nothing is to be feared from a rivalry on this subject, free as air, and extensive as the widest range of civilization. Perhaps the only just limits to this general principle in commercial affairs, are the necessities, which sometimes exist, to favor the multiplication of seamen and vessels for national defence; or, by discrimination, to obtain a revenue for the customary expenses of Go-

vernment. These reasons justified the English navigation laws in 1651, and our own discriminating duties in 1790; but would ill apply to our present condition and prospects.

As regards revenue, the discrimination yields but little, since the foreign tonnage is now so small; and that little is far from being wanted to meet the ordinary demands of the Treasury. As regards national defence, we have already a navy second to none of its size; the appropriations for its increase are liberal, and our navigation, inferior to only one Power in the world, can now furnish seamen to meet any call whatever, in any national emergency. Again: we are the carriers for other nations, rather than the employers of them to transport for us; and instead of foreign vessels engrossing nearly half the tonnage in our foreign trade, as in the year 1789, or having 100,000 out of 234,000 tons, they now constitute only about eight-hundredths of it, or something like 92,000 out of 1,000,000 tons. Again: we are known by experience, the surest test of all theories, to possess a skill and economy in building vessels, a cheapness in fitting them out, an activity in sailing them, which, without discrimination, would give us an advantage in coping with any commercial Power in existence. Persons of more practical knowledge than myself have, during the last ten years, become convinced, that such are the accurate calculations of our merchants, the youth and agility of our seamen, and the intelligence of our ship-masters, that American vessels can, on an average, make three trips to Europe, while a foreign vessel is making two. It must be manifest to all, that circumstances like these, rather than any discriminating duty, must always give and maintain to us a superiority and protection, which leave nothing to be feared from the fullest competition. Again: the manufacture of vessels, so far from needing the duty, is, in fact, encumbered by its operation. Look a moment at the facts. Of all the present tonnage employed in the foreign trade of the United States, about nine-tenths is American; and since the last war, the foreign tonnage has never exceeded thirteen-hundredths, and has sometimes been as low as eight-hundredths. On the supposition that discriminating duties existed every where abroad, as well as here, we have nine-tenths of the tonnage in our foreign trade taxed to us by those duties; while we tax to others, in return, only one-tenth. Such is the comparative disadvantage to American vessels, under this system, and on this hypothesis. Again: we export annually from sixty to eighty millions of produce, which, without any of the regulations since 1815, pays, or is taxed abroad with a discriminating duty; while, in 1825, out of \$96,340,075 imports, only \$4,437,565 were in foreign vessels, and taxed in return for sixty or eighty millions, with a discriminating duty of only ten per centum on the cargo. In 1826, out of \$84,974,477, the imports in foreign vessels were only \$4,196,357, leaving the disparity against us in the discriminating duties on the cargoes in about the same proportion as in 1825. I know that many of our exports went to countries where no discriminating duties under the acts of 1815 and 1824, and under the treaties made since, are imposed upon articles of our own growth and produce; but, at the same time, it is to be remembered, that many of the imports here, out of the four millions and a fraction in foreign vessels, are entered under the same laws and treaties, without any discriminating duties. I have not time now to furnish the Senate with the exact details; but it is fair to presume the ratio in both cases is not very unlike; and the comparative disparity against us about the same.

In considering every view of this subject, it is proper to reflect, also, that though the 99,417 tons, or about one-tenth of the tonnage in our foreign trade, in the year 1825, belonged mostly to England, France, and the Han-



FEB. 6, 1828.]

*Discriminating Duties.*

[SENATE.]

seatic towns, and not a vessel of it to any other nation in the trade between this country and Russia, Prussia, Turkey, the Levant, Austria, Africa, the East Indies, China, Hayti, the Pacific Ocean; nor in 1825, to Mexico or Colombia; yet the discriminating duties in some of those countries might, and in some instances do, still exist, against both our vessels and cargoes where these countries have not entered into the liberal policy of 1815. It has been suggested, in opposition to the extension still further of the policy of 1815, to all kinds of merchandise whatever, that, since the year 1815, our foreign tonnage has declined, and the decline might be attributed to the introduction of that policy. But a moment's consideration will show, that here, as in many other cases, events following each other in date, are not connected as cause and effect. Our foreign tonnage in the year 1816 was, to be sure, 1,300,000, and is now, or was in 1825, only about 1,055,446. But it is not to be forgotten, that, in 1816, foreigners enjoyed 238,000 tons, or one-fifth of the whole; while, in 1825, they enjoyed only 95,060 tons, or about one-tenth of the whole. So that the American tonnage in the foreign trade is now in a proportion nearly double to what it was then. The decline, then, is not comparative; neither is it from the removal of the discriminating duties; but it undoubtedly has arisen from the long peace in Europe, which naturally diminishes our exports, and from the circumstance, that, as the many old vessels in 1816 cease to be sea-worthy, they have been supplied by smaller vessels in the coasting trade, where their employment could be more profitable. As proof of this, the coasting trade, including all enrolled and licensed tonnage, has risen, from 1815 to 1825, over 200,000 tons, or from 513,833 to 722,323 tons. Indeed, in 1816, it was only 571,458 tons, while it now exceeds considerably all our tonnage engaged in the foreign trade.

But we not only want the discrimination removed abroad, wherever it still exists on our products, freighted in our own vessels; because our products transported are much more valuable in amount than theirs in their vessels; but because ours being necessities of life, and raw materials, will always hereafter be much surer in demand than theirs, as mere luxuries of life; or manufactures, for which we, at home, are able, generally, to furnish substitutes. A very direct tendency of the present measure will, also, be to relieve our present exports of foreign products, amounting, in 1825, to 32,590,643 dollars, and in 1826, to 24,539,612 dollars, from that discriminating duty, which does not come within the scope of the act of 1815, or 1824, and which has never been removed abroad, reciprocally, to any great extent, except by recent treaties with Central America, Denmark, the Hanseatic Republics, and Sweden. By those treaties, as before named, every species of discrimination, whether on vessels or merchandise of any kind, is entirely abolished. These exports of foreign articles, if burthened with only ten per cent. increased duty, equal to what is now imposed here in like cases, would expose us abroad to an annual tax of over 2,000,000 dollars, while the same increased duty on the amount of all kind of imports here, in foreign vessels, would be only about 400,000 dollars. Should we, in this country, extend the period of drawbacks, and adopt more extensively the warehouse system, as now contemplated, it will become still more useful to us to assort the cargoes of our vessels to all nations, without encountering, as to any part of those cargoes, either prohibitions or discriminations. The removal of every unequal and odious distinction will promote harmony in our foreign intercourse. It will extend to them the same favors we ask in return. It will reciprocate every privilege. It will invite free and full interchange of surplus commodities of every kind, and remove the usual occasions for angry relations and expensive wars. Where na-

ture, or habit, or political foresight, has given any advantages to one nation over another, she will enjoy them while deserving them. But none will dread a monopoly; and exchanges will profitably happen on those liberal principles, which ought always to distinguish an age of free and thorough inquiry from one of limited enterprise and narrow views. The present state of our intercourse with the British West India Islands is a strong illustration of the folly of such collisions. I shall not travel out of my present path to investigate the origin of those collisions, or to fix censure either upon one party or the other. But this much is clearly manifest, that while, by the Treaty with Denmark, of April 26, 1826, we have a free trade with her Colonies in the West Indies, in all kinds of merchandise, except in navigation directly to the mother country; and by the Treaty with Sweden, of July 4, 1827, a still freer trade with Saint Bartholemews; and by a French Ordinance, of February 5, 1826, a copy of which is laid on our tables this morning, a trade to the islands of Martinique and Gaudaloupe, on an equal footing, in many valuable staples; yet, with the islands belonging to England, whose geographical position and habits make an intercourse still more profitable to both parties, we have in being on both sides, total prohibitions.

By means of these prohibitions, over 100,000 tons of our shipping have the last year been diverted from their accustomed channel of business; while, on the part of the British, only about 8,000 tons have been so diverted, and that chiefly to their own ports in New Brunswick and Canada, further Northeast. The consequence to us has been, that this kind of shipping, though forced abroad with cargoes, rather than to rot at our wharves, has been compelled to seek new markets or a circuitous voyage to old ones, thus taking the produce with higher freights and double commissions, and has consequently fallen in value at many American ports more than twenty per cent. Without including the depressing influence of this on the price of our produce, and the prospects of its growers, this may prove an useful lesson to all nations of the impolicy of an unprofitable, if not obstinate adherence to discriminating duties, or of any tardiness to adopt, when offered, reciprocal liberality in their commercial intercourse.

By this bill we now hold out the olive branch to all. If our terms are accepted, we may obtain most of the transportation now enjoyed by foreigners in the eight or ten hundredths of our foreign tonnage; as they now are enabled to compete with us to that extent, chiefly by the discrimination they enjoy at home. We may relieve our own existing foreign tonnage from some onerous duties, now imposed in some foreign ports. We may send our own products and manufactures, as well as our large exports of foreign articles, to every region unincumbered, wherever nature or custom may render them desirable and useful. On the other hand, by this arrangement, we may enable foreigners to make greater sales of their own produce and manufactures, to cheapen their transportation, to procure at a lower price their wanted supplies, and in these, and other particulars, to become amply remunerated for every indulgence granted to strangers. But, whether accepted or not, by nations, other than those who already have adopted the basis of this bill, we shall, at all events, by its passage, act in conformity to the boasted principles of our free Government. We shall second the liberal spirit of the present age; and if our advances are repulsed with an unconciliating temper, we shall still enjoy the satisfaction of having attempted, on our part, to discharge, with all good fidelity, our duty, both to that age so interesting as our own, and to that country of our birth and affections so forward, if not foremost, in the improvements of that age. I shall forbear to detain the Senate with any further detail on this subject, unless called for by ob-

SENATE.]

*Discriminating Duties—Organization of the Militia.*

[FEB. 6, 1828.]

jections to the bill, or by inquiries from gentlemen, which it may be in my power to answer.

Mr. SILSBEE made a few remarks—which were not heard by the Reporter. He was understood, however, as agreeing, generally, in opinion with Mr. WOODBURY, but differing in details.

Mr. SMITH, of Maryland, had considered this subject for a long time, and was a firm advocate of the principle of the bill. But, so clear a view of the question had been taken by the gentleman from New Hampshire, that, when called on, as a commercial man, to express himself on the subject, he hardly knew what to say. When this country came out of the Revolutionary war, discriminating duties were imposed. At that time Baltimore owned ten times the number of three-masted vessels as New York, and was extensively engaged in the coasting trade. The advantages derived from the passage of that act were instantaneous. The trade of this country was benefitted, and that of Great Britain somewhat prejudiced. That nation then contemplated a retaliation upon us. They waited until a good opportunity offered, and that they found at the negotiation of Mr. Jay's treaty. This treaty enabled them to retaliate the discriminating duty upon us—and, had it not been for the war which ensued, they would have carried all the trade from the United States to Great Britain.

I introduced this subject, said Mr. S. in the year 1802. Our Eastern brethren doubted the policy of the measure. At an after period such an act passed, extending, however, to but a portion of our commerce with foreign countries. What was then the language of our merchants? They said let us alone—give us a free and open trade, and we can take care of ourselves. From that time the principle has gradually gone on. The advantages have been great to the country, and, if this bill pass, they will still be enlarged. It relieves us from the apprehension of retaliatory measures on the part of foreign nations. A free and open trade is the only true American System. It is no new-fangled plan for the benefit of a favored class, but is a policy that has been long acknowledged as good, and satisfactorily tested. We ask no more from other nations; and, if they universally reciprocate the measure, we feel confident that we can excel them in taking advantage of the system, from the superiority of our navigators, and the general enterprise of the country. The prospect in such a case is fair that we shall become the carriers of other nations. He would venture to say that, if this principle were extended to the ports of the Mediterranean, this country would have the carrying trade to a great extent. Holland treats us as she has always treated us, with great liberality. She admits us into the ports of Java. We are, to a considerable extent, the carriers for England, and also for France, since the Convention. And he believed that every Power with which we trade will admit us into their ports on equal terms, if we hold out to them inducements to do so. Bonaparte saw the benefit of such a system; and put his finger on it, when he established his Continental System. Immense numbers of our vessels were now employed in the carrying trade of the Mediterranean, and gained, as they were entitled to, a liberal profit. And when the obstructions to the British Colonial Trade were removed, we should be able to go all over the world. This country had set the example of liberality, and it had been followed by many foreign Powers already. A paper had been laid on the table which showed that we were admitted reciprocally with almost all the articles which we carry to France. She rejects nothing but our pork and flour, and, if we can hold out, during this session, some amicable proposition to that country, we may hope that she will admit our flour. One good turn deserves another, and generally begets another. A different subject would probably come before the Senate in a few days, in which an op-

portunity might be given to conciliate France. Would it not be good policy to reduce the duty on her wines, an article in which she takes the greatest interest? Mr. S. hoped such a measure would be adopted—and he trusted that, if it were, France would reciprocate the act. The conduct of that Government had been highly liberal towards us, compared with that of Spain and Portugal, who had refused to receive any of our products, except in the Islands of Teneriffe, Fayal, and a few others. Now, as France has shown a friendly spirit, why should we not take her by the hand, and fully reciprocate this amicable disposition? Whatever might be said of the politics of the Minister of France, he had certainly shown a friendly disposition towards us, even against his own interest, as that part of his administration had been disapproved by the merchants of Bordeaux. He had not intended to say so much when he rose, and would conclude by repeating his desire that the bill should pass.

Mr. WOODBURY said a few words in reply to the remarks of Mr. SILSBEE.

Mr. FOOT said he did not apprehend any opposition to the principles or provisions of this bill. He had long been in favor of it, and had advocated the same principle on former occasions. He believed that, whatever doubts might formerly have been entertained in relation to the policy of this measure, there was but one opinion among the commercial men in this country, at the present time, viz: that nothing was wanted for the commerce of this country but a free and perfect reciprocity of intercourse and trade; that we did not fear a fair competition; but, Mr. F. said, although he fully agreed with the Chairman of the Committee, in relation to the present bill, he regretted his allusion to the Colonial trade with Great Britain. He understood the Chairman to state that one hundred thousand tons of our shipping had been thrown out of employ, by our exclusion from the British Colonies. The Chairman must, he thought, be mistaken in point of fact. Although the direct trade to the British Colonies had been closed against us, this tonnage was not thrown out of employ, but merely diverted into other channels; and for himself, Mr. F. said, since the treaty with Sweden had been ratified, opening the ports of St. Bartholomews, without any discriminating duties or charges, in addition to the opening of the French ports, as appeared by the French Decree, this morning laid on our tables, he was not disposed to even ask Great Britain to open her West India Colonies to our trade: for he was confident that the direct trade with her Colonies, under the limitations and restrictions under which they have ever been open to our trade, has never been as valuable as it may, and will be, under the present exclusion from British ports, with the facilities now afforded by the treaty with Sweden, and the French Decree: for surely we have the long carrying trade to the Islands, and are not subject to the heavy charges in the British ports; and, by the Convention between Great Britain and Sweden, our produce is not chargeable with the duties and charges which have always been levied on our vessels and cargoes in their ports, when carried, as it will be, in the vessels of St. Bartholomews, or in British vessels, from the Swedish to the British Islands.

Mr. WOODBURY said that he had not said this tonnage was thrown out of employment, but that it had been diverted from its former channels.

The question was then put on engrossing the bill, and was decided in the affirmative, without a division.

#### ORGANIZATION OF THE MILITIA.

The special Orders of the Day then occurred, and the bill more effectually to provide for the organization of the Militia of the United States, and the discipline thereof, was taken up.

FEB. 6, 1828.]

Organization of the Militia—Columbian College.

[SENATE.]

Mr. CHANDLER explained the objects of the bill, among which is a provision authorizing the classing of the Militia into two bodies, the one to be composed of men between the ages of 21 and 28, to be known as the Junior Class; the other to be composed of men between the ages of 28 and 45. A provision was also made that, whenever the Militia of any State will turn out for discipline four days in the year, they shall be supplied with tents and camp-kettles by the United States. This, Mr. C. observed, was held out as an inducement to them to encamp for that space of time, as men were taught much more by being drilled for four days at one time, than by the same number of days at different periods. Mr. C., after having explained the various provisions of the bill, moved an amendment, to provide for any Militia officer or soldier who should be wounded while in the service of the United States.

Mr. NOBLE expressed himself in opposition to the amendment, as threatening to establish a pension system, and moved, to postpone the bill until Monday next, to be made the order for that day.

Mr. SMITH, of Md. supported the bill, but suggested some alterations in the details.

Mr. CHANDLER acquiesced in the suggestions of the gentleman from Maryland, and observed that he had no wish to push the measure, desiring that the aid of the Senators might be given to correct the bill. He was willing to agree to the motion to postpone, if gentlemen desire to examine the bill farther.

Mr. SMITH, of Md. thought to postpone would place the bill too far down on the list of special orders. He therefore moved to lay it on the table.

Mr. CHANDLER assented to the motion, and the question being put upon it, it was agreed to.

#### COLUMBIAN COLLEGE.

The bill for the relief of the Columbian College in the District of Columbia, being next on the list of special orders, was taken up.

Mr. EATON made a few favorable remarks upon the bill.

Mr. WHITE said, that he had read a statement of the affairs of the College, by which it appeared that they were very much deranged. He wished to be certain, when the United States gave up its claim on the College, that some other creditors should not step in and take away the property, with which they were to go on with the institution. He, therefore, asked of the gentlemen who formed the Committee, information as to who are the other creditors, what the amounts due to them, and whether they were willing to agree to the compromise. He wished to see what was the amount of funds possessed by them, to meet the demands of such creditors as would not give up their claims; because, if the benefit contemplated by this bill was not likely to operate upon the institution, it was useless to give up the claim of the United States upon it. All that he wanted was to be able to vote safely, and he asked for the requisite information, which he had not as yet received.

Mr. EATON said that he could not give the information asked, because it was not the duty of the Committee to investigate the private debts of the College.

Mr. JOHNSON, of Kentucky, explained the history of the transaction, by which the College became indebted to the United States, at considerable length. As far as the Committee had investigated the affairs of the institution, he believed a disposition was generally displayed by the creditors to accept a compound, by which they should receive 75 dollars in the hundred. It was understood that contributions, in various quarters of the country, had been or would be made, under the condition that Congress should be induced to release

the College from this demand. If this bill was passed, all the creditors would receive 75 cents in the dollar, and the institution be allowed to go on. If it were rejected, the institution would be ruined. The United States could not compromise. It must either insist upon its claim or give it up. He asked whether it was better to hold on upon a demand, which was in itself worth nothing, or by its relinquishment enable the College to go on prosperously? He gave it as his candid opinion that, if the bill were passed, the institution would receive, and by the next session have, upwards of one hundred students, and all this would be effected by giving up a demand, which was not worth the pen he held in his hand. He hoped, therefore, the bill would be allowed to pass.

Mr. CHAMBERS observed that he was a member of the committee that had reported the bill. He held in his hand a statement, which the gentleman from Tennessee could examine, and which gave a list of the assets of the College. By this it appeared that the only available means of the institution was a certain quantity of bank stock. As to the debts of the institution, the particulars were not known to the committee. He remarked, that Government, in obtaining this demand upon the College, parted with no valuable consideration—they parted with that which would have never produced any thing; and by giving it up they would not be losers, if this worthless demand were not given up, the College could not go on.

Mr. SMITH, of South Carolina, objected to the grant. It was said that there was no value in the demands which were disposed of to the College; but he was sure that a portion of the sum was secured to the United States by Thos. L. McKenney. He was then an officer of the Government, and is so still, and draws a salary of 1,500 dollars, which was pledged for the payment of this sum of 14,000 dollars—so that the Government was safe for a part, at least, of this sum. A report, to which Mr. S. referred, was, he observed, proof of this fact. It stated that Mr. McKenney was anxious to be able to draw his salary, and this arrangement was made, by which the debt was shifted upon the Columbian College. As to the debt of Mr. Luther Rice, of 11,000 dollars, it did not appear how it was contracted. But, the 14,000 dollars was secured by Thomas L. McKenney, who had a good salary, and did not seem desirous of giving it up. He thought the subject ought to be examined closely. The debt of the College, it appeared, was about 100,000 dollars—contracted in the four or five years of its existence—how, it would be useful to know. It was said to be flourishing—to have students—and it was well known to be no charity school, no gratuitous institution, and he should like to know how they had contracted so large a debt. The demand also struck him as an improper one, to give up the debt; for it appeared to him nothing more than equity that the United States should share with the other creditors *pro rata*. He had another insuperable objection to acting upon this subject. It was, that it had been proposed to establish a literary institution here. It had been recommended by General Washington, and by the present Chief Magistrate. He was against it: for he knew not where they should find constitutional power for its establishment. He was against it, because, if this relief was granted, there would next year come up a proposition to establish a literary institution in this city, and this bill would be referred to as a precedent.

Mr. JOHNSON, of Ky. did not anticipate that, at this time of day, the question of constitutionality would be brought up. At this late hour there was no time for its discussion. If the arrangement made in regard to the 14,000 dollars, was an improper one, at least it was directed by one of the first men in the Union. Mr. Craw-

SENATE.]

*Columbian College—Captors of the Philadelphia.*

[FEB. 7, 1828.]

ford had made that transfer, and it was to be supposed that, when he did it, there was a probability of getting something. He knew that Mr. McKenney was bound to pay it; but he also knew that, if it were pressed upon him, he would be obliged to throw up his situation; for his salary was necessary for his own support; and in that case the Government would gain nothing. The character of Mr. Crawford admits of no other supposition than that he believed he was doing what was for the best interests of the country, in making the arrangement.

Mr. CHAMBERS said, that the demands of the United States on Mr. McKenney were of a doubtful nature, as two Auditors, in settling his accounts, had disagreed; and having no other means of subsistence but his salary, the demand was not enforced, and the arrangement was made with the College, so as to allow him to draw his salary. As to the question which had been broached by the gentleman from South Carolina, Mr. C. thought with the gentleman from Kentucky, that it was too late in the day, and too late an hour in the day to discuss the constitutional power of establishing a literary Institution in this District, which was entirely under the control of Congress. He thought the principle fully established in favor of such a project, by the opinions of many of our greatest statesmen.

Mr. WHITE said he was sorry to obstruct the bill; but he thought the Senate ought to have more information, in order to act properly upon the subject. He was still in the same doubt as he had previously expressed, as to the condition of the Institution—and he wished to know whether this grant was to be productive of the benefits contemplated by it. It had been said that a Committee had reported upon it last year. But it was well known that the condition and value of property changed essentially in the course of 12 months. It was, therefore, necessary to inquire into the present condition of the College. To procure the necessary information, he moved that "the bill be recommitted, with instructions that the committee ascertain and report the amount of the debts due by the College, to whom they are payable, for what they were contracted, and when they are payable; And, also, that the committee ascertain and report the whole funds owned by said College, and in what they consist; and, whether there is any arrangement by which the United States are to be restored to their former situation, should the present debtors be released."

These were the points on which he wanted information, in order that the Senate might act understandingly upon the matter. Without this information could be afforded him, he was in the dark. If it should prove, that, by releasing the College from the debt due the United States, it would be enabled to go on prosperously, he was in favor of the bill. But, if it should be found, that, in doing this, Congress was only providing funds for the payment of other creditors, no more meritorious than the United States, he should be against it. He thought no gentleman would be in favor of giving up this debt, if it would be of no service to the College. To prevent the possibility of falling into such an error, he had offered his motion.

Mr. SMITH, of South Carolina, read a passage from Mr. Rice's statement, inserted in a report of a former year, in which he says, that McKenney told him a demand was held against him, by which he was prevented from drawing his salary, and that he wished to shift the demand, so as to be able to remove the obstruction to his pay. Therefore, said Mr. SMITH, I say again, that the portion of the amount held against McKenney was, in part, secured, and was not, consequently, worthless. He thought as highly of Mr. Crawford as any man; but he pinned his faith on no man's sleeve. There was no doubt of his high qualifications and inflexible virtues;

but he was not infallible, and he might err. He was in favor of the motion of the gentleman from Tennessee.

Mr. JOHNSON, of Kentucky, observed, that the delay which would arise from a recommitment, was his chief ground of objection to the motion. As to the debts of the College, he thought it would be a disagreeable task to take up all the grocery bills that had been purchased. Besides, it would arrive at no practical result.

Mr. WHITE thought no man could have any reasonable objection to such an investigation. He had no design to injure the feelings of any one, and it could not be injurious to any individual to have it known that he had given credit to a public institution. If the names of the creditors were disclosed, the Senate would be enabled to decide whether they would accept the compromise to be offered, in case the debt was relinquished by Congress.

Mr. BERRIEN hoped the bill would be recommitted. One of the objects of the motion was to ascertain how those debts were contracted. If they originated in the ordinary way, the same vigilance would not be requisite. But if it should appear that those debts have been contracted in any other than the ordinary way, and out of the ordinary duties of the public officers, without in any manner intending to impeach their conduct, he thought this subject one of serious import. The inquiry he thought would be greater in authorizing, or countenancing these extra judicial contracts, than that which could result from the delay of the bill. He should vote for its recommitment.

The motion offered by Mr. WHITE, was then adopted, and the bill was recommitted to the Committee on the District of Columbia.

THURSDAY, FEBRUARY 7, 1828.

## CAPTORS OF THE PHILADELPHIA.

The bill for the relief of Susan Decatur and others was taken up, and the question being on filling the first blank in the bill with one hundred thousand dollars—

Mr. HAYNE (Chairman of the Committee on Naval Affairs) said, that, so deep was his conviction of the justice of the claim under consideration, that he could not believe it was necessary for him to do more than present a clear statement of the facts, and to explain the grounds on which the committee had proceeded in reporting this bill. In doing this, said Mr. H., I shall avail myself of the report, which, under the direction of the committee, has been submitted to the Senate; to which I will add such observations as may be necessary to give the Senate a full view of the whole subject. The claim which it is the object of this bill to satisfy, is founded on the recapture and destruction of the frigate *Philadelphia* in the harbor of Tripoli, in the year 1804. I do not think it necessary, Mr. President, to go back to the causes which led to the Tripolitan war. It is well known that depredations on our commerce in the Mediterranean, the demand of tribute, and the capture of American citizens, for whose release a ransom was always demanded, sometimes amounting to \$3,000 a man, compelled the United States at length to appeal to arms for the redress of these grievances. As soon as the war with Tripoli commenced, Commodore Preble was dispatched with a small squadron to the Mediterranean to prosecute hostilities; and not long after the arrival of his squadron on the Barbary coast, the frigate *Philadelphia* of 44 guns, then commanded by Commodore Bainbridge, was stranded on rocks, in a situation which rendered resistance impossible, led to her capture by the enemy, and the imprisonment of her officers and crew, amounting to between three and four hundred men, in one of the dungeons of Tripoli. On the flood tide the frigate was got off, and being taken into

FEB. 7, 1828.]

*Captors of the Philadelphia.*

[SENATE.]

the Tripolitan service, was moored in the harbor of Tripoli, "within pistol shot of the whole of the Tripolitan marine, mounting altogether upwards of 100 pieces of heavy cannon, and within the immediate protection of formidable land batteries consisting of 115 pieces of heavy artillery." It is stated that "besides this force, there were encamped at the time, in the city and its vicinity, twenty thousand troops, and that upwards of 1000 seamen were attached to the fleet in the harbor." In this situation, sir, and while the force of Commodore Preble, originally small, was, by the loss of the *Philadelphia*, so much reduced as to prevent his carrying on his operations against the enemy with any prospect of success, Stephen Decatur, then a very young man, and a junior lieutenant in the fleet, conceived the idea of entering the harbor of Tripoli in the night, with the small schooner *Enterprise*, of 12 guns and about 70 men, which he then commanded, and of boarding and recapturing the frigate. That this scheme originated with Decatur is asserted by the committee in their report; but, as this fact has been questioned, I shall proceed to establish it beyond the possibility of a doubt, if the evidence before us is to be relied on. It is due to the memory of one of the most gallant officers that ever adorned the Naval service of this or any other country, that the truth should be put beyond all question; and I know that this act of justice to her lamented husband will be more grateful to the feelings of the petitioner than any pecuniary grant you could possibly make. I will now refer the Senate to the statements of Commodore Charles Stewart, who served under Commodore Preble, and who, in command of the *Syren*, accompanied Decatur in his expedition against the *Philadelphia*.

The evidence on this subject will be found at page 46 of the Documents on the tables of the Senators.

Commodore Stewart, in a letter dated December 12th, 1826, addressed to Mrs. Decatur, says:

"You state that your late husband has given you to understand that the project of burning that frigate at her moorings, and thereby remove a serious impediment to the future operations of the squadron against Tripoli, originated with him. This understanding was perfectly correct—it did originate with your late husband, and he first volunteered himself to carry it into effect, and asked the permission of Commodore Preble, off Tripoli, (on first discovering the frigate was lost to the squadron) to effect it with the schooner *Enterprise*, then under his command. The Commander-in-Chief thought it too hazardous to be effected in that way, but promised your late husband that the object should be carried into effect on a proper occasion, and that he should be the executive officer when it was done."

In another letter, dated January 5th, 1827, Commodore Stewart says:

"The Squadron under the command of Commodore Preble had been detained some time, as they severally arrived at Gibraltar, (with the exception of the frigate *Philadelphia* and the schooner *Vixen*) to counteract the hostile designs of the Emperor of Morocco. As soon as the Commodore had accomplished his objects in that quarter, he proceeded off Tripoli, in the *Constitution*, accompanied by the schooner *Enterprise*, commanded by your husband. On arriving off Tripoli, where the Commodore expected to find the frigate *Philadelphia* and sch. *Vixen*, blockading that port, he discovered that frigate at moorings in the harbor. It was at this time your late husband proposed to destroy the frigate, with the *Enterprise*, under his command—and at this time, as I stated in my former letter to you, Commodore Preble assured your husband that the frigate should be destroyed, and that he should be the executive officer when done, for his having so handsomely volunteered his efforts to effect it with the schooner *Enterprise*. I give you these facts as I re-

ceived them from Commodore Preble and your husband, at the time, as well as from several officers then on board the *Constitution*. Some time after this I arrived at Syracuse, in the *Syren* brig, from Algiers, and offered my services for the expedition, which were accepted by Commodore Preble.

"Some time after this, when the expedition was a subject of conversation in the cabin of the *Constitution*, (which was frequently the case, from the extreme urgency on our part to have it effected immediately, and unwillingness on the part of the Commodore to have it executed at so perilous a season of the year, and his reluctance to put any thing to hazard in a force originally so small, but then much reduced by the frigate and her crew,) that letters were received from Capt. Bainbridge, at Tripoli, I think by way of Malta, which were partly written in lemon juice, and which the Commodore read to us, after rendering it legible before the fire. In this letter the practicability of destroying the frigate was strongly urged by Captain Bainbridge, and the mode he pointed out was by a surprise. This dispatch fully confirmed all our ideas and previous conversations on that subject, decided the Commodore at once to carry it into effect—which was done soon after, in a manner set forth in his reports, on that subject, to the Secretary of the Navy."

In support of this statement, we have the evidence of the late Captain Spence, and of Commodores Chauncey, Ridgely, Crane, and Rodgers. Capt. Spence says:

"The destruction of the frigate *Philadelphia* is associated with the name of 'Decatur only,' and I had always supposed him to be the projector of the enterprise, from the circumstance of his having been entrusted with its execution. There could be no other good reason assigned for the preference given him, in the presence of older officers. I am under the impression that Commodore Decatur was the first to suggest the re-capture of the frigate *Philadelphia*."

Commodore Chauncey says:

"I state that I was not in the Mediterranean when the *Philadelphia* was destroyed, but I joined the Squadron soon after, and it was generally understood among the officers that the plan for her destruction originated with Decatur; and that the execution of it was, in consequence, entrusted to his management. I acted under this impression when I urged on the then Secretary of the Navy the propriety of promoting the gallant Decatur to the rank of Post Captain."

Captain Ridgely says:

"I have a most distinct recollection of all the circumstances attending the preparation for burning the *Philadelphia*, and I have no hesitation in saying that the whole originated with Commodore Decatur—it was he who suggested to the late Commodore Preble the possibility of the enterprise."

Captain Crane says:

"My recollections are very distinct relative to the re-capture of the frigate *Philadelphia*. It has always been my belief that Commodore Decatur planned, as well as executed the enterprise."

Commodore Rodgers says:

"I had always supposed the plan by which the frigate *Philadelphia* was destroyed was projected by Commodore Decatur."

In claiming for Decatur the merit of suggesting the daring scheme which he afterwards so nobly carried into effect, it is not my intention in the smallest degree to detract from the merit of Commodore Preble, who incurred the heavy responsibility of sanctioning the enterprise. The Commander of the Squadron, in determining to commit to Decatur the conduct of the expedition, was not unmindful of the extreme hazard of the undertaking. He well knew that its success would entirely depend on

SENATE.]

*Captors of the Philadelphia.*

[Feb. 7, 1828.]

the celerity, secrecy, and gallantry of its execution; and, conceiving that any attempt to bring out the frigate must be attended with extraordinary hazard to the captors, and possibly expose the vessel to the risk of being re-captured—and believing that the destruction of the Philadelphia would sufficiently restore the balance of power to enable him to carry on his operations against Tripoli successfully—and being, perhaps, moreover, of opinion that the destruction of the frigate, under the very eyes of the Turks, was calculated to make a deeper and more lasting impression on their forces, even than her re-capture, he resolved that she should be destroyed; and, therefore, issued peremptory orders “that, in case of success, “Decatur should be sure to set fire to the gun-room, “births, cock-pit, store-room forward, births on the “birth-deck,” and then, after “blowing out her bottom,” to abandon her. In looking at these orders of Commodore Preble, I have been forcibly struck with their remarkable tone. In every part of them he uses a language which one here might be supposed to use to another, by whom all dangers and difficulties were to be trampled on as nothing. With the utmost precision, he instructs Decatur to proceed to the harbor of Tripoli, to enter it in the night, to board the “Philadelphia,” to carry every thing by the sword, and, having caused her entire destruction, to return and report to him! As if the execution of such an order, by a Lieutenant and seventy men, in a small ketch, under the fire of several hundred pieces of cannon, was a matter of course! The real state of the Commodore’s feelings, however, keep out in the conclusion, when, in spite of his tone of confidence, he commends the little band to the protection of Heaven, and “May God prosper you in the enterprise!”

But, to return to the expedition. Decatur sailed from Syracuse, where the American Squadron then lay, on the 3d of February, in a small ketch, of sixty tons, called the Intrepid, with about seventy officers and men, all volunteers, accompanied by the schooner Syren, commanded by Lieutenant (now Commodore) Stewart, to whom was assigned the duty of supporting him with the boats of the Syren, and covering his retreat. After several days of very tempestuous weather, he arrived off the Harbor of Tripoli, and, on the night of the 16th proceeded into the harbor, ran up alongside of the Philadelphia, (moored as I have described) boarded, and carried her, after a short but severe conflict, on the decks of the frigate, in which upwards of twenty Turks were killed on the spot, and the rest driven below or overboard. At this critical period, Lieutenant Decatur found himself in quiet possession of his prize—not a gun had been fired—the alarm had not yet been spread, and it was the opinion of the Pilot who conducted the expedition, as well as of several Naval Officers, acquainted with the circumstances, and (the Committee have been assured) of Decatur himself, that the vessel might have been brought out of the harbor in safety; and, if that had been accomplished, the officers and crew of the Intrepid would, by the laws of the land, have been entitled to the full value of the frigate, certainly equal to two or three hundred thousand dollars. But the peremptory orders of his Commanding Officer prevented the attempt; and having deliberately set fire to the vessel, in the very manner pointed out in his orders, and, having remained on board until the flames “burst out of the port-holes, and had reached the rigging and the tops,” he finally abandoned her, bringing off the whole of his crew, under a heavy fire from the batteries and the shipping, without the loss of a single man!

To attempt, Mr. President, an eulogy of an exploit like this, would be a vain and fruitless effort. I must borrow the language of others. A gallant Officer, now no more, assures us that it acquired for Decatur the meritorious appellation of “the terror of the foe.” In the

language of your Committee, it was an achievement, the “gallantry of which has very seldom been equalled, and “never surpassed, in the Naval History of the world.” And, in the official despatches of Commodore Preble, it is declared that “its merit can hardly be sufficiently estimated—it is above all praise.” To this, Sir, there is nothing to be added.

But, Sir, I must be permitted to dwell, for a moment, on the consequences of this victory, and the benefits which the country has derived from it. The Tripolitan war of 1804 has always been considered as having contributed largely in laying the foundation of the naval glory of this country. It kindled that spirit among our young naval men, which has, on every occasion, blazed forth with so much lustre. It elevated the American Naval character in the eyes of foreign Nations, and inspired among our officers that confidence in themselves, which, at the commencement of the late war, (when it was feared that our ships would, in a few months, be absolutely swept from the ocean,) enabled them to meet the enemy in equal fight, and to achieve so many proud victories on the ocean and the lakes. From that dark hour when Decatur, in a small ketch, with sixty men, illuminated the Castle of Tripoli with the blaze of the Philadelphia, the whole career of our Navy (with but a single exception) has been a series of daring enterprises and brilliant achievements. Its path has been a flood of glory. But it is in the effects of the destruction of the Philadelphia, upon the Turks, that I would at this time more especially insist upon. It is emphatically stated by the Committee, and no doubt justly, that it is to the profound impression produced by this and other exploits in the Tripolitan war, (especially the affair of the gun-boat, in which Decatur was again so proudly distinguished,) that the commerce of this country is indebted for a greater exemption from depredations, on the part of Turkish cruisers, than has been experienced by any other nation, and that when difficulties have occurred, they have been adjusted with unexampled celerity, and at an expense of blood and treasure altogether insignificant, compared with that to which, under similar circumstances, the greatest maritime Powers of Europe have been subjected. In illustration of the truth of this position, and to show how largely the destruction of the Philadelphia contributed to produce these results, I beg leave to refer to one or two facts. It is stated by Dr. Ridgley, formerly Surgeon of the Philadelphia, in a document, on the table of every Senator, that

“He has a distinct and indelible impression of the leading events of his imprisonment. The Pacha and his Court did not attempt to conceal their exultation on the capture of the frigate Philadelphia. It was a jubilee in Tripoli. So extravagant were his calculations, that he would not listen to any proposal of peace and ransom for a less sum than one million of dollars. In this condition of affairs, it would have been impolitic to have opened a negotiation. It would have been regarded as an evidence of fear and imbecility. This tone of confidence and triumph continued, until the daring enterprise, led on by your gallant and lamented husband, illuminated his castle with the blaze of his trophy. The sensation produced by the achievement was indescribable—consternation and dismay were depicted on every face. But the best evidence of its impression was the frequent conferences of the Pacha with the Consul, his undisguised desire to make peace, and his proposition to that effect, on terms much more moderate—I think two hundred thousand dollars. The terror inspired by the re-capture and conflagration, (increased by the attack of the gun-boats, on the third of August, 1804,) was felt during the war, and its influence was acknowledged when the treaty of peace was signed.”

Such were the immediate effects of this exploit. But they ceased not with the war—we no longer pay tribute.



FEB. 7, 1828.]

*Captors of the Philadelphia.*

[SENATE.]

Our seamen and our ships in the Mediterranean have, for upwards of twenty years, enjoyed as much freedom among the "licensed pirates" of the Mediterranean as on our own coasts. Until the war with Great Britain, I believe no depredations on our commerce, of any consequence, had been committed by any of the Barbary Powers. Being thus led to believe that our ships would necessarily be annihilated in that contest, our rights were violated by Algiers, Tripoli, and Tunis. The moment peace was made with England, our Government determined promptly to redress these wrongs, and Decatur was dispatched for that purpose, with three frigates, one sloop, one brig, and three schooners. His was but the van of a larger squadron destined for that service. But, sir, his name alone accomplished the object at once, almost without cost, and without bloodshed. Sir, it is almost incredible, it is a fact, unparalleled in the annals of warfare, that in fifty days after the squadron sailed from Sandy Hook, a treaty was signed between Algiers and the United States, which included indemnity for the past and security for the future. In that short space of time, Decatur "had cruized in the Mediterranean, fought and captured a Turkish frigate and some smaller vessels, killed the Algerine Admiral, sailed into the harbor of Algiers, and ratified a treaty at the cannon's mouth." From Algiers he proceeded to Tunis, and insisted on and instantly obtained payment for American property (to the value of near 50,000 dollars) which had been cut out of that harbor by the British. From Tunis he passed on to Tripoli, and there effected a settlement of all our differences, with the same celerity and ease. To show that in the extraordinary success which attended these operations, Decatur was aided by the impression of his own great name and his former exploits, I will read a few lines from the statement of a gentleman, then American Consul at Tunis, who tells us "he was on the spot at the time, and perceived the effect of that influence." He thus describes the interview between the Bey and the messenger of the Commodore. "Tell your Admiral to come ashore and see me," said the Bey. "He declines coming, your highness, until these disputes are settled, which are best done on board ship." "But this is not treating me with becoming dignity; Hamuda Pacha, of blessed memory, commanded them to land and wait at the palace until he pleased to receive them." "Very likely, your highness, but that was twenty years ago." "This Admiral is the same one who, in the war with Sadi Yusef, of Trablus, burnt the frigate." "The same." "Hum! why do they send wild young men to treat for peace with old Powers? then you Americans don't speak truth; you went to war with England, a nation with a great fleet, and said you took their frigates in equal fight; an honest people always speak truth." "Well, sir, and that was true. Do you see that tall ship in the bay, with a blue flag, (the *Guerrier*?) that was taken from the British; that one near the small island, (the Macedonian,) was also captured on equal terms; that sloop near Cape Carthage, (the *Peacock*,) was also taken in battle." The Bey laid down his telescope, reposed on his cushions, and with a small tortoise-shell comb set with diamonds, combed his beard.

"A small vessel got under weigh, and came near the batteries; a pinnace with a few men rowed about the harbor, and one person, dressed in the garb of a sailor, was taking soundings—it was Decatur. "Tell the Admiral to land," said the Bey, "and all shall be settled to his satisfaction," which was done.

The rapidity and success with which Decatur brought to a conclusion our differences with three of the Barbary States, forms a striking contrast with the difficulties experienced almost immediately afterwards by Great Britain, and Holland, and more recently by France, in settling

their disputes with one of them. Not many months after Decatur had concluded his treaty with Tripoli, Lord Exmouth, in command of the combined British and Dutch fleets, endeavored to accomplish the same thing, and what was the result? With a force consisting of five ships of the line, eleven frigates, and a great number of smaller vessels, he was hardly able, after a most bloody battle, (in which he lost 150 men killed, and had 700 wounded,) to extort a peace, on terms less advantageous than those which Decatur had obtained in a few hours, "without the sacrifice of a single life, or the loss of a spar or a rope." And even now, while I am speaking, a powerful French fleet, which has been engaged for months in vain attempts to extort peace from the same nation, has nothing to boast of but a single drawn battle. It has been remarked, sir, by one of our most distinguished citizens, "that the greatest statesmen of the last war were the heroes of our army and navy," and I think I may add that they have proved themselves, on more than one occasion, our ablest negotiators.

Without dwelling longer on this topic, I will come directly to the inquiry, whether any, and, if any, what pecuniary reward is now due to the captors of the *Philadelphia*. On this branch of the subject, sir, I adopt as my own the views of the Committee. At the time of the capture of the *Philadelphia* the navy was young, and it was the opinion of many, even of our wisest statesmen, that it was not the true policy of the United States to strengthen this arm of the national defence. The system which has since been introduced, and which seems now to unite all suffrages in its favor, had not yet been established, and appropriate rewards for distinguished services had not been provided. Congress, therefore, though appreciating very highly the valor and good conduct of Decatur and his gallant associates, contented themselves with bestowing mere honorary rewards, unless it can be considered as an exception to the remark, that they voted two months' pay to the officers and men; which, it is understood, the former unanimously declined to receive. When, at a later period, however, the people of the United States came to feel and acknowledge the importance of a navy to the national defence—when our officers and men were every day covering themselves and their country with glory, a better and more liberal spirit sprung up, and was cherished, towards this long neglected department of the public service. Prior to the capture of the *Guerriere* by the *Constitution*, we believe, no case had occurred in which a pecuniary reward, for a naval victory, had been paid out of the public treasury. A share in the thing captured was all that the laws or usages of the country allowed: and, if that perished in the conflict, the victors went without their reward. When, however, the navy had fought itself into favor, and our naval heroes came to be regarded with the gratitude and affection which could no longer be withheld, the rule was adopted of paying, out of the public purse, for vessels destroyed in battle; and the principle is now settled, from the uniform practice of the Government, for fourteen years, that a reasonable compensation is to be allowed for vessels sunk in battle, or necessarily destroyed in consequence of injuries received in the conflict. Conceiving, therefore, that it is the established policy and settled practice of the Government, to allow compensation in all such cases, though they do not come within the provisions of the prize acts, the question now presents itself, whether the same liberal principle ought not to be extended to the case of the *Philadelphia*, and whether compensation is not as justly due to the captors of that vessel as to the captors of the *Guerriere* and the *Java*, or of the gun boat destroyed on Lake Ontario? On this point, the Committee were clearly and unanimously of opinion, that both justice and policy concur in support of the claim. Where all the facts are notorious, and the merit of the



SENATE.]

*Captors of the Philadelphia.*

[FEB. 7, 1828.]

claimants is confessedly of the highest order, the Government ought not to avail itself of the mere lapse of time ; nor can I conceive any sound reason why a rule, founded on justice and enlarged principles of public policy, should not be extended to those who have achieved signal victories, before as well as after its adoption. I come to the conclusion, therefore, with great confidence, and I know the Senate will concur with me, that a reasonable compensation ought now to be granted to the captors of the Philadelphia.

I proceed next to consider the amount which ought to be granted. On this point I propose to look to precedents, all of which are collected and annexed to the report of the Committee. On examining these, it will be seen, that the amount granted by Congress, for vessels burnt, or destroyed in battle, varied from one-fourth to the full value of the vessel so destroyed. In the cases of the *Java* and *Guerriere*, about one-fourth was allowed, but in the case of the British sloop of war *Hermes*, destroyed in the attack on fort Bowyer, her full value was paid to the garrison. Without examining all of the precedents, there is one to which I will call the particular attention of the Senate. During the operations on Lake Ontario, carried on by Commodore Chauncey, a British gun boat, called the *Black Snake*, was destroyed by two barges, under the command of Lieut. Gregory. For this exploit no reward was ever claimed by the gallant officer who achieved it. But some years afterwards, one of the persons concerned in that affair, came here and presented a claim to Congress. The subject was referred to a committee, of which a distinguished Senator from Massachusetts (no longer a member of this House) was chairman, and of which I had the honor to be a member. The subject was fully investigated, all the precedents examined, and a bill reported providing for the payment of three thousand dollars, which was certified by Commodore Chauncey to be the full value of the gunboat, to Lieutenant Gregory and his party. Here, then, it will be perceived that, if Congress at the commencement of the war found itself constrained, by the pecuniary embarrassments of the country, to grant to the captors of the *Guerriere* and the *Java* only one-fourth part of the value of the vessel destroyed—after the conclusion of peace, in a more prosperous condition of the country and of the treasury, they have not hesitated to grant the full value. Viewing the subject in all its bearings ; taking into consideration the extraordinary merit of the achievement ; the delay which has taken place in granting compensation ; and the small number of persons engaged in the enterprise : it has seemed to the committee that one hundred thousand dollars would be a reasonable sum to be now granted to the captors of the Philadelphia. The only remaining point to be considered is, the proper distribution of that amount. On this branch of the subject, the committee have experienced some embarrassment. The case does not, in this respect, come within either the letter or the spirit of the prize act. That act provides for the distribution of the proceeds of vessels captured and condemned. Where vessels have been destroyed, the captors can only be compensated by virtue of special acts of Congress, and under such provisions as may be adapted to the peculiar circumstances of each particular case. The mode of distribution prescribed by the prize act, is most obviously applicable only to a full crew. In regulating the proportions of prize-money which the captain, a midshipman, and a common sailor should receive in a frigate of 44 guns, it is manifest that the calculation must be founded on the idea, that there would be a certain number of midshipmen, as well as of sailors, on board of such a ship : for, otherwise, if there were but one midshipman, for instance, he might receive more than his commander. From this view of the subject, it is clear that a rule of distribution properly applicable to a full crew, cannot be justly applied to a

skeleton crew—filling up none of the classes arranged in the prize acts. The capture of a frigate of the largest class, by a lieutenant and 70 men, in a small ketch, is so out of the usual course, and so contrary to all reasonable calculation, that the very existence of such an extraordinary case seems to produce the necessity of providing a new rule for the case itself ; and, in the present instance, this can be the more readily done, as the proposed grant is not founded on the law, but, resting entirely on the liberality, may be regulated by the sound discretion, of Congress. After looking carefully into the subject, and consulting experienced naval officers, the committee could not discover any more equitable rule of distribution than that recommended by the Navy Commissioners, viz: that, after reserving for the commanding officer of the squadron one-twentieth of the whole sum, the residue be divided among the officers and men in the same relative proportions which each would receive if the crew of the *Intrepid* had consisted of the same number as that of the frigate Philadelphia at the time of her capture by the Tripolitans.

Mr. H., in conclusion, said, that the bill before the Senate was prepared in conformity with the views he had submitted to the Senate, and he expressed an earnest hope that the country would this day pay in part that debt of gratitude so justly due to the captors of the Philadelphia, and which had remained so long, not only unsatisfied, but almost unacknowledged.

Mr. ROBBINS rose and said, the claim for the capture and destruction of the frigate Philadelphia, in the harbor of Tripoli, so far as it is a claim upon the justice and policy of the country, depends upon the merits of the case ; and these again upon its circumstances and its consequences : and so far as it is a claim upon the legal obligation of the country, it depends upon the 5th section of the prize act, so called, passed the 23d April, 1800. I beg the indulgence of the Senate whilst I consider the claim upon both grounds ; pledging myself not to trespass upon that indulgence further than is necessary for a brief exposition of both.

It will be recollected that the United States' frigate Philadelphia, some time, I think, in 1803, unfortunately got aground on the Barbary Coast, and in consequence fell into the hands of those barbarians, then at hostilities with the United States. She was got off undamaged, and added to their maritime force, to be employed in their piracies against our commerce on those seas. The commander of our little squadron on that station deemed it very important to the interests of the United States, as in truth it was, that these barbarians should, if possible, be deprived of this frigate. But how was this possible ? She was now moored in the harbor of Tripoli ; she had a full complement of men kept on board ; her guns were all mounted and ready loaded ; she was close under the protection of all the guns of the castle and the principal battery ; and she was guarded on different quarters by armed vessels kept ready for action.

A young lieutenant in that little squadron, then in the early prime of manhood, then unknown to fame, but no longer to be so, conceived and planned an enterprise for the capture of this frigate ; and by means too of a mere handful of men, and a small drowsing vessel, called a ketch—when all more ostentatious, and seemingly more adequate, because more formidable, means must have failed. As he had conceived and suggested, so he prepared and led on in the execution of this daring and seemingly desperate enterprise ; foreseeing every peril of the attempt, and forewarned against every peril ; calculating means to ends, and seconding means by resolution, and a mind bent on its purpose, and adequate to its exigency, he accomplished the object ; an object deemed impossible by others, who measured its difficulties by their own powers to overcome them ; and possible to him

FEB. 7, 1828.]

Captors of the *Philadelphia*.

[SENATE.]

only because he saw its possibility in his own great and daring mind.

This lieutenant, this then unfledged naval hero, was your Decatur—afterwards, and thenceforward, so distinguished in your naval history; so identified with the naval fame of his country, of which he makes so conspicuous a part: your Decatur—now, alas, no more! but in the moments of his naval achievements, and in name which can never die; a name which the muse of history will give to fame, as one of her elect, to live forever; as one of those precious few whom she redeems from that tide of oblivion which time is forever rolling on to bury beneath its waves the memory of the past.

He, in the guise, and under the disguise of a market droger, made his way to the side of that frigate, instantly boarded her, laid twenty of her men dead upon the deck, and drove all the rest overboard; some to escape in their boats, and some to perish in the sea; and was in complete possession of the ship, and might have brought her off to the squadron, but for the peremptory orders under which he acted, which were, to destroy her: yes, he might—for, after destroying her, he did escape in his market droger, unhurt, and without the loss of a man. In pursuance of his orders, he set fire to her in different parts, and waited till the fire broke out from all those parts, and had got the uncontrollable mastery of the ship; by which she was burnt down to the water's edge, and all of her that was above water was consumed in the flames.

The noise of this exploit resounded over Europe: it was spoken of and admired every where; the hero who performed it was no longer unknown to fame; he was the theme of conversation in every language, and the name of Decatur became associated in the minds of men with all that is chivalrous in human character.

This exploit, great in itself, and *per se* to the United States, was still much greater to them in its beneficial consequences. In the first place, it impressed those barbarians with that salutary terror which, from that moment, made them glad to be at peace with us, without exacting from us any tribute as its price. It struck at once from our national condition that onerous and disgraceful badge to which it had long been subjected. It was that salutary terror which laid the foundation of that treaty, which has secured that peace, and kept it inviolate to this day; and with it has secured the safety of our commerce, and our citizens, in those seas.

For when that same Decatur afterwards appeared upon that coast in hostile array, and made his own demands upon that power as the price of peace to her; and prescribed his own period for a compliance with those demands; and that the shortest period in which that compliance could be perfected; that power bowed itself before the terror of that name; signed the treaty offered by him, and literally as offered, without a moment's delay or hesitation; remarking, that "we must comply, for there is no knowing what that man may do, who, in the night, could come in a droger, and take and destroy a frigate in my harbor, and under the guns of my castle; yes, we must comply."

Here, too, was laid the foundation of the naval fame of our country: antecedently that fame did not exist. Here was kindled that spirit of emulation, which caught from breast to breast, and made or found in every commander a naval hero, ambitious to emulate, to excel, if possible, every competitor in that field of glory. It was the first in that series of brilliant achievements which subsequently followed to throw a glory around our navy, and to make it the object of our national pride; achievements numerous almost as the stars of that banner under which the battles were fought; and so brilliant and so rapid in succession, that their united lustre makes one halo of glory, which, like the galaxy of the starry heavens, dims the distinctive splendor of each particular star.

And let not this naval fame be considered merely as a garland, ornamental indeed to the nation, but of no substantial advantage. It is indeed the best of all our treasures; more than all our works of defence; more than all our treaties: it guaranties to us and our rights the respect of the world.

Such are the merits of this case; and the question put to the Senate is, Shall these merits go, as they hitherto have gone, unrewarded? If the appeal is made only to the justice and policy of the country—is it just that distinguished national services should not meet a national reward? Can it be policy to say to your national heroes who perform those services—if the paths of glory, which may lead you to the grave, should leave your families to want, we will not relieve them? But in my view of this case, that appeal is not necessary, for I cannot doubt the legal obligation of the country to satisfy this claim. The statutory provision which I referred to when I began, is in these words:

"The proceeds of all ships and vessels, and the goods taken on board of them, which shall be adjudged good prize, shall, when of equal or of superior force to the vessel or vessels making the capture, be the sole property of the captors."

Does this provision embrace this case? As I said before, I cannot doubt it. I begin, however, my interpretation, by admitting that the case does not come within the letter of the provision. For, the provision speaks of proceeds, importing a sale; this vessel was not sold: it speaks of adjudication as good prize; this vessel was not condemned. It is not, therefore, a case within the letter of the provision. But it is a case of the capture of a vessel of superior force—vastly superior—and therefore within the intention of the provision. The provision intended to reward extraordinary merit in the capture; and surely it is not material to that merit that the vessel was not either sold or condemned. It would be even ridiculous to suppose that the intention was to make the reward depend upon circumstances not material to the merit. Further: the object of the provision obviously was, to stimulate our Navy, not to rash, but to great undertakings, sustained by great efforts. What then becomes of the force of this stimulus, if you make the reward depend, not on the greatness of the undertaking, not on the greatness of the successful effort, but upon subsequent circumstances which may be accidental, and must be immaterial? If you do not entirely destroy, do you not very much impair the force of that stimulus? For who would go upon the "forlorn hope," the success only possible, and the failure certain death, if, after running the hazard, he may lose the fruits of his successful valor by a quibbling about the letter of the law, in opposition to its obvious intention and obvious object?

All this would apply, if the frigate had been destroyed, from the necessity of the thing, and on the judgment of the captors; and in that case would be a sufficient ground for claiming the indemnity. For this was the only ground in the case of the *Guerriere*, and of the *Java*, and of the *Hermes*, and of some others; in all which cases this ground was allowed to be sufficient, and indemnity was granted accordingly. But here the captured prize was destroyed by the express orders of the Government; for the order of their agent was their order, and the Commodore of the squadron was their agent; and his order to destroy was peremptory. How, then, can the Government allege that the prize was not condemned, when they themselves ordered it to be destroyed, and when it was destroyed in obedience to that order? How can the Government urge the letter of the provision as excluding the case, when its not being included within the letter was owing to their own act? Surely the Government is estopped from alleging, in order to defeat a claim, that that was not done which they themselves prevented

SENATE.]

*Captors of the Philadelphia.*

[Feb. 7, 1828.]

from being done. And it is very evident, from the circumstances before mentioned, and from other circumstances, that, but for the order, the frigate might have been brought off. But whether she might or might not, that makes no difference in this, so long as the frigate was destroyed under that order, and in fulfilment of that order; and so long as the captors were restrained by that order from making the attempt to get off with their prize.

Again. The Government have disposed of this prize frigate as they thought best for the public interest; whether they judged well or ill in this disposition, is not material to this claim—they did dispose of it. They then have this property, which was the property of the captors, for they have controlled its disposition. How, then, can Government refuse to pay for this property, disposed of by them, which did not belong to them, but did belong to the captors? Suppose this frigate captured, but not destroyed nor condemned, and the Government had restored her on treaty or on ransom, or to redeem our citizens from captivity or bondage, Would Government have any pretence for saying the capture did not come within the letter of the provision, and that, therefore, the captors should not be indemnified for the captured property? Surely Government would have no pretence for saying this. In principle, this case is identical with those—for in both, the Government have disposed of the property belonging to the captors; and the mode of disposition, as I said before, is the affair of Government, and cannot be material to the claim of the captors. The Algerine frigate and brig, which afterwards were captured by our squadron, were restored to the Algerines, yet the captors were indemnified for the loss, and to the amount of the captured property.

I hold, then, that this is a case within the intention of this statutory provision; one within the object of this provision; and one in which the Government have precluded themselves from saying is not within the letter of the provision.

Mr. CHANDLER made some inquiries as to how far the rule to be established by this bill would extend? He supposed many other cases of the kind would be brought forward, and he wished to know to what extent Congress would be committed by this bill.

Mr. HAYNE replied that the committee who reported this bill knew of no other similar claim. He believed this case stood alone.

Mr. SEYMOUR said, that, being one of the committee by which the bill was reported, he wished to explain why he had differed from the chairman as to the sum to be appropriated. He thought, by the granting \$50,000, the principle of the precedent upon which the bill was founded would be fully acted up to; and he thought it highly improper to legislate upon the individual merit of officers. In his opinion, the small number of individuals engaged in the exploit ought to be taken into consideration, in the sum to be granted. He intimated that, should the sum proposed be rejected, he would propose to fill the blank with \$50,000.

Mr. HARRISON said, that the small number of the individuals engaged in a gallant exploit, would, with him, be rather a cause for increasing than decreasing the amount to be paid to them. The intention of the Government in giving prize money was to encourage the seamen; and, if a small vessel should conquer a large ship, their reward ought to be increased, because the action would be more perilous and intrepid. To reduce the proportion of prize money according to the number of the captors, was, he thought, against the principles of the Government.

Mr. SEYMOUR remarked that he had grounded his remarks on the precedents which had been consulted in framing the bill.

Mr. HAYNE said, that the difference between the Senator from Vermont and the committee, was, that he had taken from the various amounts to be found in the precedents to which he had alluded, the lowest sum mentioned. The committee had not taken the highest, but had chosen a medium. The award alluded to by the gentleman was made during the war, when the pressure of the times caused it to be placed at a low rate.

Mr. WOODBURY remarked that the gentleman from Vermont would find, by turning to the books, that, in cases where the disparity of the forces was great, the appropriation varied accordingly. If the very lowest sum to be found in the precedents were to be adopted, the interest since 1804 would make it double the amount. He hoped, therefore, that the blank might be filled with the sum proposed by the chairman.

The question being then taken on filling the blank with \$100,000; it was agreed to.

Mr. HAYNE then moved to fill the remaining blanks with the following sums:

For the legal representatives of Commodore Preble, \$5,000.

For Susan Decatur, legal representative of Stephen Decatur, of the first class of officers, \$31,412.

For the second class of officers, (James Lawrence, Joseph Bainbridge, and Jonathan Thorn,) \$12,564.

For the third class of officers, \$14,958.

For the fourth class, \$12,215.

For the fifth class, \$11,074.

And for 43 seamen, \$12,773.

The question was put upon the first of these sums, but was not taken—when

Mr. CHAMBERS rose, and said, that, before the question was taken, he would discharge a duty which had devolved upon him, by presenting a paper containing an extract from the journal of F. C. DeKrafft, a midshipman on board the Syren, who believed that the officers of the Syren had a claim to some share of the sum awarded to those who took part in this gallant achievement. Mr. C. thought, as far as that paper was an evidence, the crew of the Syren shared the common danger, and were therefore entitled to a portion of the reward.

[Mr. C. here handed the paper to the Clerk, who read it. The journal stated that the Syren took a position without the harbor of Tripoli, within a mile of the fort, at the time Lieutenant Decatur entered with the Intrepid; that a signal was received from the Intrepid, and answered by the Syren, and that two boats fully manned, were despatched by the latter to reinforce the Intrepid.]

Mr. CHAMBERS continued his remarks. He found, by the prize act, that individuals composing the crews of vessels in sight when a prize is taken, were entitled to a share of the prize money. It was not exactly the provisions of the prize act that entitled these individuals to a share of the sum to be given.

He understood that the money was given to encourage the spirit that leads to such exploits. If so, all who partook of the peril should share the reward. It might be said that the individuals named in the bill were not aided by the crew of the Syren. He thought it would prove otherwise. The Syren was so situated as to have given assistance if needed. She was within a short distance of the fort; she did send off men to reinforce the Intrepid, and received and answered a signal from Lieutenant Decatur. The person who had handed him [Mr. C.] this paper, was a resident in the District of Columbia; and, therefore, to obtain information on his claim, he would move to recommit the bill, assuring the chairman of the committee that his design was not to obstruct its progress. Had he thought, that, by making this motion, he should have caused any delay of the bill, he would not have made it. The evidence in this matter was at hand, and a decision could be speedily obtained. He then moved

FEB. 7, 1828.]

*Captors of the Philadelphia.*

[SENATE.]

that the bill be recommitted to the committee who reported it, together with the paper purporting to be an extract from the journal of F. C. DeKrafft, with instructions to examine the claims of the officers and crew of the brig Syren to share the sum granted by the first section of the bill.

Mr. HAYNE said, that it was somewhat extraordinary that this claim had never been heard of before. The subject of this bill had been a matter of discussion for two or three years. It had been before the public, and had formed a topic of some interest in the public newspapers during all that time; yet the author of the journal, an extract of which was now before the Senate, had never until now put forth his claim. The commander of the Syren, Commodore Stewart, had never set up any claim for himself or his crew—and such a claim had never been thought of until this late period. He would, therefore, put it to the Senate, whether it was fair or just for an individual to step in at so critical a juncture to retard the progress of the bill. It had been under the examination of the committee at an early stage of the session; had been reported in due season; and had now been for three weeks before the Senate, waiting its turn for consideration. He [Mr. H.] had even been so particular in bringing it before their notice, that he notified the Senate previously, of the time at which he intended to call it up; and now, after all these preliminaries, just at the time when they were about to reap the fruits of their labors, and secure to that gallant crew the reward they so richly merited, an unknown claimant comes before the Senate, and asks us to forego the prospect of carrying the bill through this session. For, said Mr. H., if it is recommitted, there is scarcely a hope that it can pass in time to be acted upon by the other House. If the claim now put forth deserved to be acted upon at all, it ought to go to the other House, instead of obstructing the progress of the bill in this. But he had another objection to the claim, if claim it could be called. The paper which had just been read, was accompanied with no testimony. It consisted of nothing but loose memoranda. It proved nothing; whereas there was ample proof to show its unimportance. There was sufficient proof that the Syren did not aid in the exploit of burning the Philadelphia—that she was not even ordered to do so. The official statement of Commodore Preble amply proved the fact. He says that the Syren was ordered to support Lieutenant Decatur, and cover his retreat, but could not get into the harbor. Decatur, also, in his despatches, says that the Syren obtained a position without the harbor, to cover and defend his retreat. The fact was further established by that part of Commodore Preble's official report, in which he speaks of Lieutenant Stewart; and, as if with a desire to console that officer for the misfortune of not having been able to join in the enterprise, he remarks that it was an exploit in which but few could be engaged, and praises the alacrity with which he performed the services within his power. He also goes on to say, that, if Decatur had waited half an hour for assistance from the Syren, the enterprise must have failed. But what was the conduct of Commodore Stewart? Did he ever claim any part of the glory of the achievement? Never. Instead of attributing to himself any part of the glory of that act, he has always, with the generosity which is always found among brave men, extolled the conduct of Decatur, and given to him the entire glory of that brilliant action. Commodore Stewart on that occasion displayed a disinterestedness that redounds to his immortal honor. He was the senior officer of Decatur—yet, far from entertaining jealousy towards him, he allowed Decatur to take the command, and willingly acted under him. He always was, and is to this day, enthusiastic in his praises of Decatur's valor. And Stewart and Chauncey, although the Seniors of Decatur, allowed him to go over their heads in promotion to the rank of post captain.

Such is the generous spirit that characterizes our Navy. He hoped the motion to recommit would not be sustained.

Mr. CHAMBERS said, that he did not pretend to decide upon the merits of the claim of the officers of the Syren. He had merely put forward a statement which he hoped would be examined. The testimony in relation to it was within half an hour's walk of the Committee room, and he hoped that it might be inquired into. He did not, farther than this, pretend to enforce the claims of the applicant. As to the belief of the chairman, that the Syren was not employed in the service of burning the Philadelphia, he [Mr. C.] thought all the evidence in favor of the supposition that she was so employed. The Syren was ordered to accompany the Intrepid, and aid in the enterprise. She did so, and took a position to support Decatur, and cover his retreat; and, if the crew of the Syren shared the danger, they ought to share the reward. It was as necessary for Decatur to have the means of escape as the means of entering the harbor; and if for this purpose the brig was placed in a position of danger, she aided in the achievement. How far her crew were entitled to reward, Mr. C. did not know, but thought it ought to be examined. He had been told by the gentleman from South Carolina, that Commodore Stewart always spoke of Decatur as the individual who performed this deed. He never supposed the claims of the Syren detracted from the merit of Decatur. It was a forced inference from any thing that had fallen from him. It was, he believed, the last object of the individual who presented this paper, to detract from the merits of Decatur. He merely wished the facts of his claim looked into; and he [Mr. C.] was convinced that it would not at all delay the progress of the bill.

Mr. HARRISON said, it was a bad precedent to allow a claim so long subsequent to the action which created it, founded on a statement by a junior officer, in direct opposition to the report made by the commanding officer, who certainly ought to know the object of the movements which were made by his orders. The situation of the Syren was such that she gave, nor could have given, Decatur no kind of aid in the capture. He hoped the Senate would not allow the examination of a claim which would go to contradict an official report which had been for so many years uncontradicted, and which was founded on the best evidence.

Mr. TAZEWELL observed, that, if there could be shewn any practical object in the recommitment, he should not be opposed to it. But he thought he could shew the best of reasons, from the journal itself, why it ought not to be acted upon. How does it stand? This bill has been for several years before this and the other House. It has been fully discussed in and out of Congress. The witnesses that have been called are of the most distinguished character: for instance, Commodore Stewart, who commanded the brig Syren. No claim was ever set up by him or his officers or crew, for the twenty-three years that have intervened since that action. But now, on the 7th of February, 1828, there comes forth a statement on oath, on which the ink is scarcely dry, to establish a claim on the part of the officers of the Syren. The applicant has held back until this moment, and, when the blank is just filling, claims his share of the appropriation. I differ, said Mr. T. from the gentleman from Ohio, not in opinion, but in the manner in which he states it. I do not call this applicant a junior officer, but a young gentleman, writing a journal for his own amusement; and it is not wonderful that he should differ from his commanding officer as to the kind of service on which the vessel to which he is attached is despatched. We know that every young officer differs in opinion with his commander, for the very reason that the former knows nothing, the latter knows all about the matter. If any gentleman who has the least knowledge of nautical affairs will look

SENATE.]

*Captors of the Philadelphia*

[FEB. 7, 1838.]

at this journal, he will be convinced that the writer makes erroneous conclusions. Here it is stated, first one sail is set, then another. One tack is first taken; then it is changed: now she runs in upon the shore, where the water is shallow, and then she runs out again into 35 fathoms. Will any man say to me that she meant to fight? Any one knows better. If she did intend to fight, would she be shooting about in the manner here described? If fighting was her object, why did not she go straight forward? The same wind that carried one vessel into the harbor, would have carried in the other. The truth was, that the young journalist knew nothing of the matter. He formed his conjectures; but they are little worth. He was not consulted by his commander. He was not told why one sail was shifted now, and another afterwards. His business was to mind his duty, and obey orders. What was the real case? Several weeks previous to the burning of the *Philadelphia*, the plan had been conceived by Decatur, who communicated his project to Commodore Preble, and exacted from him a promise that the enterprise should be entrusted to no other officer. How then could Preble refuse to allow Decatur to prosecute his enterprise? He was bound in honor to grant his permission. For he who had planned was entitled to the privilege of executing. He therefore manned a small, worthless vessel—I say worthless, said Mr. T., for I assisted afterwards to condemn her. She had been captured for attempting to violate the blockade of Tripoli. In this vessel, with four carronades as her armament, he entered the harbor in the night. As to the vessel, she was not cared for. If she was burnt, nothing would be lost. But to bring off the gallant crew was the object; and for this the *Syren* was ordered to cover and assist in their escape. The time will come, said Mr. T., when the true character of Decatur will be known and appreciated by his country—when the unequalled gallantry of his achievements will receive its meed of renown. No man was more deliberate in his conduct than Decatur. In carrying into effect this most daring project, he was directed by the coolest judgment. There was nothing rash in his conduct, although nothing could exceed his intrepidity. He knew that he should be carried into the harbor by the wind; but that the same wind that carried him in, would prevent his coming out; and that for his escape he must depend upon his boats. But, sir, said Mr. T., there was in this event a memorable circumstance. That Providence which has so often seemingly interposed to direct the destiny of our country, ordained that, at the very moment when the flames were enveloping every part of the *Philadelphia*, and when the batteries had opened a tremendous fire upon the *Intrepid*, the wind changed, and she came out of the harbor with swelling sails. All the circumstances of the enterprise were previously communicated to Preble. He knew the tenfold perils to which it would expose the hero who planned it, and those who accompanied him. And would he have allowed those seventy gallant men to go alone from Syracuse to Tripoli, on so hazardous an exploit, without some force to aid them in their escape? Would he expose those heroes to perish for want of assistance? If he had done it, he would have deserved to be shot: therefore, he assigned to the *Syren* to accompany the *Intrepid*—not to fight, but to cover her retreat—to pick up the boats as they came out of the harbor, and save them from a pursuing enemy. Commodore Stewart performed the part allotted to him with judgment and promptitude; and he deserved the praise which he received for his conduct. Such is the account given by Decatur, and such is the account given by Commodore Preble. But here is the account of the affair by a young man, whose only misfortune was, that he did not understand his commander's intentions, which would give an entirely different view of the matter. By a reference to the official accounts, it will be found that they had waited

seven days for that kind of wind that would enable them to enter the harbor. And when it occurred, the *Intrepid* sailed in, and the *Syren* waited without, in accordance with her orders. Her crew afterwards saw the flames from the *Philadelphia*; and, shortly after, the *Intrepid* sailed out of the harbor, so that the aid of the *Syren*, in picking up the boats, was not required, as was anticipated. But, if you look at your prize law, you will perceive that, to be entitled to a share of the prize money, a vessel must be in sight of the action. Now, the *Syren* was not in sight. She was outside of the harbor, as the journal states, in 35 fathoms of water. The principle is, that if, by being in sight, a vessel gives to another, if not actual, potential assistance, her crew is entitled to a share of the proceeds of the prize. For instance, if a sloop of war sees another sloop of war approaching her, and also within sight of a seventy-four gun ship, she will run—she ought to run—not from the sloop of war, but from a superior force that may be brought against her. If she is taken, the prize money is distributed to the two vessels—to the one for capturing—to the other for the potential aid given in the contest. But it does not apply to this case, nor, indeed, to night attacks in general. The *Syren* rendered no aid, whether potential or actual, in burning the *Philadelphia*. Her only office was to protect the crew of the *Intrepid* in their retreat from the harbor. But, in cases where being in sight gives a title, to what does it give a title? Why, to a share of the proceeds of the captured vessel. Such is the provision of the prize act. Here, however, is a new case. Here are no proceeds, nor does the case come within the scope of the prize act, and, therefore, the crew of the *Syren* have no kind of claim. That the officers and crew of the *Syren* did their duty had already been admitted. But that duty was not to take any share in the exploit which was entrusted to Lieutenant Decatur. The application, therefore, now made, could not be sustained; and he trusted the Senate would reject the motion to recommit.

Mr. CHAMBERS said that he had presented the statement of Mr. DeKrafft in pursuance of his duty, and he now rose to defend him from the animadversions of the gentleman from Virginia. He could not see in that paper any cause for the remarks of that gentleman. The remark that this journal was the language of a young gentleman who did not know as much as his commanding officer, and yet undertook to contradict him, seemed quite gratuitous.

[Mr. TAZEWELL rose to explain. He said no such thing. He said that this young man might be correct in his statement; but did not know the motives of his commanding officer.]

Mr. CHAMBERS resumed. I stand corrected. The gentleman admits that the young gentleman's account agreed with that of his commander; but his inferences were incorrect, because he did not know as much as his superior officer. Now, sir, let us see what proof we have that the *Syren* took a position to aid Decatur in his attack on the *Philadelphia*—there is the fact, not denied, that Decatur sent for a reinforcement; and the order of Commodore Preble to Decatur, that he "would proceed in company with the *Syren*, which would assist with her boats and crew, and would cover his retreat." The gentleman had asked why, if the *Syren* was associated in the expedition, she was not in the harbor? And Mr. C. supposed he intended to imply that she was not associated with the *Intrepid*. The answer to that question is not to be given gratuitously by me; but is to be found in the official report. The Commodore there says, that the *Syren*, not being able to enter the harbor, anchored at some distance from it, and was thus not able to render so efficient service as she would otherwise have done. But does he neglect the fact that assistance was given? No. He only remarks, that it was not as efficient as it

Feb. 7, 1828.]

*Captors of the Philadelphia.*

[SENATE.]

might otherwise have been, and as was intended. Decatur, in his statement, also says, that the *Syren* gained a station without the harbor. The opposition which the document presented by me has met with, has induced me to make use of the materials which I have at hand to support the claims of the officers of the *Syren*. I maintain that they were detailed upon that expedition, and that they did render the service required to the utmost of their ability. But we are asked why they have delayed to bring forward their claim? And why, at this late moment, it is pressed? I speak, said Mr. C. from the information of the same gentleman who handed me the statement, when I say that when the bill was first brought before the other House rendering compensation to the heirs of Preble, the officers of the *Syren* did apply. But there may be difficulties in the way of this claim. Capt. Stewart, who commanded the *Syren*, makes no claim, and it may be that he wishes those who served under him should not. It is not for me to inquire into his motives, or those of the other officers. If their claim, as appeared to Mr. C. was good, it was a display of modesty and forbearance which was highly creditable. This was not the question before the Senate. They were now to consider the claims of this man, and he certainly was entitled to a hearing. I am informed by a person, now in the Senate Chamber, that the facts stated in this journal, are the same as those entered in the log book of the *Syren*. The facts are accessible, as they are to be obtained within the limits of the District of Columbia. And all that is asked is a delay sufficient to investigate the merits of the claim.

We are also told, said Mr. C. that the claims of the officers of the *Syren* do not come within the prize act. Well, sir, suppose they do not. I say also that the prize act does not authorize the payment of the heirs of Decatur, or the crew of the *Intrepid*. The bill is founded on a kind of analogy. The case is not admitted under the prize act, but it bears so close a resemblance to those that do, and exhibits a species of claim so similar to those which come under that act, that justice seems to reason strongly on its side. Those who have achieved daring acts, and destroyed the property of an enemy, are, on such a principle, deemed worthy of reward. It has been questioned whether the *Syren* was in sight or not. But there seems no cause for that doubt, as signals were made and answered by the *Intrepid* and the *Syren*.

These explanations, said Mr. C. I have made to show that there are circumstances, which can be brought before the committee, and which are within their reach, which give good reason to look upon the claim of the officers of the *Syren*, as probable at least. He would not have advocated this application, had he believed that it would delay or seriously obstruct the bill. But that could not be, as the witness was now on the spot ready to be examined. The consumption of time could be but inconsiderable, and in a few hours the Committee would be able to report upon the application. Neither did he think that the fact that these meritorious officers had declined, for twenty years, to bring forward their claim, ought in the least to affect the question, which related alone to the merits of the case. He, therefore, could not but desire that the paper might be referred to the Committee.

Mr. VAN BUREN was not pleased with the time which had been chosen for presenting this document. But the statement itself was a very lame one, and he thought failed to sustain the claim of its author. In the first place, it did not appear by whom this statement was sworn to. And then, the grounds on which the co-operation of the *Syren* was sustained, were very slight. The gentleman supposes that a signal for reinforcements proves this fact. But the signals, it is said, were exchanged at half past ten, and the boats were not sent off until some time after; nor does it appear that they were

sent off in consequence of the signal. At half past midnight, he goes on to state that the boats of the brig, and of the *Intrepid*, appeared, and were received with three cheers—so that it is clear that the reinforcement did not assist Decatur in destroying the ship. They were probably sent off to pick up the crew of the *Intrepid*. The paper came before the Senate without any name attached to it, and without any satisfactory proof of its validity. He hoped no time would be wasted in its consideration.

Mr. COBB could not, readily, see why gentlemen opposed so strenuously the re-committal of the bill. No delay was proposed which could prejudice the bill. Time was merely asked, to allow an inquiry whether the officers and crew of the *Syren* were not entitled to a share of the sum to be given to the participants in the destruction of the *Philadelphia*. Gentlemen wish to reject the application without any inquiry. Now I am not so certain that this claim is not a valid one. Commodore Preble tells Decatur that the *Syren* will accompany and sustain him with her boats, and will cover his retreat. It is proved that the boats were dispatched, and, if so, what was it done for, but to support the enterprise, and aid in its completion? The *Syren* was not there, as had been represented by the gentleman from Virginia, to sail about the harbor, but to fulfil the orders of Commodore Preble. He did not know whether, in similar cases, persons so engaged had or had not a claim to consideration, or whether they came under the prize act. The gentlemen who opposed this statement did not state that, in all the particular prize acts, there was no such precedent. Let us have the facts, and let the Committee, who understand the matter, report upon them. Commodore Stewart was now in the city, and all the circumstances could easily be ascertained. He would make one additional remark. It appeared to him that the Senate was hurrying this bill too fast. The event happened twenty-three years ago. Decatur never asked for compensation, and his legal representatives did not present their claim until several years after his death. And now they were hurrying this bill through the Senate with a despatch, which was, at least, uncommon. They would not even allow of sufficient delay to inquire whether there were not other equally meritorious claimants. He thought the Committee ought to inquire whether these men, especially the crews of the boats, were not entitled to share in the compensation. Let us have their views on the subject. He would have moved to lay the bill on the table, but would not interfere in the course taken by the gentleman from Maryland.

Mr. HAYNE said that the Committee had been charged, by the gentleman who has just taken his seat, with hurrying this bill through the Senate. In reply, he would observe, that the bill was reported six weeks since, and that it had laid upon the table during the whole of that time—and that he had given notice, several days since, that he should move to take it up—and had been prevented from doing so, from time to time, by the interposition of other business. And now, after this subject has been repeatedly delayed, they were asked to prolong it, because a paper, of the very lightest kind, that had ever been presented to a legislative body, carrying with it no semblance of evidence, was thrust in its way. And the gentleman from Georgia thinks the bill is urged with ominous haste, because we are not willing to accede to this proposition. Who, I would ask, is Mr. De Krafft, for whom we are to stay the action of the Senate on this matter? Had he a plain and sustainable claim, would he not have presented it before—when this bill has been two years before Congress? Such a precedent would be a bad one, and would lead to an endless protraction of business. The Senate ought not to consent to the re-committal; and, for myself, I will never consent to it. But, said Mr. H., suppose all the allegations in this worth-



SENATE.]

*Captors of the Philadelphia—Case of Abraham Ogden.*

[FEB. 8, 1828.]

less paper to be true—I will read it, to show that it does not establish any thing. What does it tell you?

[Mr. H. here read the statement.]

The Syren arrives at the harbor, and sends off what he calls reinforcements—that is, two boats' crews of men. And what did they do? Did they aid in the fight? No. They merely did what they were ordered to do. They aided in the escape, or, rather, guarded the escape of the victors. And now that I look more closely into the papers, it appears that the two vessels were despatched for entirely distinct purposes—the Intrepid to burn the Philadelphia, and the Syren to cover the retreat of the Intrepid's crew. I hold in my hand, said Mr. H., the despatch of Decatur, than whom a more disinterested being never breathed. And does he say that he received any aid from the Syren? No. He says that the boats of the Syren covered his retreat, and in no other part does he mention her. And, had he received assistance from the Syren, would he not have admitted it? Nay, more. When he returned home, he was required to give a list of the officers and sailors who partook in the enterprise of burning the Philadelphia. He did so—but he did not give the name of a single officer or sailor belonging to the Syren. Here, also, is the despatch of Commodore Preble. He declares that this gallant action was achieved by Lieutenant Decatur and the crew of the Intrepid. He performed the deed alone, and to him and his associates belonged the renown and the reward. Had he waited another half hour, for aid from the boats of the Syren, he would have failed in the expedition. The boats sent off, as mentioned in this statement, were intended to cover his retreat—in that they performed their part. But it gave the crew of the Syren no share in the enterprise. He would ask, in conclusion, if gentlemen could believe that any man, who was not in the Intrepid, was entitled to come in and receive a share of the compensation awarded to the gallant seamen who withstood the perils and achieved the glory of that action alone? As a Senator, standing in his place, he protested that he could not conceive how the least shadow of right could be assumed for delaying the bill a moment on such grounds as the flimsy statement in question offered.

Mr. CHANDLER could not look upon this subject in the same light as it was viewed by the Chairman of the Naval Committee. It was said that the boats of the Syren gave no aid to Decatur. That might be: but, supposing the action had been protracted, would they not have rendered their aid? Besides, he could not think that they rendered no assistance. They certainly covered the retreat of the crew of the Intrepid, which was all, perhaps, that the circumstances would admit. As to the reason why they had not applied until this time, he believed it was because they thought, with Decatur himself, that they had no claim. But, seeing that the bill might probably pass, they come in for their share.

Mr. VAN BUREN remarked, that a list was reported of the officers and sailors engaged in this brilliant action, in order that they might receive double pay—and not an individual belonging to the Syren had been mentioned in that list. Now, can it be tolerated, that, at this late day, the officers and seamen of any other vessel than the Intrepid shall be allowed to step in and share the glory and the reward of these brave men? The proposition was, he thought, in the highest degree offensive.

Mr. CHANDLER thanked the gentleman from New York for having given him some knowledge which he did not before possess. It now appeared to him that the Government settled the whole affair at the time, and, therefore, Congress need do no more about it.

Mr. VAN BUREN said that the officers refused to receive the double pay. The sailors did receive it. But it was given by the Department, and Congress had nothing to do with it.

Mr. CHAMBERS observed that the paper had been handed to him this morning, and he had not at first perceived that the name of the applicant was not subscribed to it.

Mr. NOBLE asked the yeas and nays on the question; which call being sustained, the motion to re-commit was rejected by the following vote:

YEAS—Messrs. Bateman, Bell, Berrien, Chambers, Chandler, Chase, Cobb, Eaton, Knight, Macon, Noble, Ruggles, Thomas, Tyler, Williams—15.

NAYS—Messrs. Barnard, Barton, Benton, Boulogny, Branch, Dickerson, Ellis, Foot, Harrison, Hayne, Hendricks, Johnson of Kentucky, Johnston of Louisiana, Kane, King, McKinley, McLane, Parris, Robbins, Rowan, Ridgely, Seymour, Silsbee, Smith of Maryland, Smith of South Carolina, Tazewell, Van Buren, White, Willey, Woodbury—30.

The question was then taken on the motion of Mr. HAYNE, for filling the several blanks of the bill, and it was agreed to.

Mr. SMITH, of South Carolina, offered the following proviso to the bill—which was agreed to:

*Provided*, That the Accounting Officers shall in no instance pay over any portion of the moneys herein appropriated to any other person or persons whomsoever, the distributive share due to the proper persons herein provided for, to any other person or persons whomsoever, than to him, her, or them, for whom it is appropriated, or to his, her, or their legal representative or representatives, first fully ascertained to be such by the said accounting officers. Nor shall any contract, bargain, or sale, of any such distributive share to any other person or persons be in any wise obligatory on the vender, but shall be held to be null and void, to all intents and purposes.

FRIDAY, FEBRUARY 8, 1828.

#### CASE OF ABRAHAM OGDEN.

The general orders of the day then occurring, the bill for the relief of Abraham Ogden and others, was read.

The report of the Committee of Commerce on this bill, was read, on motion of Mr. WOODBURY.

Mr. WOODBURY remarked, that a motion had formerly been made to fill the blank in this bill with the sum of one thousand dollars. At that time he had stated that the difference of opinion in the Committee arose upon the question whether the whole time of the demurrage ought to be paid, or only that part of the delay which was caused by the United States' Agent. The majority were in favor of paying only for the delay caused by the Agent of the United States.

Mr. FOOT remarked, that, before the petitioner can be entitled to the relief proposed by this bill, it is incumbent on them to prove that the loss has been occasioned by some act or negligence of the Government, or its agents; and that there has been no fault or negligence on their own part; and further that the claim might be enforced against an individual, either in a Court of law or equity. The report of the committee did not satisfy my mind, [said Mr. F.] that the petitioners were entitled to such relief; and the explanation of the Chairman created still greater doubts. The committee have very correctly decided that the petitioners can have no claim on the Government for the loss of the vessel; and they reject the claim on the ground that the petitioners have not used due diligence and care to avoid the loss, because they say this loss might have been prevented by insurance. But, Sir, the ground on which the committee found the right of the petitioners to the relief proposed by the bill, is, to my mind, far more objectionable. It is on a contingency, against which the petitioners might have guarded with much more care, and without any ex-



FEB. 8, 1828.]

Case of *Abraham Ogden*.

[SENATE.]

penae or trouble, merely by inserting in the charter party of affreightment, a provision for a certain number of lay days, and fixing a rate of demurrage for any detention beyond the number of lay days agreed on. It also appears, by the explanation of the Chairman, that the Committee have allowed twelve years interest on this claim—so extremely doubtful in its character, that the petitioners did not present it, and, I venture to say, never would have presented it, but for the fact of Congress having made an allowance for a claim supposed to be somewhat analogous. This allowance of interest on claims, I believe, has never been recognised by the Government, and is wholly untenable. A plain statement of the facts in this case, in my opinion, would convince the Senator that this claim ought not to be allowed. It appears that the United States, by their agent in New York, contracted with the petitioners for the freight of a quantity of provisions to the port of Laguaira, at a rate of freight agreed upon, and paid before the vessel sailed. Here, Sir, is an important distinction, and which the committee appear not to have noticed. The United States were mere freighters of part of the cargo only; for it is evident the petitioners had some cargo on board, which sold for fourteen hundred dollars, as appears from the account of sales among the papers. Of course the United States were not the charterers, nor were they insurers, of the vessel, and therefore not liable for the loss. The petitioners insured the vessel to the port of Laguaira only. On her arrival, it appears, from the petitioners' own shewing, that there was an embargo on all vessels in the port, which continued until the arrival of the Spanish army, and the seizure of the vessel. This embargo caused the detention and loss of the vessel; it was not the act of this Government or its agent, but a municipal regulation of that country, of which we had no right to complain, but which the petitioners should have guarded against by insurance. In the protest of the captain we find no complaint of detention by the agent. The captain states explicitly, "that, not considering his vessel in any kind of danger, he took no steps to despatch her until the arrival of the Spanish army." On this plain statement of facts, I ask, on what foundation does this claim rest? Was the vessel detained by the agent? There is no proof of this fact. The petitioners make no such claim. Suppose the freight had been discharged in four days, would this have prevented the loss? No: Besides, it does not appear that the captain wished the freight taken out; for, if it had been, he must have procured ballast for the vessel; as no prudent man would leave his vessel stark light in that country at that season. It is very apparent the captain managed the landing of this freight at his own discretion; occasionally loading, as he could procure his return cargo, to keep his vessel in ballast trim.

But, Sir, we are told by the Chairman, that a precedent has been established in the case of *Forrest*, &c. which ought to govern in this case. Although I am not disposed to admit the omnipotence of precedent in all cases, yet, in the examination of that case, it will be found that there is no analogy between the two cases, in the most important, and indeed the only material points in the case. In the first place, it appears in the case of *Forrest et al.* that the agent was solicited, day after day, to receive the freight, because the captain had engaged a return cargo, which he was anxious to get on board; and that, in consequence of the neglect or refusal of the agent to receive the freight, he lost the chance of procuring a return cargo. In the second place, it does not appear that the vessel was detained by an embargo, but that the loss was sustained wholly through the negligence of the United States' agent. In the third place, it does not appear that there was any other cargo on board, except the shipment by the United States. From this comparison of the cases, it is evident that the case of *Forrest*

forms no precedent for this case. It must stand on its own merits; and if I have succeeded in showing it has no solid foundation on its own merits I trust this bill will be rejected.

Mr. WOODBURY said, that the general principle was, that, unless there was a stipulation entered into by the charter party, the party freighting the vessel was liable to discharge her. The vessel was fully freighted by the United States; and it had been decided by Judge Johnson that, if a vessel were detained by the United States, they were liable. It appeared by the papers, that the delay was caused by the United States, as the vessel would have been discharged, had it not been detained by Mr. Lowrie, the United States' Agent: and the reason why he detained her, was, that the city had been destroyed by an earthquake. As to the embargo, it was laid after the arrival of the vessel, which was not detained at Laguaira for the purpose of taking in her return cargo, but on account of the difficulty in discharging—although, as fast as the cargo was discharged, the return cargo was taken in, so as to prevent the vessel from becoming light, which would have been injurious to her. As to the embargo, it appeared that it was laid after the vessel arrived. There was no difference in this head. The only question was, whether, if this vessel was detained by the United States' Agent for 20 or 30 days, and lost her voyage in consequence, the Government ought not to pay the demurrage, and at least compensate for the delay. It was not asked that the Government should pay for the vessel, which was lost on account of this delay. The voyage, it would be recollected, was a voyage of charity, and it would certainly be hard to make our own citizens suffer from a fault not their own. The case of *Forrest* was a similar one to this. His loss was caused by being detained by the Agent of the Government; and such was the case in this instance. The loss suffered by *Forrest* had been paid by Congress, after much discussion; and this was a case equally entitled to be remunerated.

Mr. FOOT said, that, in answer to the remarks of the gentleman from New Hampshire, in relation to the embargo, he would refer to the memorial of the applicant, by which it appeared, that the embargo was laid previous to the arrival of the vessel. As to the freight, he was still confident that the vessel was not freighted entirely by the United States. In support of this opinion, he would observe, that, among the papers, was a bill of sale of various articles, which surely made no part of the freight of the United States on board. Whether the delay was occasioned by the United States' agent, was doubtful, as it was not certain that the captain importuned the agent to discharge his vessel. No evidence of the fact appeared among the papers. In the case of *Forrest* it was different. He applied continually to the agent, urging him to discharge the vessel. He alluded to the protest of the captain, to show that the embargo was laid previous to his arrival; and, therefore, it was not competent to him to deny in his affidavit a statement made in his protest.

Mr. WOODBURY observed, that the vessel arrived at Laguaira in June, and in July a change took place in the Government, and the embargo was laid. Besides, the petitioners state that Mr. Lowrie, the agent, was frequently called on by the captain, and urged to expedite the discharge of the vessel. Whether the schooner was fully freighted by the United States, he did not know; but he presumed it was.

The question being taken on filling the blank in the bill with the sum of one thousand dollars, it was agreed to.

The question on engrossing the bill then occurring, the yeas and nays were called for by Mr. WOODBURY, and the call having been sustained:

Mr. JOHNSTON, of Louisiana, inquired whether there was evidence, that any part of the cargo belonged to the

SENATE.]

*Case of Abraham Ogden.*

[FEB. 8, 1828.]

owner. It was clear, that, if a part of the cargo was the property of the owner, he ought to bear part of the demurrage.

Mr. FOOT observed, that he had adverted to the sales of articles not belonging to the United States. He had since referred to the documents, and found that the amount of the sales was \$1,300.

Mr. WOODBURY said, that those sales were chiefly of articles taken in as a return cargo, with the exception of the stores of the vessel, and not part of the cargo carried out.

[At the request of Mr. FOOT, the account of sales was then read, and comprised a variety of articles, such as beef, pork, cheese, hog's lard, etc.]

Mr. WOODBURY said, that unquestionably all the articles, excepting the provisions, were taken in at Lagaira. It would be recollected that the vessel was broken up there; and consequently all her provisions and stores were sold. They comprised all but a few of the articles named in the account of sales, and those few were part of the return cargo.

Mr. VAN BUREN said, that this bill had been twice before the Senate, and had each time been favorably reported upon by the Committee on Commerce. The amount only of the compensation has formerly been disagreed upon. The amount now proposed, was the lowest estimate that had been mentioned. Whether the principles by which the other House decided claims like this, were applicable to the Senate, he did not know. But the House of Representatives had, he was informed, given a decision in favor of two claims, exactly similar to this.

Mr. JOHNSTON, of Louisiana said, that this claim had been examined last year in the Committee on Commerce, and the facts appeared to be these. The vessel in question was engaged by the United States to carry out provisions to the distressed inhabitants of Lagaira, where an earthquake had caused great suffering. The harbor of Lagaira is such, that vessels are not able to approach the port; but are discharged at a distance by the means of lighters. On the arrival of the vessel there, the captain was obliged to keep his cargo on board, and discharge it as he could—and as he discharged, to keep his vessel in proper trim; he also took in his return cargo. While thus waiting to discharge his freight, a change in the Government took place, and the Royalists took possession of the vessel, supposing that the provisions on board were intended to supply the patriots. After holding her a considerable time, she was given up. The chief cause of her seizure, was the fact of her having no papers, as the Spanish authorities could not give papers to a Patriot port. The vessel was seized, because the United States' agent could not discharge the cargo; and in consequence of the seizure and detention, she was entirely lost, being condemned as unseaworthy. The applicants came to the Senate, to be remunerated for their loss. In the Committee, the question had been discussed, as to whose duty it was to discharge the cargo—and it was stated by a gentleman of great commercial experience, that it was an universal rule that, in ports where it was necessary to discharge the cargo by the means of lighters, the discharge was the duty of the consignee. The captain was not, in such cases, required to land his cargo on the wharf, because it was out of his power to do so. The agent of the United States at Lagaira, in this case, could not, and did not, provide lighters for the purpose, and, in consequence of the delay, the vessel was seized, condemned, and finally lost. The question now was, whether the United States would give one thousand dollars, to remunerate the owner for the detention. It was thought that the principle which applied to a case between two individuals, was equally applicable to one between the Government and an individual. Suppose, said Mr. J. two persons enter into a contract, by which

one of them is to carry a cargo to a certain port, there to be at the disposal of the other party. If the consignee in this case refuses to receive the freight, or neglects it in such a manner that the owner of the vessel suffers injury from detention, the consignee is liable for the demurrage. If what the gentleman from Connecticut [Mr. Foot] says be true, that part of the cargo belonged to the owner of the vessel, it formed another case. But he, [Mr. J.] never heard that any part of the cargo belonged to any other individual; if it did, that individual ought to pay his proper share of the demurrage. If he owned one third of the cargo, one third of the demurrage ought to be paid by him, and in that ratio. The principle on which this bill was framed, was the same as that in the claim of Forrest, and he could see no difference between the two cases.

Mr. CHANDLER said that the Government had often done what ought not to have been done, and this appeared to present one of the instances. He did not know by what authority the Government had, in the first place, taken the money of the People to carry it abroad for the benefit of foreigners. It appeared, however, that they did do so. The intervention of hostilities had caused the loss of the vessel. It appeared that there was other cargo on board than that belonging to the United States, and he could see no reason under Heaven, why the Government should pay more than a share of the loss.

Mr. FOOT asked an explanation of the gentleman from Louisiana, [Mr. Johnston] of one remark made by him. He had, in speaking of the sale, said, "if the statement of the gentleman from Connecticut be true." I, said Mr. Foot, in making that statement, referred to the documents themselves, and I wish to know whether the gentleman questions the fact?

Mr. JOHNSTON, of Louisiana said, by no means. The gentleman from New Hampshire had expressed a doubt whether the goods sold were part of the cargo carried to Lagaira; and upon that doubt he, [Mr. J.] had grounded the hypothetical remark, as to the statement of the gentleman from Connecticut. The Senator from Maine had taken a wrong view of the case. The damage done to the vessel was caused by her detention by the United States' agent. The detention after the seizure, was of a different nature from that previous to that event, although all the detention, even after that, was consequential upon that caused primarily by the Agent.

Mr. VAN BUREN said he did not think it necessary to explain the circumstances of the case, after what had been said by the gentleman from New Hampshire. He would, however, remark, that a claim put in in the case of Forrest, of exactly similar character, had been formerly allowed. If the Senate rejected this bill, it would be a declaration that they had one rule for Forrest and another for Ogden.

Mr. FOOT called the attention of the Senator from New York to the difference in the testimony in the two cases. In that of Forrest it was proved that the captain called on the Agent every day, requesting him to discharge his vessel, and by his own neglect was prevented from obtaining a return cargo. While the proof in this does not shew any such application, or that the delay was caused by the Agent: for the captain allows that there was an embargo. In the case of Forrest there was none. The captain also states in his protest, that, considering his vessel safe, he did not take steps to secure her, until the arrival of the army. Shewing that, until his vessel was seized, he did not consider the delay at all important.

Mr. WOODBURY said that the protest of the captain was made in regard to the loss of the whole vessel. But in the affidavit of the captain, he declares that Mr. Lowrie was repeatedly called on and would not discharge the vessel. All the articles named in the list of articles sold would be found to be, with one or two trifling exceptions, the stores taken on board for the use of the crew. It appeared, therefore, that the vessel was entire-

FEB. 8, 1828.]

*Case of Abraham Ogden.*

[SENATE.]

ly freighted by the United States, and her loss occasioned by the act of the Agent of the Government.

Mr. SMITH, of South Carolina, would say but a few words. This case was exactly similar to that of Forrest, in which he had formerly some agency. It was twice rejected, and at length the demand was granted. In that instance reference had been had to the charter-party; and he would refer to that instrument in this. If the charter-party had stipulated that the United States should discharge the vessel at Laguira, then they would be bound, in default of their Agent to do so, to indemnify the owner for his loss. But the charter-party states no such thing. On the contrary, it goes on to state that the captain "shall proceed to the port of Laguira, and there discharge his cargo." He was to discharge it. He was not to call on the Agent, but to do it himself. And he would have been justified, after having called on the Agent, in putting the goods on the wharf, and leaving them. Mr. S. said he recollected that Forrest's claim was rejected at first, on that very ground. But in this case also, the loss for detention (the very loss complained of) was provided for in the policy of insurance. It belonged to the captain to discharge the vessel; and after the refusal of the Agent, he should have landed his cargo on the wharf and left it.

Mr. SMITH, of Maryland, said, that the custom, in relation to discharging, was different in various ports. In some it was done at the wharves; in others, in the stream. In the latter case, discharging consisted in delivering the goods from the deck. And when the consignee had received them in his lighters or boats, the captain had no more liability for their safety. It was so in Laguira,—it was also so in Holland—the Captain is discharged from his obligation when he drops the articles from his crane. Such was also the custom in the Havana. So that, in those ports, the master of a vessel could not undertake to discharge into lighters on his own responsibility, without assuming the risk of the cargo from the vessel to the shore. He could not discharge, in such cases, if the consignee refused to do it: because he would not run the risk. As to the underwriters, he did not think they were bound for this delay, or to make good any loss occasioned by it.

Mr. JOHNSTON, of Louisiana, considered that the gentleman from South Carolina had narrowed the subject to a point, on which the only question before the Senate rested. Mr. J. said, he had no doubt whatever, that, if the captain had laid the cargo on the wharf, he would have been perfectly justified. But Laguira is peculiarly situated. A vessel cannot approach the wharves; and, therefore, the captain could not be bound to discharge the cargo on the wharf. The law is as stated by the gentleman from South Carolina, in ports where vessels can approach the wharves; but it is different in ports where they cannot, and on this subject the Committee last year made inquiry. In such ports the master delivers the cargo to the consignee in lighters; and the consignee is accountable if he does not receive it. At the time of the arrival of the vessel in question, the place was in great confusion. An earthquake had visited that town, and the inhabitants for whose relief this vessel was carrying provisions, were in great distress. At this juncture the Government Agent could not get a sufficient number of lighters to despatch the vessel promptly. The captain was compelled to allow a gradual discharge of the cargo; and while this was going on, the forces of the Spanish army arrived and the vessel was seized. Now the only question, said Mr. J. is, on whom must the consequences fall? Must it be on the Government or the owner? The Captain was not in fault. He did not stay there willingly—but by force. He had every object in hastening his departure. His manifest interest was to take in his return cargo, and return home. It seemed,

therefore, that the responsibility fell upon the United States. He thought it clear from the law observed in regard to ports where vessels were discharged by lighters, that the United States ought to pay for this loss.

Mr. SILSBEE remarked, that it was the practice in Laguira to discharge with lighters. It was also the case in Amsterdam; yet no different statement was made in the charter-party or the bill of lading, between those ports and others.

Mr. BELL said, that the equity of the claim rested on the allegation that the delay which caused the loss of the vessel, was occasioned by the Agent of the United States. But, said Mr. B. has he established that fact? I think not. There is also another fact, of importance. It was, that an embargo was laid upon trade at that time; by which it is to be presumed the vessel would have been detained, even had the United States' Agent caused no delay. It did not appear when this embargo took place. Mr. B. believed it was in the month of July. He would ask whether it had been proved conclusively what detained the vessel after the embargo? Whether it was the Government Agent, or the embargo? If it was the latter, the Government are not accountable; if the former, they are. If it could have been proved that it was not the embargo that delayed her, he should suppose that it would have been done. As it was extremely doubtful, Mr. B. wished that the bill might be allowed to rest where it was, until these questions should have been answered.

Mr. BRANCH said a few words. He wished to know whether interest had been added to the claim, to make the sum one thousand dollars? If it had been, it ought to be stricken out. He was opposed to the gift first made, as he saw no right that Government had to make it.

Mr. SMITH, of South Carolina, said, that the gentleman from New York seemed to argue that this bill ought to pass because that, in Forrest's case the money was granted. But that was not at all wonderful. Congress rejected such applications from year's end to year's end: yet they came back again. The applicants were not easily discouraged: they watched a favorable opportunity, and although often refused, at last succeeded. He knew that this was not the first case of the kind; and he would be bound to say that it would not be the last. People were not disposed to take one or two or three denials, for a decision. It is said, by the gentlemen from Maryland, and Louisiana, that it was the custom to discharge with lighters at Laguira. But was it the part of the United States to inquire whether they landed cargoes with lighters or not? No, Sir. The Captain was bound to discharge his freight even where there was no stipulation to that effect; but here was an absolute agreement on his part to do it. It might be a custom to discharge in the stream at Laguira; but it was not a custom sanctioned by law. Individuals might make what agreements they please; but the United States were not bound by the custom of the port, unless they agreed to go by it. The other parties agreed to discharge the cargo. Had the United States agreed to do it, then the claim now made would be a just one. I do maintain, [said Mr. S.] that the Captain would have been justified in landing the cargo at the risk of the Government. He did not do so; yet he now comes in with a demand for demurrage, as though the remedy against his delay had not been in his own hands. The presumption would have been against the Government had not the stipulation been made in the charter party that the Captain was to discharge his vessel. Are we then to sit here, at the distance of fourteen years, to argue upon claims from year's end to year's end, to reject from session to session, until, having been tired out, Congress at last yields to the applicants? He knew but one way to prevent it. He could think of no rule by which this waste of time could be prevented, but by es-

SENATE.]

Case of Abraham Ogden—Captors of the Philadelphia.

[FEB. 8, 1828]

tablishing a rule that the Senate, after having once fully decided upon a claim, would not hear it a second time.

Mr. SMITH, of Maryland, said, that if he understood the gentleman from South Carolina, he said that if the United States, in the charter party, had stipulated to discharge the cargo, then, and then only, would they have been liable for the delay which is said to have been caused by the Government Agent. But, [said Mr. S.] I maintain that the Captain was not obliged to put the goods on shore. What is a discharge? It does not mean always the putting of goods on the shore. Whatever method is followed, whether the goods are put on a wharf or into a lighter, the moment they leave the deck of the vessel they are discharged. In answer to the gentleman from South Carolina, I say, [said Mr. S.] that the United States is bound to know that, at Laguaira, cargoes are landed by lighters. It is the custom of the port, founded upon local necessity, and the laws are regulated accordingly. For instance, [said Mr. S.] the Captain of a vessel is engaged to go to Rotterdam, and there to discharge his cargo. Well, sir, he goes there, and he discharges his cargo thirty miles from the port. It is the custom to do so, and when he puts the goods into the hands of the consignee, along-side, he does effectually discharge the cargo as much as though he had seen them landed on the wharf. In the ports of Baltimore and Boston it was the custom to discharge upon the wharves; it was not so in Rotterdam or London; and in each place Captains were obliged to follow the custom of the port. Then it was clear that the obligation to discharge was limited to putting the goods on shore, and each party to a contract was bound to know the law in relation to discharging in the port for which the vessel is cleared.

Mr. SMITH, of South Carolina, made a few observations. He had been told that this was not the first time this application had been before the Senate, and to him it seemed useless and improper that the Senate should be employed from year's end to year's end, on a transaction of fourteen years' standing.

Mr. VAN BUREN said, that, in reply to a remark of the Senator from South Carolina, he would merely state, that this application had never been refused. Two committees had reported favorably upon it, and the only point of difference was, the sum to be awarded.

Mr. SMITH, of South Carolina, remarked, that if it had not been refused, he should suppose the petitioners would, by this time, have received their money.

Mr. WOODBURY made some explanations as to the nature of the charter-party, which our reporter did not hear. In relation to the embargo, in answer to the inquiries of his colleague, he would state, that the testimony on the subject went to show, that, had not the vessel been delayed by the Government agent, the embargo would nothave operated upon her. The affidavit of the Captain states this most positively, and, if it was not so, he was perjured. No better testimony could be had. He states positively, that he was delayed by the United States' Agent, until the change took place in the Government, and the embargo was laid, and he closes his affidavit with a statement, that he should have been able to leave before the change in the Government, but from the refusal of the agent to provide means for discharging the vessel. As to the charter party, Mr. W. said he was obliged to the gentleman from South Carolina for calling attention to it, because it established a fact, concerning which there had been some debate. That instrument shewed clearly, that the vessel was wholly freighted by the government. [Mr. W. here read an extract from the instrument, to show, that the whole vessel, with the exception of room for sea stores, &c. was engaged by the United States.] It had been established by a decision of the Supreme Court, that the demurrage should be made good by the party by whom the delay was caused.

The same principle had been established by the Senate in the case of Forrest. As to the inquiry of the gentleman from North Carolina, [Mr. BARNES he would remark, that interest was not calculated on the amount of demurrage. But, the question in the committee had been whether it ought to be extended, not only to the delay occasioned by the Agent, which amounted to about 600 dollars, but to the delay occasioned by the embargo. It was thought equitable to give demurrage on the whole period of delay, making it amount to a thousand dollars.

The question being then taken on engrossing the bill, it was negatived, by the following vote:

YEAS—Messrs. Barnard, Barton, Benton, Berrien, Bouigny, Chambers, Chase, Harrison, Hayne, Johnson of Kentucky, Johnston of Louisiana, King, Knight, Molane, Robbins, Rowan, Seymour, Silsbee, Smith of Maryland, Van Buren, Woodbury—21.

NAYS—Messrs. Bateman, Bell, Branch, Chandler, Cobb, Dickerson, Eaton, Ellis, Foot, Hendricks, Kane, McKinley, Macon, Noble, Parris, Ridgely, Smith of South Carolina, Tazewell, Thomas, Tyler, White, Willey—22.

#### CAPTORS OF THE PHILADELPHIA.

The unfinished business of yesterday—the bill to compensate Susan Decatur, (widow of the late Stephen Decatur) and others—was then taken up; and the amendments offered yesterday having been agreed to—

Mr. CHAMBERS said, he did not rise to renew the motion which the Senate had yesterday refused to adopt, nor to offer any amendment to the bill. His sole object was, to perform an act of justice to the individuals, at whose instance, and on whose claims he had asked an inquiry, and particularly to the individual by whom the paper was furnished which he had presented when the bill was last before the Senate. Since then he had attentively compared that paper with the log-book of the brig Syren, and though it purported to be copied from the journal of Mr. De Kraft, then a junior officer of the brig Syren, and no doubt was so copied, yet, in fact, it was, *verbatim et literatim*, a copy of the log-book of the brig. However, therefore, gentlemen might treat it as the work of a young gentleman writing for his own amusement, and with less knowledge of the facts than his superior, it certainly did contain a faithful narrative of the events of that day, and of the movements and counter movements of the brig, notwithstanding the opinion that these statements were in conflict with all nautical rule and propriety.

He had also learned, that, at the same session of Congress to which Mrs. Decatur had first presented her claim, or at the session next succeeding it, so soon as information of the fact was carried into the country, some of the officers of the Syren had furnished facts, and statements, to enable an honorable member of the other House (where the claim was pending) to urge and enforce their demands. At the first practicable period, they had presented themselves as of the number of those entitled to share in the munificence of the country. Without the least design to lessen the merit of their brave companions, who acquired imperishable glory, they allege, and then alleged, that they participated in the common peril of the brilliant enterprise. When the motion to recommit the bill was yesterday under discussion, the supposed failure to present these claims at an earlier period, seemed to be the most prominent objection to the proposition, and it was due to the parties concerned, now to correct the error, into which the Senate was led, from the want of information.

Mr. HARRISON said, that it was due to the individual who yesterday laid a paper before the Senate, to say that he, Mr. H., did not intend to attribute to him a wilful incorrectness in his statement. He merely intended to op-

FEB. 11, 1828.]

*Captors of the Philadelphia—Powers of the Vice President.*

[SENATE.]

pose receiving a statement differing from the official one, which was so fully supported by testimony.

Mr. HAYNE said, that he did not wish to say any thing further on the subject. But he would observe, that, since yesterday, he had examined the documents in the Navy Department, and was ready to show, from Commodore Stewart's official statement, that the boats of the Syren never formed a junction with the Intrepid.

The bill was then ordered to be engrossed for a third reading, by the following vote :

YEAS.—Messrs. Barnard, Barton, Benton, Berrien, Bouigny, Chambers, Chase, Dickerson, Ellis, Foot, Harrison, Hayne, Hendricks, Johnson of Kentucky, Johnston of Louisiana, Kane, King, McKinley, McLane, Parris, Ridgely, Robbins, Rowan, Silsbee, Smith, of Maryland, Smith, of South Carolina, Tazewell, Tyler, Van Buren, White, Willey, Woodbury.—32.

NAYS.—Messrs. Bateman, Bell, Branch, Chandler, Cobb, Eaton, Knight, Macan, Noble, Ruggles, Seymour, Thomas, Williams.—13.

The bill to graduate the prices of the Public Lands was then taken up, and the motion to amend, made by Mr. HENDRICKS, on the 28th ult. being under consideration : Mr. KANE, addressed the Senate at considerable length.

Mr. VAN BUREN then moved to lay the bill on the table, with the understanding that it should be called up on Monday.

The Senate then adjourned.

MONDAY, FEBRUARY 11, 1828.

#### CAPTORS OF THE PHILADELPHIA.

The engrossed bill to compensate Susan Decatur, and others, came up for a third reading.

Mr. HAYNE said, that, since this bill was last before the Senate, he had been shewn a statement, said to have been made by a respectable naval officer, in which it is alleged, that the report of the Naval Committee is incorrect in one or two particulars. Mr. H. said, as he was extremely unwilling to have it supposed, for a moment, that a measure like this was indebted for its success to erroneous statements, however unimportant in themselves, or however unconsciously committed, he felt himself called upon to notice these alleged errors. It was stated, in the first place, that the condition of the Philadelphia, at the time of her capture by the Turks, and her destruction by Decatur, was much worse than the report exhibits. It is stated in the report that she was got off the rocks without material damage, and that, at the time of her destruction, she was moored in the harbor, "ready for sea." These facts were asserted on the authority of the report of the Naval Committee of the House of Representatives, made by the late Doctor Holcombe, in 1826, and that statement never having been questioned, it was taken for granted that they were correct. The fact was so immaterial, that it was hardly deemed necessary to make any very minute inquiries in relation to it. I am now satisfied, however, that the condition of the frigate was not such as is stated in these reports. It is further alleged that the condition of the Philadelphia was such as to preclude the possibility of her being brought out of the harbor in safety. This, however, is a matter of opinion merely, and it will be seen, on referring to the report, that no opinion is expressed on the point by the committee, and the evidence only is submitted to the Senate on which the petitioner relies in support of her position. The committee did not consider the claim as resting, in any material degree, on that fact.

In conclusion, sir, I will only remark, that nothing was further from the intention of the committee than to impute to the gallant officer, who commanded the Philadelphia, at the time she was unfortunately lost, any blame what-

ever, nor to imply that she was prematurely abandoned ; on the contrary, I am satisfied that the committee concur in the universal opinion, that, on that occasion, as on all others, the conduct of Commodore Bainbridge was such as conferred honor on himself, as well as on his country.

Mr. CHANDLER said, that, if the sum of \$100,000 was inserted, on the ground that the Philadelphia could have been brought out of the harbor of Tripoli, and it now appeared that this was a mistake, he thought a less sum ought to be granted.

Mr. HAYNE, in reply, said, he had before risen expressly to contradict the idea, that the grant was, in any respect, influenced by the fact, whether the Philadelphia could or could not have been brought out of the harbor of Tripoli. The committee, if they had considered it material, would have distinctly reported their opinion upon it ; which they had not done. Nor did Mr. H. wish it to be understood that he now volunteered any opinion on that point. The fact was asserted by the petitioner ; it had been insisted on elsewhere ; but the committee not deeming it material to the support of the claim, had left it to the Senate, on the evidence adduced. Mr. H. said, he did not intend to say now that she could not have been brought out, and he had never asserted that she could. He meant to express no opinion on the subject. His object, in making this explanation, was to preclude the idea, that this bill was founded on the opinion that the frigate could have been brought out of the harbor. He wished it to be distinctly understood, that it was the opinion of the committee, as well as of this House, that the captors of the Philadelphia were justly entitled to the compensation granted by this bill, whatever may have been the condition of the frigate at the time she fell into the hands of the Turks, and whether she could have been brought out of the harbor, or not.

The bill was then passed, and sent to the House of Representatives for concurrence.

#### POWERS OF THE VICE PRESIDENT.

On motion of Mr. RIDGELY, the Senate proceeded to the consideration of the report of the committee appointed to revise the rules of the Senate ; when the amendments reported by the committee were severally read and agreed to.

Mr. TAZEVELL then rose to inquire of the chairman of the committee, whether the 6th and 7th rules had been considered, and whether the committee proposed any alteration in them. Mr. T. referred to a decision made in relation to those rules by the Vice President two years ago. Mr. T. thought then, and still thought, that the decision of the Vice President was correct. The Vice President, in his opinion, had not the power to call a Senator to order for words spoken in debate—it was a power that ought not to be given him.

Mr. RIDGELY, in reply, stated that these rules (the 6th and 7th) had been considered by the committee, who were of opinion that no alteration in them was necessary or expedient, and that the decision under them of the Vice President, alluded to by the Senator from Virginia, was substantially correct.

Mr. KING, a member of the committee, made an explanation similar to that of Mr. RIDGELY. He had no doubt, in his own mind, that the decision of the President, just alluded to, was a correct one. There was one member of the committee, however, who differed in opinion with the majority in regard to these rules, and who had proposed an alteration of them. He was, however, over-ruled by the decision of the other members of the committee, who thought it best that the rules should remain as they were.

Mr. FOOT said he declared himself to be the member of the committee alluded to, who had proposed the amendment to the 6th rule ; and, after being called upon in this

SENATE.]

*Powers of the Vice President.*

[Feb. 11, 1828.]

manner, he felt himself bound to propose the same amendment for the consideration of the Senate; and should assign the reasons which induced him to offer that amendment in the committee, and which he now felt it his duty to urge before the Senate, in favor of its adoption. Sir, the Senator from Alabama has stated very correctly the proceedings of the committee on the subject. The rules of the Senate are few in number, embracing only the cases in which the Senate have thought proper to depart from the rules of proceeding in Jefferson's Manual, which appears to have been adopted by consent, as their guide in all their deliberations. The 6th and 7th rules of the Senate, by the construction given by the present presiding officer, have put it entirely out of the power of any person to call a Senator to order for words spoken, until the Senator shall have finished his speech. For, if the presiding officer has not the power, it exists in no one; for in Jefferson's Manual it is laid down explicitly, that "Offensive words are not to be noticed until the member has finished his speech, then they are to be written down." It appears from this, that these rules, instead of facilitating the business, are only calculated to produce embarrassment; and it is very evident that such has been their operation in relation to the case to which the Senator from Virginia, [Mr. TAZEWELL] has alluded. And, sir, in my opinion, the rules should either be amended so as to recognize in the President the power to call to order, or that they should be expunged, and leave the Manual for our guide; for, under that rule, it is made the duty of the presiding officer to call to order: for, in speaking of offensive words in debate, he says, "such proceedings Mr. Speaker ought to suppress." It would seem from the 6th rule, as if it was not contemplated, that the President should call to order for words spoken, because the member is required to take his seat until the President decides whether he is in or out of order. And, if called to order by the President, it would seem unnecessary that he should take his seat to allow time for the President to decide; for the call to order would of course be a decision in the first instance.

Sir, I am in favor of amending this rule in another respect. The President of the Senate is not elected by the Senate, and is not, of course, amenable to the Senate. But, sir, by the Constitution, we have the power of making our own rules of proceeding.—[Mr. F. here read from the Constitution, which authorizes each House to determine the rules of its own proceedings.] This is the only security we have against an arbitrary exercise of power over our deliberations. Our rules should prescribe to the President his duties, and define his powers, as the presiding officer of the Senate; and I am disposed so to amend them as to allow an appeal from every decision of the Chair. In this way, and in this only, can we ever be secure from an improper exercise of power. This security is given expressly by the Constitution. By this amendment the Senate will be placed in precisely the same situation, in relation to the powers of the presiding officer, as every other deliberative body; and I cannot see any reasonable objection to it. These, sir, are my views in relation to this subject, and which induced me to offer the amendment; and I shall leave it to the sound discretion of the Senate to adopt or reject the amendment, feeling no solicitude about the result, but firmly believing either that the amendment ought to be adopted, or the 6th and 7th rules expunged, so as to relieve the presiding officer from embarrassment, and make it his duty (as it clearly would be without the rules) to call a Senator to order for "personalities" or any improper language in debate. But, sir, it appears to me proper to have an appeal from his decision to the Senate; otherwise, I cannot see how the Senate can determine or control their own deliberations as contemplated by the Constitution.

Mr. RUGGLES was a member of the committee ap-

pointed to revise the rules of the Senate; one of the meetings of which he did not attend. In relation, however, to the amendment proposed by the Senator from Connecticut, it had, he believed, been rejected by the committee on the ground that there was no necessity that a member should sit down when called to order, until the President decided whether he were in or out of order; because, by such call, the President had already decided that he was out of order. Perhaps the committee were expected to express the opinion that they did not deem it expedient for us to prescribe a rule to govern the President of this body, who is not an agent of, or amenable to this body, but elected by the People, and to them only accountable. But he was of opinion that the Constitution clearly vested the Vice President with the power of preserving order in the proceedings of the Senate, to be exercised in common with the individual members of the Senate. The very words of the Constitution which provide that the Vice President shall preside over the Senate, must mean something, or they must mean nothing. He was clearly of opinion that the Constitution gave to the presiding officer the power of calling a Senator to order when using improper or indecent language. Such language, said Mr. R., may be used of the President himself, and if there is no person to call the offender to order, he may go on to the greatest lengths. The difference between the Senate and House of Representatives was this—there the Speaker was elected by the House, is the agent of that body, and, consequently, amenable to their authority. Here the case is different: the presiding officer is elected by the People; he, therefore, did not believe that any appeal from his decision could be had. In conclusion, Mr. R. said: that the power of preserving order in the Senate, he believed to be vested in the Vice President, and if the rules and practice of the Senate had not already conferred this power, that it ought to be done.

Mr. MACON said that he thought the President ought not to call to order. He should sit in his seat to decide between the members, and he ought to be pure and unbiassed, like a Judge upon the Bench. Or, said Mr. M., suppose that he improperly calls to order, to whom are you to appeal? He is to decide; therefore he ought to keep aloof from the cause of complaint, and not be the originator of the call, so as to judge impartially between the opposite parties. He had rather leave it so, than alter it.

Mr. FOOT perfectly agreed with the Senator from Ohio, with the exception as to the operation of the rules, and he must say, that, if the rules had any effect, the Presiding officer had not the power to call a Senator to order for words spoken in debate. Under the Parliamentary rule he had, but under that rule the member was not to be called to order until he had finished his speech. If, then, the presiding officer had not the power, and the Senators had not the power of calling to order for offensive words spoken, the offending member might go on to any extent. His view of the subject was, that the rules should be so altered, that a member using improper language may be called to order, and by the presiding officer while speaking.

Mr. KING here read the 6th and 7th Rules, and commented on the effect of the amendment, as proposed by Mr. FOOT. If you give, said Mr. K., this power to the Vice President, you clothe him with the most tremendous and dangerous power; a power no less than that of putting an end to debate; to gag a member when the course of debate is not consonant to his wishes or his feelings. He would suppose that the Vice President was connected, either by interest, or by inclination, with those in the administration of the Government, he would then have the power to put a member down the moment he discussed a subject that he did not wish to go abroad



Feb. 11, 1828.]

*Powers of the Vice President.*

[SENATE.]

to the People—a power, which, if he chose to exercise it, would make him the veriest tyrant in existence. It is not necessary, said Mr. K., to enable us to carry on the business of the Senate with regularity and decorum, to give any such power. He had no idea of subjecting the freedom of debate to the control of any one individual. Whatever confidence he might have in the present presiding officer, still the time might arrive when this power, if now given, would be found in dangerous hands. He hoped the amendment would not prevail. He repeated, he had every confidence in the impartiality and correctness of the decisions of the present presiding officer, but he wished to guard against any possible contingency.

Mr. DICKERSON said, it was certain that any member of the Senate had a right to call another to order for words spoken in debate, however inoffensive those words might be; and he considered it equally certain that the President might call to order for words spoken in debate, when those words might be an outrage upon the decorum of the Senate. It is the duty of the presiding officer to preserve order. The power to do this must be an inherent one, without which, the duty could not be performed, and the officer could not preside. He has, and must have, so much power as to preserve decorum in the Senate, that the business may proceed without interruption. Two years ago, when two Senators, by the violence of their remarks upon each other, totally interrupted the business of the Senate, they were called to order by a third Senator, who was directed to reduce the words to writing; this he refused to do, as it was no concern of his.

It was not absolutely necessary to vest the President with power to call to order for words or acts not immediately interfering with the decorum of the Senate. But, to give him the power to call to order for words in all cases where a Senator can call to order, would not make him more formidable than he now is. He can now, upon the call of any one Senator to order, decide the question without appeal. There will always be at least one Senator willing to aid the views of the President, if he wishes to exercise this power.

Mr. D. had no objection to increase the power of the President, but not so far as to permit him to restrain the latitude of debate. No member of this body should willingly submit to such restraint. Every one should adhere to his right of commenting most freely upon the Administration, Heads of Departments, or Officers of the Government. It is better that this privilege should be abused, than arbitrarily restrained. If, in the course of debate, a Senator deems it important to animadvert freely upon the characters or conduct of the living or the dead, he ought not to be restrained by the presiding officer.

Mr. FOOT here called the attention of the gentleman to the words of the Manual. It is said there, decidedly, that a member cannot be called to order for words spoken, until he has finished his speech. But it would be observed, that such provision gave no possibility of remedy. He thought the power ought to be vested either in the Members or the President to call to order during debate.

Mr. VAN BUREN said that he did not conceive that the office conferred the right to call to order. If the powers of the Vice President were derived from the Constitution, as nobody doubted, he knew of no sanction to that power, either in cases of irrelevancy or impropriety of speech. The only express power granted by the Constitution was that of giving the casting vote. This amendment went to give him another power not contemplated by the Constitution. On the contrary, the Constitution has given the right to the two Houses to make rules for the government of their own members, and for the direction of their presiding officers. He thought the power a dangerous one to place in the hands of the Vice President. It was never tolerated, and it was never intended to be, that a member should be put down because

of the manner in which he chose to present his views or defend his principles. Yet this might happen, under the discretion which would be given by this amendment. As to the individuals of the Senate, he could not believe that the time would ever come, when they would be so forgetful of their own dignity, and that of the body, as not to call to order any member who should overstep the bounds of decorum. He was satisfied with the rule as it was; and was, therefore, opposed to the amendment.

Mr. BENTON was opposed to the accumulation of unnecessary power in irresponsible hands, and of that character he conceived the present motion to be. Every Senator had now the right to call to order, and certainly forty-seven Senators were enough to watch one. It could not be necessary to increase the number to forty-eight, by adding the Vice President, who is in no way responsible to us. We do not elect him, and we cannot displace him, except by an impeachment, which must be instituted in the other House. Nor is it safe to vest the power of restraining debates in an officer like him, not concerned in the debate, and not responsible to us for the exercise of his power. He may abuse this power, and we are without remedy. The power of stopping a member in debate—of making him sit down and proceed in another manner, or not proceed at all, is a power of high import. The feelings of the Senator may be deeply wounded by it, but that is a trifle compared with the injury which may be done to his constituents. A debate, vital to their liberties, might be stopped and terminated, under the pretence of confining the Speaker to a particular question; and the injury would be without remedy. The Vice President holds his office independent of the will of the body over which he presides, and in that respect, differs from the Speaker of the House of Representatives, and all other presiding officers to which he has been likened. The Speaker of the House of Representatives is responsible to the body over which he presides. They make, and they can unmake him, and he is vested with powers by the rules of the House, which the Senate have never conferred upon the President of this body. But the principle involved in this question has already been decided upon, and acted on for two years; I allude to the appointment of Committees taken away from the President of this body because he was not responsible to us, and retained in our own hands, although it was universally acknowledged that the power had been well exercised. The admission is general, if not unanimous, that you, Sir, had exercised this power discreetly and unexceptionably—no objection was taken to your conduct—it was conceded all round that it was a power of a nature to be better exercised by a presiding officer than by the Senate at large; but, because you were not one of us, not created by us, nor responsible to us, this power was taken out of your hands. I see no difference in the principle of the two cases, and there shall be no difference in my conduct upon them. I voted to take the appointing power over Committees out of your hands, because you were not one of us, and I oppose your right to stop me in debate, for a real or supposed latitude of expression, for the same reason.

Allusion has been made, Sir, to past scenes in this Chamber, when a Senator, not now a member of this body—one whom I am proud to say, honors me with the name of friend, [Mr. RANDOLPH,]—has been supposed to transcend the freedom of debate, and you, Sir, were censured for permitting it. According to the opinion which you then expressed, and which I concur in, you had no power to call to order for that cause, and the present motion goes upon that idea, otherwise it would not be necessary now to confer this power. That you were right in your decision, is strongly to be inferred, from the fact, that of forty-seven Senators having the undoubted right to call to order on these occasions, no one did it;



SENATE.]

*Powers of the Vice President.*

[FEB. 11, 1828.]

and if those, whose rights were unquestionable, did not act, it certainly was excusable in you, whose authority was at least doubtful, to follow their example. One thing is certain; if you erred, you erred on the side of liberty, not of authority; and the rarity of this kind of errors, by those in power, should give them a claim to our respect, when they do occur. But I do not admit there was an error, nor do I rest the vindication of my friend upon presumptions and inferences derivable from our own conduct. I take higher ground, and say that nothing which we ever heard from that gentleman on this floor, in reference to our President and his Secretaries, exceeded in severity and violence what is said with impunity in the British Parliament, by Commoners as well as Peers, of their King and his Ministers.

I have some acquaintance with the debates of the British Parliament—not so much as I ought to have—but enough to bear me out in the assertion, that the King and his Ministers have been often animadverted upon, in both Houses of Parliament, with a degree of severity which the gentleman alluded to, never transcended on this floor, in any thing which he said of our President and his Ministers.\* I speak of what has occurred in the British Parliament in times of order and subordination, when the Speakers were men of the first weight and dignity of character, and when no one called them to order; and I must be permitted to say, that it argues badly for the spirit of the times in our country, that it is an evil omen for our republican institutions, if American Senators cannot be as free with their President and Secretaries, as British subjects may be with their monarch and his prime ministers. But this reproach, Sir, does not lie at your door. By your decision, you prevented the stain from sticking to your skirts. That you were right, I then believed, and still believe. Even upon a critical construction of our own rules, leaving out the enlarged considerations which governed you, your decision will stand the test of the severest scrutiny. Those rules only give you a power to decide after the question of order is raised and placed before you. When a member is called to order, his words shall be taken down in writing, and the President shall decide. This is the rule. Now why reduce to writing, except to inform the President of the words excepted to? And why inform him if he already knows them? And why make another decision, if he had already decided in the fact of calling to order? The words and the spirit of the rule go upon the idea, that one member is to accuse another of disorder, and that you, as a disinterested and impartial arbiter, are to decide between them. This is unfavorable to the spirit of our institution, which forever separates the functions of the judge and accuser, and so may they remain on this floor as every where else.

Mr. CHAMBERS said, as he did not concur in the views which had been expressed, he deemed it proper to state the reasons for his vote.

With regard to the correctness of any former decision

in the Chair, he was not now called upon, nor did he intend to express an opinion. His purpose was to speak to the principles which he thought governed the subject, and not to pass upon the proper application of those principles to any particular person or subject. This was not the time or the occasion to discuss that question.

He denied that the Constitution restrained the power of the Senate to adopt the rule proposed by the honorable gentleman from Connecticut, [Mr. Foor.] The Constitution says, in the 3d Section of the 1st Article, "The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided." The section does not proceed to enumerate the functions which, as President of the Senate, he shall perform. A presiding officer of a deliberative legislative body, has a known duty, and when he is designated as such officer, the duty of performing the appropriate functions is plainly signified. The vote which is refused to him, except on equal division, has reference to his participation on subjects of ordinary legislation, not to the observance of order. There was no such thing as a vote implied in the matter of calling a member to order, and he presumed the honorable gentleman who had referred to his expression with emphasis, did not rely on the effect of this prohibition to vote.

In the 5th Section of the same article, the Constitution says, "Each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member." Here again there is no enumeration of the particular acts which will constitute the guilt of disorderly behaviour, subjecting its author to punishment and expulsion. There is no enumeration of the particular rules or orders relating to the proceedings of the body which it has authority to determine. The language used is to be taken in reference to the context, and where it had received an intelligible import before its adoption into the Constitution, the meaning is to be found by ascertaining what that was. Such rules as usually obtain in legislation may be adopted, and such conduct as the usages of legislative bodies consider disorderly may be punished.

The notions which had been received by the framers of our Constitution in relation to Congressional rule, had been borrowed very much from the British House of Commons. The rules of Parliament, he believed, had been the general standard to which had been referred all questions of this character in the Old Congress, and in all the State Legislatures. In all these bodies, he believed the presiding officer executed the duty of preserving proper order. He did not mean to include the House of Lords, because the honorable gentleman from North Carolina, [Mr. Macon,] had said, the presiding officer there did not use the power. At a very early period the Senate exercised the power thus given to it. They did pass certain rules, and they imposed certain duties on the President, being such as are usually imposed by other legislative bo-

\* The following instances, out of thousands, may be quoted:

Mr. Burke, of the King's speech, in 1755. "It was so full of equivocation and double meaning, that every man of every opinion, might find some part or other of it that would meet his sentiments, or bear a construction similar to his sentiments, be they what they might." Of the King's speech in 1782. "The speech spoke a language so strange and contradictory, so full of ridiculous and absurd professions, along with such an incredible number of promises and boasts, that he declared, if he might be permitted to speak of it as it deserved, he should call it a shaggy of nonsense and hyperbores." Of the same speech. "He had heard of a form of prayer in churches, but this was the first form of prayer he had ever met with in a King's speech: it was, he declared, nothing more than a piece of hypocritical cant played off at the expense of Parliament." Of the same speech. "He thought it a compound of hypocrisy, self commendation and folly."

Mr. Fox, in the year 1784, when the King and Ministers were in a minority in the House of Commons. "What, then, was the principle on which we held at this moment a Minister without the confidence of the House of Commons—an Executive Government in which the House placed no degree of confidence whatever? It was their evident intention to render the House of Commons the mere tool and organ of despotism. He hoped the spirit of a brave and free people would defeat the base design. He had long observed the machinations, hatred and harbored by a combination of persons, against the liberty of the country, whose political principles were too well understood to need any further illustration. These people had long endeavored to have the voice of the people on their side, had long struggled to make the people parties in their own ruin, to make them enemies to their best friends."

Debate in 1780. "Mr. Thomas Pitt entered into a most severe animadversion upon the whole conduct of the administration for a series of years past, declaring that the Minister's name was the subject of contempt and ridicule in every Court in Europe."

Debate 1770, Lord Chatham, declared that "Ministers held a corrupt influence in every Court in Europe." Same year, he said, "I will beg leave to paralyze the expression, and will say, those who gave the means of corruption, gave corruption. I will trust no sovereign in the world with means of purchasing the liberties of the people. Does he (the King) mean, by drawing the purse strings of his subjects, to spread corruption through the people, to procure a Parliament, like a packed jury, ready to requite his Ministers at all adventure?"—[*Note by Mr. B.*]

Feb 11, 1828.]

Powers of the Vice President.

[SENATE.]

dies on a presiding officer, but certainly such are not particularly enumerated in the Constitution. Mr. C. said, he thought it is quite manifest from the work of Mr. Jefferson, which he held in his hand, that he did not feel any doubt about the Constitutional power of the Senate. Mr. Jefferson had an intimate connexion with the Government, almost from the first essay towards our independence, to the termination of his Presidency; and he was of all men the least likely to extend the powers granted by the Constitution to any branch of the General Government.

In the preface to his Manual, prepared during the time he was Vice President, for the express purpose of aiding and informing the Senate in their proceedings, after noticing the grant of his power, he remarks: "The Senate have accordingly formed some rules for its own government, but those going only to few cases, they have referred to the decision of their President, without debate and without appeal, all questions of order arising under their own rules, or where they have provided none." In the section treating of the "order of debate," a variety of instances are furnished, which are violations of this order, and we are told, *Qui digreditur a materia ad personam*, Mr. Speaker ought to suppress. Mr. Jefferson, pursuing his system of collocation, then adverts to the rules of the Senate. These rules do not designate the individual by whom a disorderly member is to be called to order, but Mr. Jefferson does not suggest that there is any diversity between the practice of the Senate and the House of Commons. The gentleman from Missouri, Mr. [BAXTER] has called to his aid the proceeding of this body in relation to the change in the mode of selecting the standing committees. He says the power of appointing the committees was taken from the President, because the Constitution being the only source of his power, the Senate cannot confer other powers upon him. The honorable gentleman, no doubt, expresses the motives which influenced his vote on that occasion, but he certainly had entirely misconceived those of some others who advocated that change.

Mr. C. begged leave to say for himself (and he believed he might say so for some others) that no apprehension of constitutional difficulty had influenced his vote. From the peculiar organization of this body, it might occur that the President of the Senate should differ from the majority of its members, on great and important questions of national concern. The object of confiding subjects to our committees, is to facilitate the means of digesting principles, collecting information, and presenting views in relation to matters on which we are to act. A committee acts in the character of an agent to the body at large.

He not only held it proper that the majority of the Senate should be represented on the important Committees, but it was perfectly suicidal to adopt a different course. It was the right of the majority to have the Committees of their own political complexion, and in the peculiar formation of this body the only mode by which this right can be secured is to give the appointment immediately to the Senate. In any other event the reports of your committees will be carried abroad to produce impressions on the public mind directly at variance with your own opinions; the great labor of your agents will be to counteract your own deliberate purposes.

He did not wish to be understood as alluding to the period when the change was made as the season when this state of things had been witnessed. The possibility of its occurrence required provision to meet it, and formed sufficient inducement for the vote he then gave.

The constitution, therefore, had nothing to do with the question farther than it had constituted the Vice President the presiding officer of this body, and thereby gave him the power properly belonging to such an officer, sub-

ject to the control usually exercised by legislative bodies in the shape of rules of proceeding.

It was, therefore, a question of expediency alone, whether the President of the Senate should have the power to preserve order and decorum in this body. If it were not for the occurrences which have taken place, he should not have thought the Senate now called upon to act on this subject. It had been the opinion of most persons, he believed, that such power existed with the President. But on a late occasion the President has said he did not think he had the power—the rules of the Senate had been committed to a special committee for revision, and the Chairman, who reports the rules without alteration, as to this subject, in answer to a question touching this precise point, has said, the committee are unanimous in the opinion that there is no such power in the President, and several members rise and sanction the same doctrine. If then, the rules of the Senate should remain unchanged, it must be received as the judgment of the Senate, that such powers do not belong to the President, and ought not to be exercised by him.

Mr. C. expressed his surprise that any gentleman on this floor should doubt of the propriety, or indeed the necessity, of there being such a power in the Chair. He should not allude to the unpleasant occurrence on this floor, two years ago, which had been referred to, except for the purpose of using the remark made by the honorable gentleman from New Jersey, [Mr. DICKERSON.] That gentleman had informed us that an honorable member of the Senate who had moved the question of order, had refused to reduce the objectionable words to writing. That was not the only occasion on which the Senate had witnessed a refusal to take down words objected to as out of order. It might be so; but he did not know that there had been an instance in which disorderly words were taken down in compliance with the rule. And who would consent to make a record of words which were offensive? The practice he understood was supposed to require that when taken down, the words were to be put upon the Journal. If, therefore, the most defamatory charge against an honorable member of this House be made by another member, the preliminary step towards redress is to cause a record of that charge to be made, which will for ever perpetuate the recollection of the charge. No individual could submit to this course, nor would he, when he was the victim of aspersion, be instrumental himself, or allow his friend to be instrumental in handing down the evidence of the charge.

And what are the reasons, asked Mr. C. urged against the adoption of the rule, as a measure of expediency? We are told that it places a power in the Chair, which may be used oppressively, and may arrest the latitude of debate. It is called a tremendous, a dangerous power. The whole argument on this point seemed to him full of error and mistake. On questions involving the political character of public men, there never had been, he believed, and God forbid there ever should be, a disposition to restrain debate. The people of this country had a right to know every thing touching the political conduct and character of our rulers, and no man or set of men on this floor, would ever dare to invade that right. The rule proposed did not touch that question. Freedom of debate was secured by a power superior to any rule of the Senate. To indulge it was no violation of order; and therefore not within the rule which restrained disorderly conduct. How then, stands the matter of oppressive power in the Chair? The amendment proposed will make it the duty of the Chair to cause order to be observed; it will submit to his discretion primarily, the question of what is or is not order; but if he should ever exert that discretion unwisely or oppressively, an appeal can be had to the Senate, and his decision may be reversed, and the character and

responsibility of a majority of the Senate are the pledges by which every member claims his rights.

How is it, under the construction now given to the existing rule? One individual may suggest a violation of order, invoke the authority of the Chair, and the occupant of that Chair, by this single fiat, may arrest the debate. His sole judgment, absolute and irreversible, is the standard by which every member here must measure his steps. In the one case, the tenure by which we hold our rights, is the intelligence, the discretion, and the responsibility of a majority of ourselves; and, in the other, the intelligence, the discretion, and the responsibility of one individual, not deriving his authority from us, and requiring it to be called into action only by the suggestion of an individual member.

It appeared to him the argument was most strangely misapplied by the honorable gentleman who had used it, and the very apprehension to which they had yielded had driven him to the most decided conviction of the necessity of the proposed amendment.

Mr. SMITH, of Maryland, said, it was the duty of the Vice President, as presiding officer of the Senate, to decide agreeably to such rules and regulations as shall have been made for his guidance. In the House of Representatives the presiding officer had the power of calling a member to order "for words spoken," because he was one of their own body, elected by themselves to preside over them, and amenable to their authority. If his decisions are unsatisfactory, they can refuse to re-elect him—but we, Sir, have no such power. Our presiding officer is not elected by us—he is sent here by the People of the United States, and totally independent of us. Mr. S. was not willing to vest either the Vice President or President pro tem. with the power to stop debate. It is a tremendous power—I have felt it, Sir, and never shall forget it. On a certain occasion, in the other House, a report was presented from one of the Secretaries, which animadverted very severely on Mr. Gerry. I undertook to animadvert on the report, and was called to order. Unconscious that I had travelled out of the record, I proceeded, and was three times called to order. I then inquired why I was considered to be out of order?—and was told, by the Speaker, that the report upon which I had animadverted must not be considered the report of the Secretary, but of the President of the United States. That I could not proceed: for, before the discussion commenced, I had been called out of my seat, and told, by a person high in office, that the President requested that the report might not be considered as his but as the report of the Secretary of State. Mr. President, I am unwilling to be placed in this body, differently constituted as it is from the other, in such a situation as I then was, to be stopped in the course of my argument. There were high party times then, and high party times may come again, and, whenever they do, similar outrage may (with such a power) be committed. And where will be the remedy? Gentlemen say, in the appeal from the decision of the President. An appeal! My experience has taught me to know that an appeal is not worth a button. The majority will always support the Chair, right or wrong. An appeal was taken in the case I have mentioned, and the majority voted with the Speaker, and always will. An appeal from the Chair is *vox et preterea nihil*. I would rather be without the appeal.

A gentleman has said that he will vote for the amendment, to justify you for the decision you had made on the rule. Sir, you require no justification—you decided agreeably to the rules prescribed for your government, and would not have been authorized to have given any other decision. I hope, Mr. President, that the rule will not be changed.

Mr. McLANE commenced his remarks with an apology for obtruding his sentiments upon the Senate, in which

he had so recently taken his seat, on a subject relating to their rules and orders. The amendment appeared to him directly to involve the power of the Vice President to call a Senator to order, and prevent him from speaking, for words spoken in debate. He had considered that subject, and was of opinion that the Vice President did not possess such power, independent of or according to the existing rules of the Senate, and was unwilling to confer such power by any alteration of the rules. The amendment, by its turns, concedes, and the mover, with a commendable spirit of candor, admits, that, by the existing rules, the power in question cannot be exercised by the Vice President; and so far as this admission may be entitled to weight, it would place the proposed change on grounds of expediency merely; but the argument of gentlemen had taken a wider scope, had asserted bolder claims to power, and had invested the Vice President with authority to stop a Senator in debate, and arrest discussion for the use of words which he might deem irrelevant or disorderly.

A power of such magnitude, so vital to the dearest privileges of the members of this body, has been supposed, by at least one Senator, inherent in the Vice President, as incident to his office as presiding officer of the Senate under the Constitution, or derived from the rules contained in Mr. Jefferson's "Manual of Parliamentary Practice." He denied these assertions altogether, which he considered dangerous in principle, and thought it perfectly plain, that the law of the English Parliament could have no force on the proceedings of the Senate, much less that they could control the privilege of debate.

That the Vice President was not a member of the Senate; that he was placed here, not by the body itself, but by the People of the United States, under the Constitution, which, by specifying certain of his powers and limiting their extent, by a fair implication excluded all others, had already been sufficiently adverted to. He would press them no farther than to remark, that it thence appeared to him perfectly clear that the Constitution could not have designed to subject the Senate to the administration of an officer, without other rule than his arbitrary will, and irresponsible to those who might become the objects of his oppression. It might be fairly presumed, he said, if it had not been expressly provided, that an authority thus conferred would be liable to the regulation of those on whom it was to be exerted.

The doctrine of inherent or incidental power, [Mr. McL. said,] was every where the offspring of urgent necessity, and belonged to no functions in this Government, unless indispensable to its existence. In regard to the right in question, there certainly could be no pretence for such necessity.

If the Vice President possessed the power as incident to his office, it would be the gift of the Constitution, and as such transcend the authority of the Senate. There could be no limit to such power, but the arbitrary will of the presiding officer. The Senate could subject it to no control; they could neither prescribe rules of order, nor the circumstances under which their debates might be interrupted; and would thus be subjected to a dominion which he believed no gentleman had seriously contemplated.

Of the privileges of the Senate, that of freely discussing the various subjects of their deliberations, was the dearest, intimately interwoven with the structure of that body. He considered the freedom of speech here, as sacred as that of the press elsewhere; and if the combined power of Congress and the Executive be incompetent, as he believed it was, to abridge the freedom of either, beyond these walls, he could not admit a power incident to the Vice President to regulate the former on this floor. He could conceive of no right more clearly incident to the Senate, than that of free discussion, without which its de-

FEB. 11, 1828.]

Powers of the Vice President.

[SENATE.]

liberations could not be properly conducted. He thought it constituted an important part of the proceedings of the Senate, which they possessed the exclusive power of regulating by their own rules.

The Constitution of the United States, establishing the Legislature for the Union, authorized "each House to determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, to expel a member."

In this provision [Mr. McL. said] was contained the whole parliamentary power over the subject of order—that of prescribing rules, and of enforcing obedience. It was absolute and unlimited, and could not consist with the existence of a similar power elsewhere. It relieved the Senate from any rule other than that emanating from its own will.

It could not, he apprehended, be denied, that the Senate might, in virtue of this provision, prescribe by positive rule, that even personal remarks should not be deemed disorderly, and that the Vice President should in no instance call to order for words spoken, and therefore it would follow, that the power of that officer was wholly derived from the authority of the Senate. He would hereafter consider what would be deemed disorder in parliamentary discussion, in cases where the rules were silent.

The error of the argument attributing to the Vice President this power as incident to his office, lay in clothing an officer whose duties were ministerial merely, with legislative functions; and in confounding the powers of the Senate and those of the presiding officer. Gentlemen had insisted that the Vice President must possess the power in question to enable him to perform his duties. But what, he asked, were the duties of a presiding officer? Certainly not to make, but to execute the law—to preside over the body according to the rules prescribed by the competent authority for its government. When the Constitution designated the Vice President to preside over this body, it conferred on the Senate the power of determining the rules of its own proceedings, and his duty consists in executing these rules. Where they are silent, the omission can only be supplied by the further action or tacit assent of the Senate, as the occasion may arise. He said the history of every parliamentary body of which he had any knowledge, and more especially that of the English parliament, would fully sustain this position.

In all parliamentary assemblies, rules of order emanated from the body itself, and the particular code of each consisted of their own special regulations, and decisions founded on the sanction of the house, dependant upon their will, and adapted to their own convenience. In all, freedom of discussion is the last matter subjected to special regulation, and uniformly allowed the widest latitude. An analogy in this respect has been supposed to exist between the authority of the Vice President and the Speaker of the House of Commons, but such analogy would be fatal to the pretensions of gentlemen on this occasion; since even the Speaker of the House of Commons possesses no power to interfere with debate for disorderly words, independent of the order of the Commons, as is apparent from the Manual referred to by the Senator from Maryland, [Mr. CHAMBERS.] That Senator quoted from the Manual of the English Parliamentary Practice, the rule which provides that though the consequences of a measure may be reprobated in strong terms, to arraign the motives of those who propose or advocate it, is personality, and against order. "*Qui degreditur a materia ad personam*, Mr. Speaker ought to suppress." But this duty is enjoined by the express order of the Commons, of the 19th April, 1604. It is therefore plain, that Mr. Speaker can interfere in the single instance of a departure from the subject before the House, to indulge in personality; and that even this power is exercised in

virtue of a special order of the Commons made for the express purpose. It might with great propriety be contended that, anterior to the order of 1604, personality was not against order; and it is unquestionable, that the order was made to confer on the Speaker the power of doing that which previously could only have been done by the Commons themselves.

The truth is, that, prior to the date of that order, the latitude of debate had been subjected to little or no regulation; disorderly words even had not been defined, much less had it been supposed competent for the Speaker to arrest discussion. But in the session of 1604, the Commons became engaged in serious inquiries into their own privileges; and the assumption of the Crown to issue writs of election to supply vacancies, and return offensive members, led to discussions which afforded the majority of the Commons, who had throughout manifested a subserviency to the King, even when asserting their own privileges, a pretext for the order of 1604. But he apprehended it would scarcely be insisted that the Vice President did or ought to possess greater power over the debates of the Senate, than could have been exercised by the Speaker of the House of Commons, in the reign of James the First.

It would be further obvious, [Mr. McL. said,] by a recurrence to the Manual, that the right in the English Parliament of preserving order in debate, was not the power of arresting discussion, or of preventing the use of words on account of their intrinsic impropriety. On the contrary, it was the power of the House over refractory members, of inflicting punishment after the debate was terminated, for the use of words in violation of express rule. In cases of this kind, the offending member is allowed to proceed to the end of his speech, when the words are taken down, that the House may then take such order as to them may seem proper—by suppressing the objectionable words, or punishing the member. Mr. Speaker can suppress in the single case to which the order of 1604 applies. The argument on this occasion, however, claims for the Vice President the power of calling to order during the discussion, and of preventing the use of words, which, in his judgment alone, without any rule of the Senate, may be improper!

But [Mr. McLANE said] he denied that the *Lex Parliamentaria* of England had any binding force in the Senate of the United States, either to confer power on their presiding officer, or to determine the rules of their proceedings. Composed as that code was, of rules and orders expressly enacted by either branch of the British Parliament, and of decisions of points of order, with the assent of the two Houses, and sanctioned by long usage, its highest authority was, in being regarded as a branch of the great body of the common law of England, which had never been admitted to have any force in the Government of the United States. He knew that parts of the common law had been recognized in some of the individual States, but had been expressly repudiated by the decisions of the highest judicial tribunals from the Government of the Union. The rules and orders and principles of practice in the English courts even, do not apply to the courts of the United States, and therefore Congress, by her own laws, have made provision for this subject. He would not say, that in the absence of our legislation, the courts might not frame rules for their own government; but he would say, that any rule which should be adopted either for the Senate or the courts, would derive its validity from their recognition, and not from its force elsewhere.

Now it would be seen, he said, not only that neither House of Congress had adopted the whole body of the *Lex Parliamentaria* as the rule of their proceedings, but that they had formed a body of rules of their own, rejecting the great mass of the English practice, and materially altering such parts as they pleased to engraft on their

SENATE.]

Powers of the Vice President.

[FEB. 11, 1828.]

own rules. The Senate more especially, in the formation of their rules, have wholly omitted the order of 1604, which has been introduced into this discussion.

In support of his position as to the force of the *Lex Parliamentaria* in the Senate, the Senator from Maryland had also referred us to Mr. Jefferson's Preface to the Manual. But in the absence of any rule recognising the English law of Parliament, it could scarcely comport with the dignity of argument to suppose that a general opinion hazarded in a Preface, would legalize that which the Senate had discarded. If the Preface had proposed to refer to past decisions upon particular rules, or to illustrate a practice which, by the sanction of the Senate, tacit or otherwise, might have introduced a rule, it might for such purpose be valuable; but it does not propose even this. Referring to the power conferred on each branch of the Legislature, to determine the rules of its proceedings, it remarks, that "the Senate have accordingly formed some rules for its own government, but those going only to a few cases, they have referred to the decision of their President, without debate and without appeal, all questions of order arising either under their own rules, or where they have provided none; and hence the necessity of recurring for its own government to some known system of rules, that he may neither leave himself free to indulge caprice and passion, nor open to the imputation of them."

It is evident that these observations of Mr. Jefferson refer to the rule which he is to adopt for his own decision on questions of order as they may arise; not assuming power to raise them of his own mere motion.

He concedes to the Senate the power of making their own rules, and admits himself to be bound by those already made. Now, it so happens, that by those rules actually framed by the Senate, this subject of order in debate is expressly regulated, and in such manner as that the Vice President cannot himself call to order for words spoken, nor interpose his judgment in any way, until one Senator shall be called to order by another. The question of order thus arising, is referred to the decision of the Vice President, without debate and without appeal.

If the remarks of Mr. Jefferson meant more than this, [Mr. McL. said,] he should be compelled to dissent from them; but he thought they meant no more.

It would be recollected, he said, that the Senate having made no rule pointing out words which should be deemed disorderly, that question, whenever the occasion arose, was exclusively referred to the decision of the Vice President. In such case it would be wholly discretionary with him to rely on his own conception of order, to erect a standard for himself, or resort to another existing in other bodies; to hold the member to strict order, or leave him with the same latitude as was indulged in the English Parliament previous to the rule of 1604. But Mr. Jefferson meaning "not to leave himself free to indulge in caprice or passion, nor open to the imputation of them," announces to the Senate his intention of resorting to some known system of rules for the government of his decisions, and therefore compiled the Manual from the British practice, not as binding upon the Senate or himself, beyond their own pleasure, but as a light to guide his steps where the rules of the Senate had left any thing dark. He referred to the "*Lex Parliamentaria*," to enlighten his judgment in questions of order, either as it respected decorum in debate, or order in other proceedings, in the same manner as the Judges of the Courts resort to the "*Lex Mercatoria*," or other parts of the body of the common law, for sound principles relative to mercantile transactions, or the numerous other cases arising for their decision. Mr. Jefferson thus announced to the Senate his determination to adopt a rule for his own decisions until they should please to adopt a better. It was for a rule of decision merely, that the parliamentary prac-

tice was resorted to, and that he would not question the propriety of such reference, he utterly denied it for any other purpose. He protested against such resort for the purpose of deriving power from the rule of 1604 to control debate, or of suppressing words spoken, by degrading or otherwise punishing the member using them. He trusted if such power should ever be assumed, it would not be quietly submitted to.

If the law of the English Parliament had no force here, it was incumbent on us, he said, to look to what each House of Congress had themselves done upon this subject. The House had gone much farther than the Senate, and changed materially the English practice. Among other things, their rules provide that "the Speaker shall preserve order and decorum;" and to this there is no similar rule in the Senate. Also, that "if any member, in speaking, or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order;" and they, moreover, expressly declare that "a member, speaking, shall confine himself to the subject under debate, and avoid personality;" and then prescribe the manner of stopping the member violating the rule, and the terms on which he may be permitted to resume the discussion.

The rules of the Senate vary essentially from those of the House, and, though embracing most cases of disorder arising from other causes than words spoken in debate, they are silent as to pertinency of remark, and do not prohibit personality. On this subject, the Senate rules prescribe merely that a Senator, when speaking, "shall address the Chair, standing in his place, and when he has finished shall sit down;" and then, by the sixth and seventh rules, now proposed to be amended, provides as follows:

"6th. When a member shall be called to order, he shall sit down until the President shall have determined whether he is in order or not; and every question of order shall be decided by the President, without debate; but, if there be a doubt in his mind, he may call for the sense of the Senate.

"7th. If the member be called to order for words spoken, the exceptional words shall immediately be taken down in writing, that the President may be better enabled to judge of the matter."

To him it appeared obvious, that, by these rules, the right to call to order for words spoken was reserved to the members of the Senate, who were themselves deemed to be the best judges of the propriety of interrupting discussion. In this view, it remained only to prescribe the mode of procuring a decision when such question should be made, and this he thought the sole object of the rules already quoted. The sixth rule, requiring the member to sit down, "to afford the President an opportunity of determining whether he was in order or not," would have been unnecessary, if it had contemplated the call to be made by the President, since he must be supposed to have determined that before making the call. And the seventh rule, requiring the words to be taken down, the better to enable the President to judge, equally excludes the idea of the call proceeding from him. In such case, his judgment must have been previously formed; but, as he might be inattentive to the course of remark at the moment of a call by a member, the necessity of reducing the words to writing was obvious.

Mr. McL. said, if the views he had submitted were not erroneous, the Vice President had determined correctly in declining to call a Senator to order for words spoken in debate; and he was the more confirmed in this result, since it had not been even attempted to trust him with any power of enforcing his call, should he undertake to make it.

Mr. McL. said he was not disposed to enlarge the powers of the Vice President in this respect, and was content

FEB. 11, 1828.]

*Powers of the Vice President.*

[SENATE.]

with the existing rules of the Senate. Whether he looked to the past or the future, he was equally indisposed to change. The present rules were the work of as able men as ever adorned the Senate—as regardful of good order and decorum—as jealous of their rights, and appreciated them as highly as he. When he compared these rules with the British Parliamentary practice, or the rules of the House of Representatives, and observed the marked dissimilarity in this respect, and the jealous deference paid to the freedom of debate by the Senate's rules, he could not attribute them to accident, but design—to a design founded on the composition of the Senate, the invaluable privilege of free discussion, and the peculiar relation of the presiding officer, to this body. He had seen no necessity of changing these provisions. Under them, the Senate had been conducted through the most stormy times of our political history. The dignity and privileges of the Senate were to be preserved by a firm adherence to their established rights, and by the wholesome restraint of the body itself over refractory members, rather than by lightly yielding to temporary clamor. The inconvenience arising from disorder in debate operated upon the Senate, and with them there is ample power to obviate the evil, when it may require their influence. With the Senate this power was safely deposited; was efficient for their own purposes, and safe from all attempts to use it for their oppression, or as subservient to extraneous influence. With the Senate he was disposed to retain it. He had felt surprised that, in all the complaints which had been made on this subject, gentlemen had not reflected that there was greater danger of abusing too much power, than from refraining from the exercise of doubtful authority. Power was the last thing he would be disposed unnecessarily to accumulate in the hands of any functionary, and it appeared to him strange, that, holding in our own hands the unquestionable authority, but failing ourselves to use it, we should be seeking to confide it to another to be more actively employed. By this amendment it must be intended that the Vice President shall exert the power where the Senate would not—and for that, if for nothing else, he would be opposed to it; because, the time might come when he would have a motive to use it, where it should be exerted by no one.

His experience in this body had taught him that there was little necessity for any rule here, respecting order and decorum in debate. The dignified forbearance and liberal comity which had uniformly marked the deliberations of the Senate, themselves, created a law, and imposed restraints, more efficient than any written rule. They arose from a consciousness of the possession of the ultimate power to enforce respect for the rules of decorum, by other means, when these failed. In such a body, he said, that was the only efficient law. It was the great moral influence of the power of the body for its own preservation, which, like that of punishing for contempt, or breach of privilege, required no written code; which was within us and around us, accompanied us in all our walks, was our shield and buckler, and, though strong as iron, was yet light as air. He believed this moral force was weakened by too much speciality in regulations of order, as the multiplying rules of order not unfrequently led to disorder. After all, he said, our main reliance was upon our own sense of self-respect, of what was due to the Senate, to the country, and to ourselves, and the knowledge of a higher power to be exerted, when every thing else failed. On slight occasions, the exertion of any power over this subject would be injudicious—in those of great emergency, that of the Senate only would be proper.

A call to order, if confined to admonition merely, would be unavailing where this power ought properly to be exerted; but it is the power of enforcing obedience to the call, by punishment proper for the offence, by degrading

the member, or denying him the privilege of debating, that formed the essence of the rule; and such power, he repeated, either as it regarded the application of the remedy, or the indication of its necessity, he was unwilling to strip from the Senate, and confer on the Vice President. In these observations, he had no reference to the present incumbent of the Chair: for he hoped he might be allowed to remark, without going out of his way, that neither the present state of things, nor the Vice President's own just and enlightened appreciation of his authority, indicated danger from that quarter. He did not fear that power would be usurped or abused now. But no one could tell how long the present state of things might continue, or the same liberal disposition preside over the Senate. The Senate had no agency in the choice of their presiding officer; and, in the political revolutions of society, a new order of things might arise, and subject us to the rule of an officer who may desire to seek, rather than shun power—to arrest debate here, in order to check its influence elsewhere. For such and all other events, he thought we should be best prepared, by retaining with the Senate the whole power over the subject; and he was desirous of manifesting, by his vote on this occasion, that he believed it safer there than in other hands.

He deemed it useless to authorize a call to order, without accompanying it with the power to enforce obedience to the call, and looking, therefore, to this amendment, as clothing the Vice President with the power of enforcing his decisions, by controlling discussion on this floor, he found it difficult to imagine an occasion, in which such power would be necessary, or in which it would be proper to use it.

By the principles of our free Government, and according to the habits of our people, a liberal latitude of debate is proper and allowable. What words may be disorderly, is not unfrequently a question full of difficulty, more likely to be satisfactorily decided by the Senators themselves, according to their own sense of propriety, than by another person, in conformity with any system of rules whatsoever.

From the character of Parliamentary discussion, a scope of remark, more or less discursive and desultory, was to be expected, and he thought strictly allowable. Political disquisition, in many instances, defied the restraint of logical precision; and, in the discussion of the great political measures of this Government, connecting themselves with the policy of an administration, and the character and ambition of public men, a free and extensive range of debate was essential to the liberty of speech and the dearest privilege of the citizen. To detect, in all cases, what would be such a departure from the proper license as would be deemed impertinent and disorderly, was scarcely practicable. In such a body as this, we cannot erect a common standard for all. Every man is not a dialectician, or severely disciplined by the rules of logic. We are not to forget the composition of the Legislature of the Union, the wide range from which its members are selected, or the diversity of their minds, habits, and education. We come here inspired with a patriotic ardor, placing a high value upon the virtues of the People, holding the Government in all things strictly accountable for its actions, and our constituents expect from us a free exposure of our opinions of men and measures. It is in this way that much useful information is diffused throughout the Union, and the attention of the People fixed upon the operations of the Government and the conduct of public men. The People who send us have a right to expect the representative to be tolerated and heard, though he may not be skilled in all the niceties of parliamentary order. He meant not to excuse indecorous language, or mere personality, but he thought the liberty of speech flourished best untrammelled by too much rule;



SENATE.]

Powers of the Vice President.

[FEB. 11, 1828.]

but, regulated by those salutary restraints imposed by the influence of a liberal education, good taste, and strong native sense of the speaker and his audience, close argument, in strict conformity with cold logical deduction, might best comport with his habits of thought and action; and a mild, but firm, exposure of political abuses, might fall less harshly upon his ear, and produce equal effect upon his mind; but he would not, for that reason, bring all others to the same standard. Nor would he disguise the pleasure with which he often heard and was instructed by the brilliant efforts of a bolder and more highly gifted genius, which, defying all rule, sported in its own peculiar element.

It had been aptly said, by one of the greatest orators of modern days, "that it was the nature of genius to break from the fetters of criticism, though its wanderings were sanctioned by its majesty and wisdom when it advances in its path—and was tamed into dulness when subjected to rule." Mr. McL. said, the liberty of this country could not exist without a rational freedom of speech and action, which should only be prevented from degenerating into licentiousness. In the language of the orator from whom he had already borrowed, "he must be content to take Liberty, the last best gift, just as she is—we may pare her down into bashful irregularity, and shape her into a perfect model of severe scrupulous law, but she would then be Liberty no longer."

He desired not to be understood, by these observations, as extending impugnt to every thing that may be uttered in debate on this floor, but as contending merely that the line of this indulgence cannot well be fixed by rule. The liberty of speech here implies as much observance of order, positive or otherwise, as is consistent with the right boldly and freely to expose to the People the real character of all subjects which it concerns their interest to know. What that latitude is, cannot be well promulgated in the abstract, but should be judged of in the particular instance, and by those whose deliberations were to be affected. He did not doubt that the ultimate power in the Senate, to which he had adverted, was sufficient for this purpose; and, if used with a wise forbearance, few occasions would call for its interference. It was his pride to hope and to feel that the Senate was not immediately exposed to the violence of political storms, which, though they might sometimes sweep over us, unless we followed them, and mingled in the tumult, would leave us on the high ground on which the Constitution had placed us.

Mr. SMITH, of South Carolina, said that he should not have thought of offering the amendment now under consideration; but, while the rules were under discussion, he thought it best to make them as perfect as possible. At present all things were tranquil; but the peace and harmony of the country might not always remain, and it was desirable that all measures should be taken to preserve it. If the question involved in this amendment had already gone forth among the People, and caused some commotion, it was high time that it should be finally settled. He had always considered it the right *ex vi termini* of the President to quell all disorders of whatever description.

The question was, whether it should not be the right of the President to call to order, giving the privilege to any member to call for a revision of the decision by the Senate. It was a rule of the Senate for thirty-five years, for the President to call to order, and he, himself, had been the subject of it. He had been called to order by his late venerable friend Mr. Gaillard. He had appealed to the Senate to say whether he was out of order, and the decision was, that there could be no appeal. It seemed to be assumed by some gentlemen, that they were going to place a tyrant in the Chair, and that against his lawless rule it was necessary to provide. This did not produce

any effect on his mind. While a Vice President was in the Chair he had no fear. While the presiding officer of the Senate was one in whom the People had confidence, and who reached his elevation legally, he saw no cause of apprehension. In the House of Representatives, the members or the Chair have the right to call to order. If it did not exist in the office of Vice President, the Senate had the right to give it to him; and he was in favor of doing so. As to the supposition that the Vice President was not a member of the Senate, he did not believe the position could be maintained, as he was firmly of the opinion that he was made part of the body by the Constitution. It was true that all the powers formerly exercised by the Chair had not been considered inalienable. For instance, the manner of nominating committees had been changed several times, and at present that duty was transferred to the Senate itself. But there were other powers which were entirely incidental to the Chair, and could be vested no where else. A gentleman gets up, and makes a certain proposition. Does not the Chair tell him he is out of order? This is done every day. When two members rose also at the same time, power was given to the presiding officer to say whose turn it was to speak first. If the principle now attempted to be established were correctly founded, why should this power pertain entirely to the presiding officer? Why should not one of the forty-eight members do this? It would be idle to argue in this way; and it was, Mr. S. considered, strong proof that the Vice President had all the powers incidental to his situation. If they looked even to ordinary societies, they should find that they elected their President, who, by the election, was invested with all necessary powers for directing the business of the meetings. He becomes at once the judge of what is to be done, and the director of the mode in which it shall be done. I, for one, said Mr. S., am for giving power to the Chair, if there is any serious doubt of his possessing it. I think there is no danger in giving him such a power. If two members were to quarrel across the house, would the Chair decline interfering? Or, suppose that a Senator were to go at length into the consideration of a subject entirely foreign to the question in hand, and talk of the Army or the Navy when the question of the proper location of a road was before the Senate? or discuss the expediency of an appropriation, when no appropriation was contemplated? Would the Chair sit silent and permit this irrelevancy? Certainly not. If he did, an individual might talk here a whole day, and arrive at nothing. There were rules, the enforcement of which could not be taken from the Chair without making the Senate a mere nullity. It would be, in fact, throwing a new and inconvenient duty into the hands of the members, by setting them to watch over and administer the rules, which, in reality, belongs to the President.

The House of Representatives was so fully convinced of the necessity of some vigorous depository of this power to preserve order, that they had taken away the right of appeal from the call of the Chair. He believed that every deliberative body must have a presiding officer, and that individual ought to have the requisite authority for conserving the order of the meeting, and advancing the progress of the public business. That this duty might not be embarrassing, and to relieve the feelings of the Chairman, an appeal to the body ought to be allowed. If, therefore, no other person made the motion, Mr. S. should move that the President have power to call to order, and a right of appealing to the decision of the Senate.

Mr. KING said that, in reply to the gentleman from Maryland, he owed it to himself to say, that his remarks had been made in answer to the gentleman from Ohio, who thought the Constitution gave to the Vice President the power of calling to order without appealing to the Senate. It was in regard to this statement that he



FEB. 11, 1828.]

*Powers of the Vice President.*

[SENATE.]

had said that such a construction would clothe the President of the Senate with a tremendous power. But he did not believe any such thing. He was of opinion that the Senate had a right to give the power to the Vice President to call to order, with or without an appeal.

Mr. McKINLEY merely rose to give the opinions which would influence his vote. He looked upon all objections to the amendment as having a bearing upon the Constitutional question. It had been said that the Vice President was not a member of this body. If this declaration were modified so as to be that he was not a Senator, he would agree to it. But he maintained that he was a member. The argument appears to be grounded on the fact that the Senate does not elect him. We complain that we do not elect him—that he is not a member—but against whom do we complain? Against the People of the United States. They elect him; and they, by the Constitution, declare that he shall preside over the deliberations of the Senate. I say, then, said Mr. McK., it is the Vice President to whom the powers naturally belonging to a presiding officer should be accorded. Who is to do the duty but him? Who else should preserve order, so necessary to the effectual performance of the duties of Senators? It had been said that he possessed no inherent power. I do not, said Mr. McK., understand the term. He was not aware that any officer of Government possessed inherent power; he rather thought all powers under the Constitution were delegated. He would ask in what the difference consisted between the duties of the Speaker of the House of Representatives and the President of this body? He did not see the great distinction that had been imagined. But the great objection was, that the Vice President not being responsible to this body, we cannot expel him in case of misconduct. But again, I ask, whose fault is it that we are so restricted? And again, I answer, that of the People and the Constitution. And are we to fly in the face of the Constitution, and say that, because the presiding officer is elected differently, we will not give him the power necessary for the proper performance of his duties? Order must be preserved by some one; and it is preserved by the Vice President in the Senate, under a clause in the Constitution. It was surely not the particular duty of a member to call another to order. He is the interested person, and ought to be free from all interference in the duty. There should be an authority above him to judge coolly of the propriety of the procedure. He wished to know whether there was not a general rule in every deliberative body for this purpose? Where did the discretion rest, but in the hands of the presiding officer? The Vice President is a member of this body; he has a modified influence in making of all laws, as he has the casting vote, and can approve or negative every measure. Was it not proper that the power should be delegated to the Vice President, from the forty-eight Senators, to preserve order? He thought there could be no question of the expediency of this measure; and under this impression was in favor of the amendment.

Mr. TAZEVELL remarked, that if it was correct to say, as the Senator from Alabama who had just taken his seat had said, that the Senate had no power, nor was it the right of any Senator, to call a member of that body to order, for words spoken in debate, he would ask, from whence is derived the power to adopt this amendment? Its object is, to invest the Chair with a power, which it seems to have been conceded by all, the presiding officer of this body does not now possess, at least under the existing rules. Now, if it be true, that the Senate itself hath not such a power, can it be contended, that they may transfer to another, rights or powers which they do not themselves possess? Surely it cannot be correct to give what the donor hath not to bestow; nor can the grantee derive any thing from such a discussion.

Mr. McKINLEY here explained. He said, that he had not meant to contend, that the Senate had no power, or that any Senator had not the right, but merely that it was not the duty of any particular Senator to exert this right, of calling a member to order for words spoken in debate.

Mr. TAZEVELL resumed. I am happy to hear from the Senator from Alabama, that he admits the right of the Senate, and of each and every member of this body, to exercise the power which the amendment proposes to confer upon the Chair. The difference of opinion between this honorable Senator and myself, in relation to this subject, is then reduced to a very narrow space indeed. He admits the right of the Senate, and of each of its members; and denies that the presiding officer of this body enjoys this right at present. He thinks it expedient, however, that this officer should possess such a power, because it is not the special duty of any particular Senator to exercise the right which confessedly belongs to him. And thinking so, the Senator from Alabama is willing to grant such a power to the Chair, provided it is limited and restricted as the amendment proposes. I concur in the greater part of this opinion, although not for the reason assigned by this honorable Senator. To me it has always appeared, that the rights of public agents of all kinds, were bestowed upon them, not for their own, but for the public good; and therefore, that all such rights conferred, were in truth but duties imposed. Being duties, we have not the right to abandon their discharge, while we retain the station to which such duties attach: but we are bound to meet the responsibility they impose, without seeking to transfer the duty, and with it the responsibility, to any other. As, however, it is unquestionably within the competency of the Senate to do this act, and as some trifling convenience may possibly result from it, (limited as it is proposed to make the power granted) I should have been quite indifferent as to the fate of this amendment, but for arguments of a very different kind from those urged by the Senator from Alabama, which have been offered in its support, by our Senators, who have declared their purpose to vote with him in its favor. To such arguments I can never yield even the assent of silence; and it is rather to contest their correctness and truth, than to oppose the amendment offered, that I have risen to address the Senate.

The Senator from Ohio Mr. [RUSSELL] has supported this amendment, because, as he supposes, it conveys no new power to the presiding officer of this body, but is merely declaratory of a pre-existing right of that officer, a right which that Senator styles "an inherent right," appertaining to him *virtute officii*, and which is derived not from our rules, but from the constitution itself. Now if it be true, that this power is derived to the presiding officer of this body from the constitution, from whence does the Senate acquire the right to limit and abridge the exercise of the constitutional authority of that officer? Gentlemen must either abandon this argument, which asserts an inherent right in the presiding officer of this body, derived to him under the constitution, *virtute officii*: or they must abandon this amendment, which proposes to limit and abridge this right. The distinction of a rule merely declaratory, will not serve to reconcile the direct repugnance of the two propositions. A mere declaration of right, asserts that which existed before, and leaves it to remain upon the ground of original right. It neither gives or takes away any thing. This amendment however limits and abridges the power, which it is supposed to declare as pre-existent under the Constitution. But no department of this government can limit or abridge the rights of any, derived under the Constitution. This amendment then must either be abandoned, or this doctrine of inherent right must be abandoned.

When the Senator from Ohio, and others who have argued like him, speak of inherent rights, and mean thereby

SENATE.]

*Powers of the Vice President.*

[FEB. 11, 1828.]

rights not specially granted by the Constitution, but appertaining to their supposed possessors *virtute officii* merely, they urge no new doctrine, but repeat only what has often before been asserted, in many different forms, and always denied whenever it has been asserted. In this country, there are not now, and since 1776 never could be, any such inherent powers, in any of our Governments, or in any functionary under these governments. Here, all the powers of government, or of any of its officers, are delegated powers, the utmost extent and limit of which, is necessarily limited and defined by the grants under which they may be claimed; and beyond or beside these limits, no powers exist legitimately. In ancient institutions, whose origin and the extent of whose powers are hidden in the obscurity of remote antiquity, there exists some reason for this pretension of inherent rights. As to such institutions, the first we know of them is, that they then existed, and existed in the admitted exercise of powers, whence derived, or to what extending, we do not know. The right to the power claimed was therefore inferred from its admitted exercise; and the limit of this power is measured, by the nature and objects of the power so possessed. It is from such sources only that Kings derive their prerogatives, parliaments their undefined privileges, and ancient courts their jurisdiction. In this country, however, where all our institutions are newly created, and stand upon the foundation of written charters, where all our offices are created by written laws, defining their uses, and so limiting their authority, a claim to inherent power is contrary to the principles which produced such a state of things, and equally opposed to all sound construction of grants. Whatever rights exist here in public functionaries of any kind, exist not as inherent in the thing existing, but as granted to the thing created. Granted by its creator under the instrument creating it; and necessarily limited thereby, because it is a grant.

It is true, that when the instrument creating an office, instead of defining its powers, by an enumeration of all the qualities with which it is meant to endow the officer, effects this limitation in a description given by the use of some old and well known word, there the extent of the powers so granted must be sought for, in the meaning of the descriptive terms used. In such cases, we must recur to the approved definition of the well known terms employed, in order to measure the extent of the powers and rights thereby transferred. But having once ascertained what that definition is, the extent of the grant is limited thereby, as perfectly, as if all the qualities comprehended by the definition, had been inserted by appropriate names in the concession itself. It is thus we ascertain the limits of the powers of Congress over personal liberty, in the prohibition of the constitution to suspend the well known writ of *Habeas Corpus*. It is thus we derive many of the powers possessed by those bodies which are described by the well known term Courts. And it is thus we are secured in the enjoyment of the privilege of trial by Jury in criminal cases. It would be vain, however, to refer to these sources of power, to discover the right said to be inherent in the presiding officer of this body, of calling a member to order, for words spoken in debate.

The Vice President of the United States is made by the constitution the presiding officer of this body, and occupies in relation to the Senate, a position analogous to that which the President of the United States occupies in relation to the great body of the people, over whom, he too is called by the Constitution to preside. If then, it is true, that any inherent rights appertain to the one presiding officer, *virtute officii* as President of the Senate, inherent rights must also appertain to the other presiding officer, *virtute officii* as President of the United States. If the first of these gentlemen is authorized, in virtue of his undelegated but inherent right, to keep order in this body, the other

gentleman is also authorized, in the same way, to keep order in the body over which he too presides, the great body of the people of the United States. You may call the inherent power of the one of these officers by the modest term of privilege, if you please, but I humbly conceive you can affix no appropriate name to the inherent, and undefined powers of the other, but that of prerogative; and no Senator, I persuade myself, can be found an open advocate for any such odious power as this, call it by what name you please, or locate it where you can.

This analogy between the President and Vice President is complete, and runs through. The President has the right, and is bound by his duty, I admit, to keep order in the body of the people of the United States. But how and why is he to do this? By taking care that their laws are faithfully executed, and that the powers especially delegated to him by the Constitution, are duly exerted within the limits of his prescribed authority. All this is specifically required of him by the Constitution itself; and without this special requirement, he could not perform one of his executive functions. If he may go beyond this limit, he enters immediately upon the boundless field of prerogative, whose most odious character is, that it is undefined; and then, who may say where he should stop? So too it is the right of the Vice President; and he is also bound by his duty, I admit, to keep order in the Senate. But how is he to do this? By taking care that their rules, which are their laws, are faithfully executed; and that all their powers, specially delegated to him by these rules, are duly exerted within the limit prescribed to him thereby. Without this special delegation of power by the rules of the Senate, the Vice President, as President of the Senate, could do no act, except to vote when this body is equally divided, which is the only authority given to him by the Constitution. The rules of the Senate are to their presiding officer, precisely what the Constitution and laws of the United States are to the President. The latter may not exercise any power beyond or beside the limits prescribed to him by this Constitution and these laws, nor may the former legitimately claim any power beyond or beside the limits prescribed to him by the rules of the Senate, except in the single case, before mentioned, the very specification of which in the Constitution, is conclusive to shew, that all others were intended to be thereby excluded.

If gentlemen will but settle in their own minds the meaning properly belonging to the terms we employ in this debate, I scarcely think they can differ in opinion. What is disorder, which we all agree ought to be suppressed? It is nothing more than a breach of order. And what is order, which every one conceits ought to be preserved? Nothing more than the observance of prescribed rules. None may prescribe rules to another, however, except he be superior to that other, or is specially authorized so to do by some common superior of both. Now can any gentleman read the Constitution, which specially authorizes the Senate to prescribe its own rules, and then say that such a power belongs to its presiding officer? Or is there any Senator prepared to concede, that in reference to this matter of prescribing rules of orderly proceeding for the Senate, the presiding officer, who has no authority given to him, is the superior of that body upon which the whole power over the subject is expressly conferred?

Mr. President, suppose that, instead of renouncing all pretension to this inherent power which is now claimed for you, you had asserted a claim to enjoy it, and that the Senate had denied the legitimacy of the claim. Does any one doubt, that, under their clear right to prescribe the rules of their own proceeding, the Senate might properly establish a rule converting what you might call disorder into order, or *vice versa*; and that you would be bound to

FEB. 11, 1828.]

Powers of the Vice President.

[SENATE.]

obey this rule? But, if so, what becomes of this inherent right? You then would stand the mere minister, not of your own but of the Senate's will, bound to conform to their behests in all things, except in the single case provided for by the Constitution, in which the Senate being equally divided could have no will. And even as to this case, your power to bind the Senate is not enjoyed because it is an inherent power, but because it is a power specially delegated.

I ask of Senators who contend for this inherent right in the Chair, (which you, sir, have so properly, I think, disclaimed,) and who announce their purpose to vote for the adoption of this amendment, what will be their situation if this amendment is adopted, and a case arises, in which, upon an appeal from the decision of the Chair, the Senate should differ from their presiding officer, and reverse his decree? Will this inherent power, supposed to reside in the Chair, and to be derived from the Constitution itself, over-ride the power expressly delegated to the Senate, to prescribe their own rules of proceeding, and sustain the decision of the Chair, although reversed by the Senate? Or will the expressly granted powers of the Senate silence the supposed inherent right of the Chair and put down the reversed decree? If the two powers conflict, they cannot co-exist. The appeal must be either nugatory or efficient. It cannot be both. If the right of appeal is efficient, it can only be so because this supposed inherent right of the Chair is subordinate to the appellate power reserved by the Senate, and therefore not derived to the Chair from the Constitution. And if the right of appeal, which the amendment reserves, is nugatory, how can gentlemen justify to themselves the assertion of a high power, which they are prepared to abandon whenever the case arises wherein the power is to be exerted?

It has been said, that those who like me, deny the existence of this inherent power in the Chair, and who will not consent to give it as a granted power, because it may be abused, and by one not responsible to the Senate for such abuse, that we are complaining of the Constitution, which bestowed this character upon our presiding officer. I deny this. Our complaint, if any such has been uttered, is not against the Constitution, but against those who, according to our judgment, misinterpret that Constitution, when they assert such powers to be deduced from it. What is the power which it is said the Chair possesses under the Constitution? The right of stopping debate at the will of the presiding officer. Now, I had supposed, that at this day it was conceded by all, that the freedom of the press and the freedom of religion, were rights guaranteed by the Constitution, to all its subjects; and that all the legitimate powers of every department of this Government combined, could not deprive any citizen of either of these rights. All, however, must admit, I think, that the freedom of debate in the Legislative Halls, is a right as valuable, and as perfectly secured by the Constitution as the freedom of the press. If, then, the powers of all the departments of this Government combined, is not equal to restrain the one, which is the smaller, how can it be correct to argue, that the power of a single functionary of that Government is equal to restrain the other, which is the higher and more important privilege? The old distinction between liberty and licentiousness must not again be invoked to aid this purpose. The decree of the People has gone abroad, they have ruled, that this Government can not abridge the freedom, under the pretext of preventing the licentiousness of the press. That this licentiousness, when it exists, must be treated of by them when acting in a different capacity than as members of a Federal Union. That the appeal must be made to the States. So too here, if the freedom of debate in this body shall ever degenerate into licentiousness, the prevention and punishment of such an

act, is not now, and never ought to be, confided to the discretion of its executive officer, who by the tenure of his office, is irresponsible to the body itself; but as in the other case, should always be restrained by the body itself, representing, as it does, the Sovereign States. If for the sake of their own convenience, the Senate shall choose to impose this as a duty on their presiding officer, and for the sake of security, shall guard its exercise as this amendment proposes to do, by retaining the right of appealing from his decision, I feel quite indifferent as to such a grant. But while a single Senator shall claim such a power for the Chair, as a right inherent in it, and derived to it, not from the Senate, but from the Constitution itself, I will oppose even such an amendment as this, lest the reasons of my vote may be misconceived, either by the Chair, or by any body else.

Mr. HAYNE said, there was but one question connected with this subject, which involved principle, or was in any degree material, and that was, whether the Vice President of the United States, as President of the Senate, *virtute officii*, had any power in relation to questions of order, except such as was conferred by the rules of this House? The Constitution declares, that the Vice President shall be President of the Senate. It makes him the presiding officer over this branch of the National Legislature, but how he is to preside, and by what rules he is to be governed, the Constitution is silent. The Constitution, however, expressly declares that this House shall prescribe "the rules of its own proceeding." And here is found the power, the only power, under which rules of order can be made applicable to this House. If the Vice President has any power in relation to this matter, except to expound and enforce such rules as the Senate may provide, deriving that power from the Constitution, he must possess it entirely free from our control. An inherent power must make him the sole and exclusive judge, without appeal, in all questions of order. There can be no limitation to such a power, but the discretion of the officer who is to exercise it. This construction would place the Senate at the feet of an officer, neither elected by, nor responsible to them. My construction of the Constitution is very different from this. I look upon the Vice President, when taking his seat, as President of this body, as standing precisely in the same situation as the Speaker of the House of Representatives. They are both presiding officers, but they must preside in conformity with the rules of the respective Houses. In these views, I understand every gentleman who has spoken on this subject (except two) to concur. The rights of the Senate, therefore, are sufficiently vindicated. But a distinction has been taken by the Senator from New Jersey, [Mr. DICKENSON,] between the power of the President in relation to matters of decorum and in relation to the latitude and freedom of debate, which appears to me not to be well founded; the former, he contends, belongs to the President by virtue of his office, while the latter can only be derived from the rules of the Senate. The correctness of this distinction, I think, may be well doubted. For my own part, I cannot conceive how the President can possess any power in relation to the proceedings of this House, which is not conferred by the rules of this House. With respect to the class of cases which have been stated, such as a disturbance in the lobby, or a fray on the floor, and others of a similar character, the power of the President to enforce order is derived from the rules of the House. In matters of such minor importance, and so little liable to abuse, the practice of the House, for a long series of years, may well be regarded as constituting its rules. It is a species of common law of all deliberative bodies, that no violent interruption of their deliberations should be suffered. But there is a wide distinction between the exercise of this authority, by virtue of a rule of the Senate, express or implied, and the exercise of the

SENATE.]

*Powers of the Vice President.*

[FEB. 12, 1828.]

same authority by virtue of certain inherent powers derived from the Constitution. In the former case the Senate may change the rule at pleasure; in the latter, the powers of the President would be beyond their control. Believing, from this view of the subject, that the Constitution has merely designated the Vice President, as the officer who is to preside over this House, and carry into effect its "rule or proceeding," just as the Speaker is to enforce the rules of the House over which he is to preside, it seems clear, that if the President possesses the power now in dispute, it must be under some rule either express or implied. Now if this was a subject on which we had no written rule, gentlemen might resort to the usage of the House, (if such had been the usage, which I do not believe to be the fact,) in order to show that the President possessed the power in question. But, on this subject, the existence of an express written rule, must prevent us from resorting to any other source for the powers of the President. The mode of proceeding in case of a violation of order, by words spoken in debate, is prescribed in terms that seem to admit of no doubt or question. The sixth and seventh rules declare in substance, that calls to order in such cases can only be made by a member. That the Senator, so called to order, shall take his seat, that the words objected to shall be reduced to writing, in order to enable the President to decide whether the speaker is in order or not. Now, let gentlemen compare this rule with the corresponding one in the House of Representatives. There, the rule provides that "the Speaker shall, or any member may, call to order," &c. There, the Speaker is the officer whose duty it is to call to order, in the first instance. Here, the President is merely the judge, or umpire, between the Senators. The difference in our rules probably arising from the difference in the construction and character of the two Houses.

With regard to the amendment proposed by the gentleman from Connecticut, I do not consider it very material whether it be adopted or not. That part of it which provides for an appeal from the decision of the Chair, I give my hearty assent to; and even if the amendment should fail, I shall propose to incorporate such provision with the existing rules. With respect to conferring on the Chair the power of regulating the freedom or latitude of debate, subject to an appeal of the Senate, it is a question merely of convenience—I do not believe, that in such a body as this, that it is at all material where the power is placed by the rules—whether in the hands of the Senate, or of the Chair, or of both: in any event, the occasion for its exercise can very seldom occur. I feel inclined, on the whole, to vote for the amendment, because I do not think that this power vested in the Chair, subject as is proposed in the amendment, to an appeal, would be liable to abuse, but more especially, because by adopting this new rule, we will put an end forever to the dangerous pretension that has been set up, not by the Chair, but for the Chair, of an inherent power, vested in the Vice President by the Constitution, of controlling, in a most alarming manner, the deliberations of this branch of the National Legislature.

Mr. EATON then rose and said, that he was convinced, from the course the debate had taken, the subject would not be decided this day, and having a proposition to make, which could not be made after this day, he hoped the Senate would concur in a motion to lay the report on the table.

This motion was then put and carried.

Mr. EATON then moved the reconsideration of the vote of the Senate given on Friday, on the bill for the relief of Abraham Ogden and others.

Mr. HAYNE wished to know the ground on which the gentleman made this motion.

Mr. EATON declined explaining at this time; and moved an adjournment.

TUESDAY, FEBRUARY 12, 1828.

The Senate proceeded to consider the amendments to the rules of the Senate, reported from the select committee appointed to revise the rules, together with the amendment offered by Mr. FOOT, to the 6th and 7th rules.

Mr. BARTON said that he was in favor of the amendment offered by the Senator from Connecticut, upon its own merits, without any regard to the decision of the Chair in the memorable session of 1825-6, which had been so unnecessarily drawn into this debate. The present rule (the 6th) vests in the President of the Senate the arbitrary and tyrannical power to decide all questions of order without appeal, giving him the right, if he doubts, to take the sense of the Senate. The amendment barely proposes to settle the disputed power of the Chair to call members to order in debate, and to restore to the members of the Senate the right of appeal. This amendment, he said, would assimilate the proceedings of the Senate upon matters of order to those of the House of Representatives of the United States, and of all the legislative bodies of the several States of this Union, by restoring to the Senate their Constitutional power of determining in the last resort upon all their rules of proceeding, and was the more proper, because the presiding officer of the Senate is not appointed by, nor amenable to the Senate, as the presiding officers of most legislative bodies are.

Mr. B. said the argument that had been urged on this floor by one of the opponents of this amendment, (Mr. BENTON) that such a power in the President to call to order in debate, and then to decide the member to be out of order, would be making the President both accuser and judge, had no weight in it—nor, if it had, was it at all applicable to the amendment before the Senate. Every justice, and every conservator of the peace, would be liable to the same objection of being both accuser and judge, if the discharge of an official duty were to place him in the invidious character of an accuser. There was, he said, no similarity or just comparison between a court and the presiding officer of a deliberative assembly; and, if the objection were a valid one, it proved the presiding officers of almost all the legislative bodies in the Union guilty of the impropriety of acting this double character. He had been somewhat surprised, he said, to find the opposition to this amendment come from gentlemen who had heretofore expressed so much horror and fears for the public liberty, at the idea of clothing a presiding officer with too much power. Yet they are content to take the rules as presented by the select committee, leaving in the Vice President the extraordinary, if not the unconstitutional power of deciding all questions of order, even involving the great right of freedom of debate on this floor, without appeal. This amendment, he said, would restore the Senate to its constitutional exercise of power upon the proceedings of the body, which was much more necessary now the presiding officer is not of our own creation, than it could be in those bodies that create and may remove their presiding officer, should he abuse his powers. Mr. B. repeated, that the scenes of 1825-6 had been drawn into this debate most unnecessarily and uncalled for, as if by design to obtain from this Senate an indirect sanction or condemnation of the decision of the Chair, made at that session upon the subject of its powers to preserve order in debate. Those scenes should not have been interrupted in their passage to oblivion, nor unnecessarily recalled to revive the feelings of that memorable epoch in the history of the United States Senate. If, indeed, that subject had been revived by a friend of the Vice President with a view of obtaining the sense of this Senate upon that decision, he presumed the Vice President did not feel grateful to him for such friendship. That was a decision upon which members of this body differ

FEB. 12, 1838.]

*Powers of the Vice President.*

[SENATE.]

widely in opinion. He hoped, he said, that our Vice President had more magnanimity and candor than to make pretence to infallibility; and he declared himself to be one of the members who believed that decision of the Chair to be erroneous. He believed the Chair possessed, and ought to have exercised, the power of confining members to or towards the subject before the body, independently of any of the rules printed in that blue book, (the printed rules of the Senate.) Let me suppose, said Mr. B., that this Senate, being a permanent and continuous body of but a small number of men, had gone on, as it might have done, without any written rules at all for its government, to perform the duties imposed upon it by the Constitution, what then would have been the power and the duty of the presiding officer? The Constitution says, in one brief sentence applicable to both Houses, "Each House may determine the rules of its proceedings." It does not say how the determination shall be made; whether the decisions of the Senate on each case as it might arise, growing up at length like the common law itself, into a code for the government of the body, shall be the rules of its proceedings; or, whether a set of arbitrary rules written *a priori*, and liable to be found either good or bad, upon experience, shall govern its proceedings. Either mode would be equally the determinations of the Senate, and equally obligatory on the members and the President. Nay, sir, the long-settled practice of this body, that has gone on with the sanction of many years, might be considered a more deliberate determination of the Senate than any literal rule, even were there a literal rule to the contrary. Upon what principle is it that we daily hear the Chair declare that the unanimous consent of the Senate will dispense with a written rule, even in cases where there is no written rule to authorize such dispensation? Is it not upon the plain principle that the power that can create, can dispense with the rule? This Senate has the same right to form for itself a parliamentary law or code for its own government, that the British Parliament or any other legislative body has. Precedents made in good times were the materials of which the great system of the common law itself, so highly and so justly eulogized the other day by the Senator from Kentucky, [Mr. ROWAN] was composed. Mr. B. said, it is an axiom derived from the experience of mankind, that we are not to look for those precedents that are worthy of being followed, or of entering into a code for our guide, to times of the highest and the worst of party excitements, such as the session of 1825-6 was. He should therefore look beyond that epoch to the halcyon days of the predecessor of the present presiding officer, and see what he [Mr. GAYLARD] did. He was placed in a situation that gave him decided advantages over the present presiding officer—a situation that gave peculiar weight and dignity to his decisions, and to the practice of the Senate under his long and benign administration. He presided in a time when the present rancor of party strife was unknown. He stood aloof, in that Chair, from the parties of the day. He was not looked to as the head of any great party in this nation, contending for rule; nor were his decisions subjected to the illiberal imputation of having any ulterior object in view. Drawing precedents, then, from those times, (for his experience, he said, did not enable him to go back beyond that administration,) he considered the law of the Senate clearly settled, that the Vice President possessed, and ought to have exercised, the power of restraining the wholly irrelevant latitude of debate of that period, which has been so unnecessarily drawn into review upon the discussion of this amendment.

The officer to whom he had alluded [Mr. GAYLARD] was in the constant practice of preserving order in the body, by calling back a rambling member to the subject before the Senate, when he had gone entirely from it, even in language of the most decent and orderly style.

True, he did those things in so mild and affable a manner that the member himself did not feel that he had been reproved; and the audience who witnessed the exercise of the power, left the Senate Chamber without the impression that any member had been out of order. His authority was the long practice of the Senate, sanctioning Mr. Jefferson's Manual as their parliamentary law, in conjunction with their few positive rules and practical determinations. Those long practices of the body, in its best days, with the uninterrupted sanction of the Senate, he contended, were as fair and as Constitutional a determination of our rules of proceedings as if they had been written down and printed upon paper or parchment, subject to constant change, as experience should afterwards either approve or condemn them. He thought, indeed, such long practice was the best mode of forming a code for the government of the Senate. He went on to instance some cases in which the present presiding officer had, as he thought, exercised the general power of preserving order in cases where the written rules of the Senate were silent, as if an innumerable train of amendments should be offered consecutively to each other; and in cases of considering votes carried or rules dispensed with, where no objection was heard: all which owed its authority to the unwritten practice or determination of the body.

Mr. B. concluded by observing that he had no intention to revive the old slang of the old parties of this country; but he thought the amendment much more republican in its character than the present rule giving the Chair the arbitrary and final decision upon questions of order; a power which, in bad times of high party rancor, might be abused in a manner the most oppressive and tyrannical. He did not think the political friends of the Vice President ought to reject the offer of the other side of this House to settle the disputed power and duty of the Chair, to restrain the irrelevant or disorderly latitude of debate, restoring, at the same time, the right of appeal to the Senate, as a check upon the decisions of the presiding officer. He should, therefore, give to this amendment the support of his vote.

Mr. BELL, of New Hampshire, said, it is made a question in this discussion, whether the presiding officer of the Senate possesses, by virtue of his office, the power of preserving order in the Senate in any case where the Senate have not expressly enjoined it upon him as a duty, by their rules. I have always considered this as incident to duty of presiding over a deliberative body. I believe it to be a sound principle of construction, that, where the Constitution creates an office, and imposes upon the person holding that office a specific duty, that it invests him, by a necessary implication, with such power as will enable him to perform that duty in a useful and efficient manner. This rule will be found to be invariably correct in every case where it is not necessary to derive the power through a legislative act.

The Constitution creates the office of Vice President, and expressly imposes upon him the specific duty of presiding over the deliberations of the Senate. That duty cannot be performed, either usefully or efficiently, without the power of preserving order. The power to preserve order must therefore be necessarily incident to the office. The Senate itself cannot divest the Vice President of this power, because he holds it from the Constitution; but they may enlarge, or limit, or modify it, because this power is expressly vested in that body by the Constitution. When the Constitution gives to the Vice President the power of presiding over the Senate, it refers him to the well known usages of all legislative bodies for the extent and nature of his powers and duties. It was necessary that he should be invested with this power, because it was to be exercised from the first moment the Senate assembled, and before it was possible that they could establish rules for this purpose. There could be no as-

SENATE.]

*Powers of the Vice President.*

[Feb. 12, 1828.]

signable motive why the power so universally held and exercised by the presiding officers of all other deliberative bodies, should be withholden from the Vice President, since the Constitution gives to the Senate the power of modifying the rules he should adopt, or establishing others, as this body should think fit. The Vice President is required by the Constitution to conform to, and regulate his conduct, as a presiding officer, by the rules so amended or modified. Should he, from culpable motives, refuse or neglect to conform to rules so established, he would be liable to impeachment and removal from office. Every exercise of the power of preserving order, however different in character, rests on the same principle for support. When the presiding officer calls the attention of the members to business, or commands silence, he is performing an act of preserving order, equally as when he requires a member to adhere to the rules of decorum in debate. The same power which authorizes the one, authorizes the other; any attempt to distinguish between them is destitute of even a colorable foundation.

But should we believe that the language of the Constitution, which invests the Vice President with the power of preserving order in the Senate, to be ambiguous, has not that ambiguity been removed, and its meaning long since settled by the uniform practice of all the presiding officers of the Senate, and that, too, by the assent and approbation of the Senate? That construction of the Constitution which gives to the Vice President the power of preserving order in cases where the Senate have not established any rules, is not of modern date, nor established with a view to any temporary object, but is as old as the Constitution itself. It commenced with the existence of this Government, and was continued without interruption for thirty-five years. Within that time, some of the ablest men this country has ever produced have presided in the Senate. When I name Jefferson and Gaillard as of the number of those presiding officers of the Senate, who believed that the Constitution invested the Vice President with this power, no man will have occasion to blush when he admits that he holds the same opinion. These were not of that class of men who are prone to claim or exercise powers which do not legitimately belong to them.

Mr. Jefferson, in his Manual, compiled expressly for the use of the Senate, declares expressly, that the Vice President possesses this contested power and gives us to understand distinctly that such had been the uniform practice in the Senate. Mr. Gaillard was a member of the Senate more than twenty years, and for a great length of time discharged the duties of a presiding officer in it. His character is well known to every member of this body. It will not be denied, that, to an unassuming and discriminating mind, he united a knowledge of the rules of proceeding in legislative bodies seldom equalled. That he not only adopted, but carried into practice, constant and uniform practice, the power of preserving order in the Senate, which Mr. Jefferson affirmed, but which is now denied to be Constitutionally vested in the Vice President, is known to many of the members of this body. It is true that all these distinguished men may have entertained erroneous opinions on this question, but I cannot admit it, unless upon stronger evidence than any I have yet heard. If the question were to be settled by the authority of names—and questions seem to be sometimes so settled—it would require no ordinary weight of such authority to outweigh that of such men as I have named, and several others that I might have named. I do not contend that this is the only way in which it should be settled, but I must be permitted to say that a construction of the Constitution so long and satisfactorily settled, and by such men, should not be overturned without great deliberation and reflection upon the consequence likely to result from it. By the unexpected course which the discussion of this question has taken, I have felt myself called upon to

express my opinion on this question, and the grounds of that opinion. I have done it with reluctance, and with great respect for those who entertain a different opinion. It is a question on which an honest difference of opinion may exist, and as such it should be considered and treated. I do not feel any deep interest in the adoption of the amendment under consideration; yet, as I believe it will conduce to the better preservation of order under the present construction of the powers of the presiding officer of the Senate, I will give it my support.

Mr. ROWAN said, he thought there ought to be but little difficulty upon this subject. Happily for the people of this country, they are the legitimate depositary, or rather proprietors of all the power which they had not specifically delegated. As a man, the gentleman who presided in the Senate, had no more power than any other of the millions who composed the U. States. Whatever power he possessed then must belong, either to his office of Vice President of the United States, or as President of the Senate. As Vice President, he certainly possessed no power, which he could exercise in, or over the Senate. The powers which he possessed in that character, were defined, but *inert* powers, held in reserve, which could not be exerted, until the contingency should happen, which alone could awaken and draw them out into exercise. The little power which he could exercise in the Senate, he could exert, not in his character of Vice President of the United States, but in his character of President of the Senate. His Vice Presidency of the United States made him President of the Senate; and being thus made President of that body, whatever power he could exert then, was in virtue of the latter, not the former character; as President, not as Vice President. He thought it a circumstance of great felicitation to the American People, that their Government was not so old, as to furnish a pretext for the inference of power from office. Much less, to justify the exercise of implied powers, by any of the officers. That was the evil under which the old governments of the world groaned. And although he wished this Government to be interminable, yet he did not wish it to live longer than it could exhibit the character of its powers. And whenever the government should have to look through the mists of antiquity at its Charter; or, in other words, whenever its Charter shall be dimmed with age, he hoped it would be renewed. And that the springs and principles of our liberty would derive increased vigor from each renewal. He considered it matter of some regret that our habits of thought led us imperceptibly to infer power from office, rather than to refer to our Constitution for the specific and definite powers conferred by that instrument upon the office. The habit was, he said, though unfortunate, not unnatural. In the country with which we were originally connected, and from the dominion of which we had so gloriously escaped, all power was derived from the King. He was the source of the inherent power of the government. And the power claimed to be exercised by the officers of the government, was, like his, supposed to be inherent. If the King did not complain, then was no one else to do so. The people had neither act, nor part, in the matter; with them, it was matter of indifference, whether the officer or the King possessed it, they did not. Let whoever might possess it, they were the subjects of, not the agents in, its exercise. In fact they were interested in maintaining, rather than denying the doctrine of inherent power, in the functionaries. Because they had more to fear from consolidated than divided power. Division weakens power, as it does every thing else. And when power was claimed by implication as belonging to an officer, they knew that it was not inherent in the officer, it was inherent in the King. And that the inherent stock of the King would be weakened by so much, as was inherent in the officer. They were led of course to ac-



FEB. 12, 1828.]

Powers of the Vice President.

[SENATE.]

quiesce in the doctrine of inherent power. But the very reverse is happily the case with us. Here the people are the fountain and source of power—what the King was there, the people are here—whatever power was inherent in him there, is here inherent in the people—whatever power belongs with us to any office, is equally conferred, by the Constitution, or by legislative act. Power with us, thank God, and our Revolutionary Fathers, is not abused or magnified, by either religious or political superstition. It is enveloped in no mystery, we are not, we ought not to be bewildered, with vague and indefinite notions of inherent official power. Our plan of government addresses itself to our understanding, not to our credulity—it invokes our reason not our faith. Sir, said he, government with us, is a simple, rational, common sense matter. While it continues to be so, we will be free; when it ceases to be so, our liberty ceases. While we are jealous, and watchful, and, he would add, distrustful of our public functionaries, we should be safe. But, the moment we yielded to the exercise of inherent, undefined power, by our officers, we were in danger. Sir, said Mr. R., this case presents to intelligent observers a rare spectacle, and as honorable to the officer to whom it relates, as it is rare. When did it happen, in any Government before, that a high public functionary, disclaimed the exercise of power, which was supposed to belong to his office, supposed by even his enemies, to be inherent in his office? When before did it happen, that the personal and political enemies of an officer insisted upon the enlargement, by implication, of his official power? Sir, the case is singular in both its features. And, if the example of the present incumbent shall always be followed, by all the officers of this Government, the freedom of the people will be eternal. And why should it not be followed? Is it not, when closely examined, as degrading to the officer, as it is injurious to the public, that he should be discontented with the power, which he legitimately possesses, and attempt to exert *dubious* and undefined powers? Sir, if there be one act of a high public functionary, which more than another ought to exalt him in the estimation of freemen, and entitle him to their confidence, it is his declining the exercise of doubtful or implied powers.

The division of sentiment in the Senate, in relation to the power of the Vice President, to call a member to order, for words spoken in debate, is conclusive of the dubious character, (to speak the best of it,) of the power. Had he assumed and exercised it, his assumption of it would probably have been acquiesced in by the Senate, and a precedent would thus have been formed, which might have been but the beginning of a course, which would, eventually, by the four precedents, have thrown that body into a state of subserviency to the Chair. That, Sir, is the course of all illicit power. It gradually enlarges itself, and, by stealing imperceptibly upon the people, destroys their liberty. He is a rare instance of patriotic devotion to the liberty of the country, who will decline to enlarge official power, by implication, and still more rare, who will refuse to exercise it, when it is attempted to be obtruded upon him—away then, with those innuendoes of censure upon the Vice President, for declining the exercise of this imputed power. Sir, the people will interpret these innuendoes, and display their regard for them, by volumes of increased confidence in the officer.

But, said Mr. R. let us for a moment examine more minutely into this power of the Vice President to call a member from the Senate to order, for words spoken in debate. The Constitution provides for the election of the Vice President—defines his power and prescribes his duties. They are all held in reserve for a possible vacancy in the Presidential chair. In short, Sir, there are two Presidents elected. The first, for use—the second, to be used, when the first becomes useless, by death, or otherwise. The second is to fill the place of the first, when

it becomes vacant; and is, in that case, to exercise plenary Presidential powers. So that the two Presidents, when they respectively act in the sphere for which they were designed, have precisely the same powers. The election of the Vice President is a cautionary measure, to guard against an *interregnum*. His destiny is, though contingent, elevated. He is dignified by the choice of the people, and placed in the chair of the Senate, to await the current of events, in state of dignified *quasi* repose, until by the death, impeachment, or resignation of the President, he shall be called upon to exert the powers of President. Sir, he is placed in the Chair of the Senate, in a state of preservation, (if the expression may be allowed,) for use, when the occasion shall occur. He is politically embalmed in the chair of the Senate, awaiting the resurrection, which the death, political or natural, of President, had been ordained by the Constitution to produce. The power conferred upon him by the Constitution, as President of the Senate, is touched in the following words:—"The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided." It would be strange that he should be restrained from voting in, or speaking to any question; and yet permitted to silence any, and of course, successively. Every member of that body, denied the power of speaking, and yet, empowered to check the freedom of debate in that body! Not permitted to open his own lips in the Senate, and yet allowed to throw a pad-lock upon the lips of every member of the Senate!

Sir, said Mr. R. reasoning fairly upon the clause of the Constitution which I have just read, it is impossible to arrive at the conclusion, that you, as President of the Senate, possess the power asserted for you from the other side of the House. The words of the clause do not confer it; and if implication were admissible, it cannot be rationally enforced. This clause, said Mr. R. is the only one in the Constitution which relates to the occupation of the chair of the Senate, by the Vice President of the United States. The only one which confers upon him the power of action in that body; and limits it to the single power of giving the casting vote in the case of division, and with great reason, too. The Senators are the Representatives of the States: they are the constitutional advisers of the President. The Vice President belongs to the Executive Department. He is a dormant President. Ought he to have the power to check the Senators in any effort, which it might become their duty to make, to check encroachments by the Executive on the rights and liberty of the people? Would it have been wise in the Constitution to have conferred on the Vice President the power of controlling the deliberations of the Senate. Would it be well in the Senate to subject, by implication, the exercise of their legitimate power, to his control. The Senate were evidently intended to check the Executive Department, to protect the sovereignties of the States from Executive encroachments. They are elected for six years with an eye to this checking power. The Vice President and President are elected but for four years. The Senate are to be the triers of them both in case of impeachment. So that whether we are governed by the words of the Constitution, or by any reasonable inference drawn from the organic structure of the government, the regulating or controlling power, asserted for the Vice President, is wholly inadmissible. The exercise of such a power would be an inversion of the order assigned by the Constitution to the great powers of the government. A violation of the obvious and express intention of its framers. I do not, said Mr. R., believe that you possess the power, and I will not consent to invest you with it. It ought to be presumed of the Senate, composed as it must be, of men advanced in years, elected by sovereign States, that they would not be disorderly; that they could prescribe, and enforce for themselves, rules of order. If, Sir, said



SENATE.]

*Powers of the Vice President.*

[Feb. 12, 1828.]

he, there be inherent power any where in this House, it is the inherent power of the Senate to regulate and maintain the order necessary to its own deliberations.

It is a deliberative body—order is necessary to its deliberations. The power of maintaining the order is necessarily implied in the object of its institution. But upon this subject we are not left to implication. It should never be resorted to, but in cases of the most imperious necessity. That necessity does not exist, for the Constitution provides that "each House may determine the rules of its own proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member."

Here then, Sir, the power which has been asserted for the Vice President, is expressly given to the Senate; the power of making its own rules of order, and punishing, even to expulsion, for the violation of them.

The President is not a member of the Senate, is not responsible to them—cannot be punished or expelled for disorder. He cannot participate in determining the rules, or in punishing, for their violation; can it then be supposed that he possesses inherently, *virtute officii*, the power of silencing, and seating a member for disorder?

Sir, said Mr. R., the Senate can confer upon the Vice President the power in contest—they can confer it by rule. The rule now under discussion proposes to do so, and in the very proposition to confer the power, proclaims, by resistless implication, that you do not possess it.

He said, that he not only denied that you possess the power, but denied that you ought to possess it. He should therefore vote against so much of the rule as proposed to confer on you this power, and for so much of it, as proposed to take from you the power which you possessed under a former rule. That of deciding (when one Senator was called to order by another,) the point of order, without appeal, and these votes he should give, not from any apprehension that the powers would be abused, by the present incumbent—not from any want of confidence in him, but because he thought the delegation of the power unnecessary, unwise, and unsafe. It was, he said, a principle with him, that power should never be delegated, which could be exercised, as well by the principal, as the agent. The people should never delegate power, which they could exercise as beneficially themselves, as it could be exercised by their agents, and so in relation to every other body—power delegated may be abused, and in a matter so important as liberty, the hazard of having their power abused, should never be incurred, but in cases of absolute necessity.

He would barely add in conclusion, that if the power, asserted for the Vice President, was inherent, it was not possessed by the Senate, and of course could not be conferred by them. If possessed by the Senate, the Vice President cannot be in the possession of it, and he thought it unwise, he repeated, to confer it.

Mr. WHITE was of opinion that the presiding officer had not the power of calling to order, for words spoken in debate. That, he said, was entirely distinct from the power of deciding on common questions of order. The existing rules of the Senate, said Mr. W., do not confer this power, and if they do not, the presiding officer does not possess it. Mr. W. was not aware, that any member had expressed the opinion, that the rules of the Senate conferred on its President the power of calling to order, for words spoken in debate—but if any member entertains such an opinion, a simple recurrence to the 6th and 7th rules, will satisfy him to the contrary. What is the effect of those rules? "When a member is called to order, he shall take his seat; and the member calling him to order shall reduce the exceptionable words to writing, and then the presiding officer decides whether he is in or out of order. Now will any gentleman say, that the presiding of-

ficer can call a Senator to order, reduce his words to writing, and then pass judgment on the very words taken down by himself? Is not this contrary to reason and common sense? We cannot, said Mr. W., act in direct contradiction to the express rules of the Senate. By these it is left to his brother members to call an offending member to order, the words believed to be exceptionable are to be reduced, to writing, and then the President decides. This is the power delegated, and the presiding officer possesses no other. If then this is the effect of the rules of the Senate, it is not competent to the presiding officer, to tell any member in the course of debate that he is out of order. All officers of the Government, said Mr. W., possess powers conferred by some express grant, or fairly to be inferred from it. They possess none other whatever, and the assumption of any power not expressly granted, will always be viewed by the people with a jealous eye.

Was it intended, asked Mr. W., that the presiding officer should dictate to members of independent States? If he has the power which gentlemen contend for, why is that very power conferred in express terms on the Senate itself by the Constitution? He asked of gentlemen to say, which of the two rules should be paramount—the one expressly made by the Senate, or the one brought in by the Vice President himself. Two distinct and conflicting set of rules cannot exist at one and the same time in the same body. Sir, said Mr. W. the powers which belong to this body are one thing, and those which belong to the presiding officer are another. The President of the Senate is not to devise, expound, and enforce its rules in virtue of his office, according to his own mere will and pleasure—he is merely the organ of the body, and that body confers just such powers as are necessary to carry on its operations in the manner most conducive to the public good, and no more. It belongs exclusively to the Senate according to the Constitution, to make, or devise the rules, and to the presiding officer to expound and give them effect. All must admit the Senate is vested with the power to establish the rules by express grant; now if it be true, that the President, *virtute officii* or inherently possesses the same power, how shall we get along, if the Senate establishes one set of rules, and the President another, inconsistent with them? Which shall be enforced? The doctrine that powers had been conferred by usage and length of time, he protested against. Would gentlemen point out where those who had exercised such powers obtained them? To tell him that distinguished men had presided over the deliberations of this body was to tell him what every person knew—but because a doubtful power had been exercised by distinguished men, did that sanction the usurpation? The gentleman from S. Carolina, [Mr. SMITH,] tells us of his having been called to order, compelled to sit down, and refused an appeal—but, Sir, said Mr. W. the gentleman who called him to order was not the Vice President of the United States—he was a member of this body, put into that office by ourselves, and amenable to our authority. The gentleman being able to specify only one case, and in that one, the question of power not raised or considered, Mr. W. could not deem it a precedent of any importance. But, Sir, said he, if precedent were filed upon precedent, I never can believe the exercise of such power to be correct—I should be just as ready to vote against his being possessed of this power of silencing a Senator in the midst of debate, then as now. Mr. W. denied then that the presiding officer has any powers except such as are expressly conferred on him by the Constitution or by the Senate, and concluded by observing that the time might arrive when the individual presiding over the Senate might think he can devise better rules, by virtue of some implied or inherent power, than those framed by the Senate and thus the most pernicious results might ensue.

Should a majority of the Senate think proper to vote

FEB. 12, 1828.]

Powers of the Vice President.

[SENATE.]

for the first part of the amendment, proposed by the gentleman from Connecticut, and thus confer the power upon the President by an express rule, he would then think it of much importance, that the second part of the amendment, which gives an appeal to the House from his decisions, a matter of much importance. He would never agree that the decision of any one man, be him whom he may, shall finally conclude such a question and silence a member delivering his sentiments in his own language.

[Mr. VAN BUREN here rose and spoke at considerable length; and his speech not being inserted in its proper place, it is necessary to explain the cause. In preparing his remarks for the newspaper, Mr. V. B. incorporated those of this day, and those of the succeeding day, in one speech. As in the subsequent part of this day's report it will be perceived that several gentlemen allude to Mr. VAN BUREN's remarks, we refer the reader to his incorporated speech in the debate of the 13th inst. The reporter did not feel at liberty (and indeed it would have been very difficult) to dismember the speech, so as to place the relative portions in the order in which they actually occurred.]

Mr. SMITH, of S. C. said, if, in discussing this rule before the Senate, references to past occurrences had been made, it could not be imputed to him. He was not among those who had invoked its discussion. The committee had reported their amendments of the rules, which were acted upon by the Senate, and the sixth and seventh rules had passed *sub silentio*, and would have been permitted to rest as they were, had not the gentleman from Virginia, [Mr. TAZEWELL,] called the attention of the Senate back to them, by alluding to the decision which had been made in 1825, upon the construction of these rules.

He was aware that very opposite opinions had been entertained in the Senate when the question arose in 1825; but what that diversity of opinion was, or how it was settled, he knew not. He had not permitted himself even to inquire either for the one or the other. He knew much had been said in the public prints, and the public mind had been agitated, in no small degree, by it. And to avoid a recurrence of so unpleasant a nature in future, since the subject had been introduced, he certainly thought it by all means advisable that it should now be acted upon; and let the rules for the maintenance of good order and decorum in the Senate be rendered as perfect as possible, independent of that courtesy which had heretofore so highly distinguished the Senate.

He knew that considerable agitation had existed on former occasions, and these were not the halcyon days that seemed to invite to repose. And whatever gentlemen might think upon the rule as it now stood, he could see no possible objection to making it explicit. It could not prevent the exercise of courtesy, and might promote it. At present, they were calculated to produce that effect, as great difference of opinion existed upon their true construction. That there was a power to preserve order, was admitted on all hands; but in whom that power was vested created the doubt and produced the argument. Some were of opinion that it was vested in the Chair, while others strenuously contended that it belonged only to the Senators, individually and collectively. It was surely time to put the matter to rest, and let the Senate know, distinctly, where the power was located.

For his own part, he never had a doubt but that the President of the Senate had the right to call to order. The very nature of his office implies that power. He was not one of those who relied upon constructive powers where they were not expressly given, but in this case he had the invariable practice of the Senate, from its commencement in 1769, up to the session of 1825, a term of 36 years, to sanction this opinion. He recollected very well that he had himself been called to order by the President of the Senate, more than once. On one occasion, a gentleman

in the chair, [Mr. GAILLARD,] for whose memory he entertained the most profound respect, had called him to order for words spoken in debate, when he, Mr. S. himself, conceived he was correct, which induced him to appeal to the Senate, and was again told by the Chair, there was no appeal from his decision; and the Senate supported the Chair.

Gentlemen had contended that this power did not, nor ought, to belong to the President of the Senate. They looked upon the principle as monstrous, and as threatening future consequences of a most serious nature. Others deprecated the idea of placing the power of governing forty-eight Senators, and checking the freedom of speech, in the hands of an individual, who was not a member of the Senate; and who might become a tyrant and control the freedom of debate in that body to the destruction of the liberties of the people.

Mr. S. said we must take things as they were, and not as they possibly might be. It was fair to suppose the people of the United States never would place a tyrant in that Chair. If they should, the Senate had the constitutional means of controlling him. This they could do in an instant, by giving an appeal from his decision to the Senate; and his tyranny would be at an end. That the President was not a Senator, was no argument against his having this power. Gentlemen seem to have forgotten that the abuse of this power may be as great when trusted to a Senator as it would be in the hands of the President. And, as we have entered upon the wide field of supposition, let us, for a moment, suppose the President of the Senate, this tyrant or monster, who would exercise the power, if he had it, of calling a member to order, that he might silence him in debate. Could he not do it with a much better grace, as the rule now stands, of which gentlemen seem not to complain, by a collusion with a member, to call to order such other member as he might wish to silence, and then interpose the power, which all agree he possesses, of declaring him out of order, from which there is no appeal, and silence him at once? Any man disposed to play the tyrant in that Chair, would much rather divide the responsibility in that way, with a member, as he can now do as the rule stands, than take it upon himself alone.

Another argument had been urged to prove that the President had no power, but as it was conferred; that the Senate elect their own Committees. If this argument proves any thing, it proves too much; because the President, from the commencement of the Government, until 1816, a term of 27 years, exercised the power exclusively, of appointing the Committees. It was then given to the Senate to appoint by ballot, by a rule of the Senate, and so continued until 1823, when it was again given to the President; and in 1826, was taken from him and given to the Senate again by a rule. He has thus been exercising these powers alternately with the Senate, but in a much greater proportion of time. Although not a Senator, he is a component part of this body: has a vote; has the power of appointing Committees, *ex officio*, and has exercised that power, without a rule of the Senate, for the first 27 years of the existence of this body, and was, by a rule only, dispossessed of it.

Who was the proper person to preserve order but the Chairman? What was the custom? The analogy was too strong to be resisted. Look at every other public body in the civilized world, whether civil, religious, or political, and it is *ex officio* the duty of the Chairman or President to call to order. Look at the numerous public meetings of the People, which we see published every day in the newspapers. We see it announced that A. B. was called to the chair; and we likewise invariably see it, that A. B. called the meeting to order, in the first instance. It is the invariable practice of the British House of Commons, for the Speaker to call to order. It is the

invariable practice of the presiding officer in every Legislative Body in the United States, to keep order in their respective Bodies, and if a member wanders from the question in debate, to call him to order.

If the uninterrupted practice of the Senate for the 36 first years of its existence, for the President, in all cases, and more especially if a member wander from the question before the Senate, in debate, to call him to order, and bring him back to that question, can weigh any thing, or if the analogy of the universal usage in all other Legislative bodies, and all public assemblies whatever, that look to their presiding officers to perform the office of calling to order, as an official duty, can have any weight in bringing us to a fair conclusion, we cannot doubt but that it belongs to the Chair, *ex vi termini*, to call to order. What higher duty can be required of the Chair? Merely putting the question upon bills and resolutions, is certainly a minor duty. Such a duty as could well be discharged by an additional Clerk, as the reading is now by the Secretary.

One gentleman had said, there was 48 Senators in this House, either of whom could call to order. It is admitted. But suppose any one Senator should so far forget himself as to make, in the course of his argument, indecorous and unkind remarks upon any other member to whom he might be opposed, that were foreign to the subject before the Senate; could it be expected that the member assailed would rise to call the other to order in his own defence? There is no man of delicate sensibility who would do so. It would be a task too invidious for a member who was not assailed, to take up the subject. And to what extravagance would it not lead, were the President to fold his arms and sit silent? Or suppose the question before the Senate to be upon an appropriation for a turnpike road, and a Senator should rise in his place, and address the Chair upon the subject of an Indian treaty, or upon a naval expedition, for an hour, without once touching the subject submitted by the Chair, for the consideration of the Senate; could the President of the Senate sit in dignified silence? It is impossible to imagine he would.

The Constitution of the United States has said, the Vice President of the United States shall be President of the Senate. Then is it fit that we should say, it would be dangerous to confide to him what you would confide to a single Senator; one elected by the United States at large, and the other by a single State? He could not see the compatibility of such arguments himself.

Mr. S. said, his object was not to arm the President of the Senate with new and dangerous powers, but to strip him of what he considered the most despotic power, which he now held, and which, in conjunction with a single Senator, he could wield to a more dangerous extent, than even that which gentlemen had portrayed a change of the rule would give him. He wished to invest him with a responsible power, but not a dangerous one—a power of calling a member to order, without the despotic power of silencing him. Therefore, if there are any doubts upon this question, let the amendment be adopted, which gave an appeal from his decision to the Senate. To this he could see no possible objection, because in it he could see no hazard, either to the public interest or to the rights of the Senators. As it now stood, there were both. The right of appeal from the decision of the Chair would be a source of gratification, whilst it would secure to all parties, security from oppression, if any could arise.

His sole object was to give the right of appeal, and to divest the rule of its doubtful character. He would acquiesce in any thing that would no longer leave the subject in *dubio*, and would, at the same time, secure the right of appeal. He should, therefore, vote for the proposed amendment, which would leave no ground for future controversy.

Mr. KANE said he would in a few words express his opinion upon this subject. He agreed that the true question was—Has the President of this body the right to call a Senator to order for words spoken in debate? He did not agree with those gentlemen who thought the President had no power to call a Senator to order, in any case, by virtue of his office. He would cease to be the President of a deliberative body could he not preserve that order which was essential to preserve deliberation. He can suppress noise and disturbances, because the functions of his office cannot be exercised without it. Words spoken in debate, per se, cannot be considered disorderly.

The President cannot declare them out of order without the right of interfering with, and in some degree controlling our deliberations. The distinction was this: The President may preside over but not interfere with the deliberations of the Senate. Such a power as the latter would be incompatible with the organic principles of the body. If the President may designate what particular words are in or out of order, the discussions here will not be free. The States are no longer represented in their sovereign character. I am free to admit that no apprehensions are to be entertained on this account of any abuse of such power, should it be conferred, but upon the principle of the question he had made his decision.

Mr. CHAMBERS said, he rose with great reluctance to trespass a second time, but when he was told that the affirmative vote on the amendment now before the Senate, carried with it certain necessary inferences, he felt bound to put away from him all such supposed inferences, and to state distinctly the reasons which governed him. He could say with the honorable gentleman from South Carolina, [Mr. SMITH,] he had no agency in provoking this discussion. It had grown out of circumstances not immediately connected with the report of the Committee, and to which the gentleman from Virginia, [Mr. TAZEWELL,] had made direct reference by a question proposed to the Chairman.

It was not his wish to indulge remark on the occurrences to which allusion had been made, but gentlemen on the other side would persist in having opinions on that subject expressed, and they had felt themselves authorized to say, the opinion of nearly all who had spoken; and they seemed to infer, therefore, that at least a very large proportion of the Senate believed the course pursued on that occasion by the presiding officer, was correct. He had said yesterday, and still thought, this was not the time or the occasion to discuss a question in which other persons were intimately concerned, who are not now present, and which is not regularly brought before us.

The honorable gentleman from New York, [Mr. VAN BUREN,]\* has said, if he were disposed to adopt the most effectual means of sustaining the late opinions of the Chair, he could devise none more appropriate than this amendment, and that the necessary inference arising from an affirmative vote on this question, is, that the President had not before the power which this new rule will give to him.

Mr. VAN BUREN explained.

Mr. C. said, there was no choice left to them on the subject. We think the President, under the existing rules, has the power, primarily, to call to order; we think he ought to exercise it—that it is a salutary power, and its exercise greatly conducive to the despatch of business and our own peace. How are we to be gratified? The presiding officer, on a former occasion, said he had no authority to call a member to order for words spoken in debate, until a member had invited his interposition.

The VICE PRESIDENT remarked, that the Senator from Maryland, [Mr. CHAMBERS,] mistook the decision of the Chair on the occasion alluded to, in supposing that it

\* See explanation (inserted in brackets) ante page 313.

[Vol. 12, 1828.]

*Powers of the Vice President.*

[SENATE.]

had decided against the power of calling to order. The decision was, that the Chair had not the power of calling to order, for words spoken in debate. The Chair does not doubt its power of calling to order in many cases, for it is in fact in the daily exercise of such power. As much misapprehension seemed to prevail, as to the opinion of the Chair, of the extent of its power, with the indulgence of the Senate, it would concisely state its opinion.

The Constitution provides that the Vice President be President of the Senate, and that each House shall prescribe its rules, and punish for disorderly conduct.

It is a fair presumption, that it was not the intention of the authors of that instrument, to delegate the same powers to the Senate and its presiding officer; and in order to ascertain what powers were really delegated to the Vice President, as the President of this body, it is only necessary to know what were the powers conferred on the Senate by the Constitution in reference to the subject in discussion. Those powers, fortunately for the decision of this question, admitted of no doubt. The power of making rules, and of punishing for disorderly conduct, are expressly delegated to the Senate. The power of punishing involved that of judging. In the Senate, then, was clearly vested, by the Constitution, the legislative and judicial powers over its own proceedings, which leaves to the presiding officer the ministerial power of the body only, which is neither more nor less than the power of applying the rules of the Senate to its proceedings.

The exercise of this power involved the right of calling to order, or what was the same thing, of directing the attention of the Senate to instances of infraction of its own rules—which would explain the various instances of its exercise by the Chair, referred to by some of the Senators in the debate. In the very unpleasant instance referred to by the Senator from New Jersey, [Mr. DICKINSON,] the Chair did not hesitate in making the call; not for words spoken—either by the Senator from Virginia, or from Massachusetts, both of whom, [Mr. RANDOLPH and Mr. LLOYD,] have since ceased to be members of this body. The Senator from Virginia, on that occasion, was in possession of the floor, and, by the rules of the body, no other Senator had a right to rise until he had finished, except to call to order. As soon as the Chair perceived that the object of the Senator from Massachusetts was not to make a call to order, it interfered, as was its duty, under the rules. Supposing that the Senator from Alabama, [Mr. KING,] who had risen on the occasion to make a call to order, intended his call for words spoken by the Senator from Virginia, [Mr. R.] the Chair directed that the words should be reduced to writing, in conformity with the seventh rule; but it is inclined to think that it misconceived the object of the Senator from Alabama, [Mr. K.] in making the call to order.

The tapping on the table, which was alluded to by the Senator from New Hampshire, as instances, in fact, of calls to order, the Senate would find justified under the second rule, which provides that no member shall speak to another, or otherwise interrupt the business of the Senate, or read any newspaper, while the Journal or other public papers are reading, or when any member is speaking in debate. In the case alluded to by the Senator from Missouri of pronouncing questions out of order, the Senate would see the source of the power in the rule which prescribes the order in which questions should have priority.

There being no rule that would authorise the Chair to call to order for words spoken in debate, it became a serious question, which deliberately engaged the attention of the Chair, whether it possessed the power from any other source, which resulted in the conviction that it did not. This opinion was made known, on the first suitable occasion.

The Chair perceived that such a power could not be

claimed under the Constitution, without subverting powers clearly invested in the Senate by the Constitution. If that instrument granted such power at all, the Chair would possess it, beyond the control of the body, even in the shape of an appeal, and to the extent to which its own judgment might dictate. Hence, if it were doubtful as to the existence of such uncontrollable powers, and of such dangerous character, wisdom enjoined that the doubt should prevent its exercise.

Could it be supposed, that it was intended by the framers of the Constitution, that the freedom of debate in this body should be put under such despotic control? Who is a Senator, that the right of uttering his sentiments within these walls should be placed under the will of an officer connected, in a certain measure, with the executive branch of the Government? He is the representative of a State in its sovereign capacity, and, in the larger States, is the organ of the will of more than a million of constituents. It would then be absurd to suppose that the right of determining what he should say, and in what manner, should be placed by the Constitution in the power of an officer wholly irresponsible to the body.

The Chair begs pardon of the Senate for this intrusion, which nothing but a desire to correct misapprehension as to its opinion, on so important a subject, would justify.

Mr. CHAMBERS said he felt gratified at the explanation, because it enabled him, with still more accuracy, to comprehend the view of the Chair, to which end, also, he had provided himself, and then had on his desk a copy of the remarks which he had made, when he had announced to the Senate the opinion alluded to. From that opinion, it appeared that the Chair had taken the position, that his power "on these great points, is an appellate power only." He should hereafter have occasion to notice the alleged distinction between ministerial and other power, and between order affecting the latitude or freedom of debate, and some other sorts of order.

The true question he thought was narrowed down to the enquiry, whether the power of preserving order is lodged in the Chair, and to be exerted originally and primarily by the President, or whether this power is appellate only, and dormant until called into action by a member. It cannot, he thought, be denied that the President and the members derived their powers from the same sources. Has any Senator on this floor, other or more powers than are conferred upon him by the Constitution, the laws of Congress, and the rules of the Senate? Has the Senate itself any other powers than those derived from these sources? The powers of the presiding officer is to be traced to the same sources. But gentlemen ask, whence are derived the powers of the President to call to order? The question is retorted—whence do members derive the power? They admit the power to be lodged in the House, and the argument is that the President has it as an appellate power. Where then do they find in the Constitution one word directing that one member may call another member to order?

Where in the laws of Congress or the rules of the Senate do they find any express provision to this effect? There is none. Our rule does not designate by whom particularly a member may be called to order; and if the President waits for a positive designation, so must a member. Then we are in this dilemma: we have rules, but no one has authority to call them into action. Our predecessors must have differed widely from ourselves on these matters, or they have applied their time and their talents to small account. The illustrious author of this book (Jefferson's Manual) had intimated a very different opinion on this subject. He had prepared and presented to the Senate for their use a parliamentary rule, sanctioned by its usage for more than two hundred years, which pointed to the presiding officer as the individual to move in questions of order. He then alluded to what had been

SENATE.]

*Powers of the Vice President.*

[FEB. 12, 1838.]

called by the honorable gentleman from Delaware [Mr. M'LANE,] and he must be permitted to think very incorrectly called, inherent power. If the honorable gentleman had reference to power of the presiding officer, not derived from the constitution or laws of the United States, or rules of the Senate, he knew of none such, and utterly denied that they existed. If, on the contrary, he had reference to powers derived from these sources, he could not well perceive with what propriety the term inherent could be applied to them.

Mr. M'LANE denied that he had introduced the term inherent power into the debate. He took it up as the phrase connected with some remarks which fell from the gentleman himself, or from some gentleman on that side of the House.

Mr. CHAMBERS disclaimed the introduction of the term into the debate. He was unwilling, but found it necessary to repeat some of the views he had the honor to submit yesterday. The Constitution had made the Vice President of the United States the President of the Senate. It designed, by placing him here, to invest him with some authority, or it did not. If no authority was thereby given, he has no power to prevent a riot on your floor; to protect your persons from violence, or to interpose his authority primarily on any other subject of order, however gross a violation of it may be exhibited in his presence. No law of Congress gives him such power; no rule of the Senate confers it; and he certainly cannot derive it elsewhere. But gentlemen say he has the power to suppress a riot on your floor; to secure your persons from assault, and to do such like acts, which they term a ministerial power. Now whence is this ministerial power derived, and what is it? Does the Constitution confer it? It says not one word about it. Does a law of Congress confer it? It is no where alluded to in your statute book. Does a rule of the Senate delegate such a power? Your rules are totally silent on the subject of any such distinction of powers, nor does the term ministerial power find place amongst them. What is the ministerial power? Gentlemen have made frequent allusion to the particular question of order touching "latitude of debate." He had heretofore said the day had gone by when any man would be willing in the face of this nation, to arrest the widest latitude of inquiry in this body, and on proper occasions, into the political character and conduct of public men. He should select for an example, another instance of disorder—the case of a defamatory and gross personality—not an assault on the body of a member, but an assault upon his honor, his integrity, vitally affecting every principle by which he maintains his claims upon the respect and esteem of society. Suppose such an attack made by one member in the course of debate, on another and an unoffending member, on the floor; and how are we to class this species of disorder? Is this case to justify the action of the ministerial powers, which gentlemen tell us of? Can the presiding officer interpose? Or will any member of this House say it is a case in which our official dignity and our personal security does not require that the Chair should have authority to interpose? Let us not be told that the authority of any one member on the floor to call the offending member to order is sufficient. It is always an odious business to volunteer in a matter like this. There are forty-six members, exclusive of the offending and offended members, and it is no more the duty of one, than it is of all the others, to move in the affair. When one member shall rise to interpose, he must do so in the apprehension of drawing down upon himself the angry passions of the individual, who can say, "by what peculiar motive, Sir, are you called upon to arrest remarks which forty-five other members, equally appreciating the rules of propriety and decorum, have manifested no reluctance to hear?"

Are we then to leave the offended individual to move the question of order? Was it not enough that he should be the victim of the most unfounded imputation—that his feelings have been lacerated, and his whole mental energies perhaps prostrated and confounded, by an unprovoked and unmerited assault? Is it in a moment like this, that an injured and oppressed individual is to be left to his own resources of defence and protection? No, said Mr. C. he was the last who should or could move in the affair. Perhaps the very fact of his calling in the aid of the presiding officer to arrest such a course of remark, would with many be relied on as evincive of the verity of the very aspersion, which it might be said he was not willing to hear, because not able to disprove. Every generous feeling demanded the aid of other means. If there was any propriety in protecting our persons from injury, much more was there in guarding our private feelings and our honor from injury of a much more serious character. It should be the special province of the chair to curb such passions, and prevent such scenes. But he did not know whether gentlemen would include such a case in the class of ministerial duties admitted to be in the province of the chair. It seemed clearly to be within the exclusion of the language of the presiding officer, because, being in the course of debate, it would affect the latitude of debate, and therefore, came only within his appellate jurisdiction. Mr. C. said, he really did not know what these ministerial duties are, to which gentlemen have reference, no more than he knew from what source they derived them. The true state of the case appeared to him to be, that the Constitution had clearly indicated the powers of our presiding officer by making him such. *Ex vi termini*, he possessed the powers usual and proper to be exercised by a presiding officer, according to the usage and notions indulged by those who had given him this character. The very men who had appointed him President of the Senate, *ex-officio*, had themselves a distinct and definite idea of the powers and duties of a presiding officer of a Legislative body. The rules and usages of Congress, borrowed from the laws and rules of Parliament, gave them as it did to every man who had an acquaintance with the legislative bodies of the States of this Union, as correct and intelligible an idea of the powers and offices of the presiding officer, of a legislative body, as of the powers and duties of a judge, or any other officer named in the Constitution; and it was as much to be expected that they should go on to say, when speaking of a judge, that he shall hear and decide questions of law, as to say, of the President of the Senate he shall cause order and decorum to be observed, as well from one member, when in debate, to another member, as from persons not members who commit acts of violence in the Chamber.

The gentleman from Virginia, [Mr. TAZEWELL,] has well said, when a word is found in that instrument with a known received signification, it is to be received by us as importing such signification. The honorable gentleman illustrates this remark by reference to the word "court." I, said Mr. C. illustrate the same remark by the words "President of the Senate."

The Constitution gave to the President of the Senate such powers, as, according to the practice of those who made it, and all the States which received it, were usually exercised by such an officer; and as their powers were invariably exercised in common with the right of the body itself, to alter and amend its rules, so the same right was reserved to this body, by that instrument, and the Senate have no more right to adopt, in the name of "rules of proceedings," wild and extravagant decrees, enlarging their own powers or limiting those of their President, in violation of all Parliamentary and Congressional practice, than their President has to usurp powers never supposed to belong to the station of a presiding officer, or to refuse

FEB. 12, 1828.]

Powers of the Vice President.

[SENATE.]

the exercise of such as are universally admitted to belong to the station.

With the conviction of the constitutional existence of these powers in the presiding officer, and an entire willingness to rely on their exercise, the Senate, at an early period, "formed, to use Mr. Jefferson's language, some rules for its own government, but these going only to few cases, they have referred to the decision of their President, without debate and without appeal, all questions of order arising under their own rules, or where they have provided none: thus placing "under his discretion," as he continues, "a very extensive field of decision."

On some of the plainest as well as the most important items of legislative order, the Senate had no written rule whatever. He believed in every legislative body it was held necessary to restrain the speaker from subjects wholly and obviously foreign and irrelevant to the matter in hand. But yet, unless it had eluded his research, there was no written rule of the Senate to secure this necessary result. Not one word on the subject. If he were now to leave the subject of the rules and practice of this body, and indulge himself in a history of the beauty, the splendor, and the utility, of the Chesapeake and Delaware Canal, he would deny the authority of any individual in this Chamber, whether president or member, to charge upon him a violation of order, on the hypothesis, that the *lex scripta* is the only rule of this House. If the *lex non scripta*, if any thing beside the constitution, laws of Congress, or written rules of the Senate, could restrain me, I ask, (said Mr. C.) where is it found, and when found I ask, does it confine the primary call to the member, and refuse it to the President except on appeal? This is the question, and we must not lose sight of it, and gentlemen will find the same argument which proves the authority of the member, proves the authority of the president: and if they deny the authority of either or both, they leave us in a miserable condition, totally unable to secure the preservation of order or decorum at all. This is a state of things from which we wish to escape, and the interesting inquiry is, by what mode can we do so.

On a former occasion, our presiding officer declared his opinion, after much reflection, that he had no right to call to order on questions touching latitude of debate. No discussion was had at the time, and no member was called to express his assent or dissent to the opinion. A commitment of the rules of the Senate for revision, had been made, and their report was in progress of adoption without the slightest reference to that opinion, when the honorable gentleman from Virginia [Mr. TAZEWELL,] thought it proper to propose an inquiry to the Chairman, whether the 6th and 7th rules had been the subject of their particular notice, and if so, whether the committee had sustained the Chair in the opinion heretofore expressed. To these inquiries, the Chairman answered affirmatively. If our action on this matter had ceased here, or if no other step were taken by the Senate but to adopt the amendments of the Committee, with this accompanying explanation and construction of the Chairman, it would settle this question as far forth as the deliberate sense of this Senate can settle it. Being of the number of those who differed from the Chair and from the committee in their construction of the powers of the presiding officer, he had immediately engaged himself in preparing a motion to recommend the rules, with instructions to amend them, by expressly delegating to the Chair the right of primarily calling to order, which he believed it ought to possess. He felt himself driven to the alternative of giving the power by express rule, or to acquiesce in the practice which the President has told us he feels himself bound to pursue, and which the committee say is the only practice justified by our existing rules.

The honorable gentleman from Connecticut [Mr. FOOT] anticipated this purpose, by submitting his amendment.

If gentlemen admit the propriety of this interposition from the chair, to protect our persons from violence, to prevent our chamber from being the scene of riot, and to prohibit ourselves, when not engaged at the moment in debate, from loud talking and noise, how can it be less necessary to bring it into action when harsh and inflammatory and personal language is indulged by a member in debate? He would not again propose the question which so forcibly presented itself; he had before put it to gentlemen to distinguish, if they could, between the cases in reference to the derivation of power; but he would ask, why confer the one, and withhold the other? And when we ask you to express by this rule the existence of such a power in the chair, do we wish to stop debate, or abridge its latitude, and restrict it within narrower limits than it now claims? No, Sir, we wish no such thing; we wish to make it the duty of a particular individual, and he the presiding officer, to do that which it is said is now the duty, or rather privilege of all, and therefore, though necessary to the peace and harmony of this body, and to the interests of the nation, is not likely to be done by any one. We wish to vest this power, and make it the duty too of one who is placed here by other means than by our votes, who, not deriving authority from us, and not participating in our debates, has composure and opportunity to observe, and disposition to resist, even the first approach toward a deportment unbecoming the representative of a sovereign State, and calculated to disturb rather than to promote the legitimate objects of our mission. We wish this power to repose where it has been placed and is now exercised in every legislative body of which we have any knowledge.

There was another point, to which he said the honorable gentleman from South Carolina [Mr. SMITH,] had so efficiently given his notice, that it should not cause him to fatigue the Senate much longer; that was, the very singular suggestion, that the amendment gave a dangerous increase of power to the Chair.

He had yesterday answered this objection, and he did not, after reflection, perceive the fallacy of his reasons; but he would now meet it in another mode, and give to those who urge either horn of the dilemma. Suppose, then, first, that the President is a man of intelligence, integrity, and patriotism; can any member of this body be unwilling to confide to such hands the power of preserving order and decorum? He would not allow himself so to think. Then let us next suppose the presiding officer to be such a monster as the gentlemen have conjured up—to borrow the language of the gentleman from South Carolina, [Mr. SMITH,] to be utterly destitute of intelligence, integrity, patriotism, or any principle which can protect you against his machinations; one who will eagerly seize upon, and despotically use every power which he can bring within his grasp. Will gentlemen say it is to such a man they are willing to surrender the decision of their rights, a decision final, conclusive, and irreversible? It is in vain to say, we shall find safety in the fact, that this power can only be called into life by a member on the floor. Such a man will never want the means to persuade or deceive some one of the forty-eight men into a participation of his plans. He will always be able to make some one, however unwillingly, yet the sure instrument of his treacherous purposes. Thus stands the matter, according to the powers of the President, alleged to be derived from existing rules. What would be the result of the different cases supposed, after the proposed change of the rule? If your presiding officer shall be intelligent and patriotic, disposed and capable to do his duty, he will be no less likely to give you sound decisions, because there may be an appeal from his judgment. In the other case supposed, in which your presiding officer is presumed to be destitute of sound principle and honest intention, surely it cannot be cause of com-



SENATE.]

*Powers of the Vice President.*

[Feb. 12, 1828.]

plaint that you reserve to yourselves the right of revising the decisions of no officer who is corrupt, the right to correct the mischiefs of an arbitrary despot; the right, in fine, of protecting ourselves and our States, in the enjoyment of those prerogatives which the Constitution and laws of the land have guaranteed to them, and to us as their representatives. Where can we hope for safety and protection, if not among ourselves, in the majority of this body? Are we to be told, that as one individual may be deceived, or seduced, so may the majority? The answer is, that when that fearful day shall arrive, which shall witness a corruption of a majority of this House, when this whole body is to unite with an unprincipled aspirant, who tramples under foot the sacred obligations of the Constitution, and his solemn oath to God, it little matters what are your rules. If such a day shall be permitted to arrive, the destinies of this nation are sealed, its fairest, fondest hopes are blasted forever; and in the general wreck of law and order, no rule you can make will escape the general ruin.

Mr. WOODBURY, of N. H. observed, that the course of remarks on this subject, by the gentleman from Maryland, had imposed a duty on all, who might vote for the amendment for reasons different from his, to explain their views or consent to be misunderstood or misrepresented. The amendment, said Mr. W. in its operation, has not been distinctly apprehended; else probably less diversity of opinion would exist as to its adoption. It, in truth, will work two separate and independent effects. One will be, to confer on the Chair a new power, the other to place a new limit or restriction on all its power. One is produced by giving the authority to call to order for words spoken in debate; the other, by giving an appeal, from that call to order, and from all decisions of every kind, to the members of the Senate. As a friend to restricted power in all public officers, and to jealousy of its exercise, he should certainly vote for the appeal; and as the right to call to order in the first instance by the Chair, was of so little consequence, when subjected to an appeal, he should also vote for that, if he could not vote for the appeal separately. Every gentleman will see that this grant of a new power, to one person more, who, in addition to the present forty-seven, may call to order in the first instance for words spoken, is not likely to produce either much good or hurt, if controlled by that forty seven on an appeal from the Chair. So that the whole contest, worth a moment's consideration, was that part of the amendment, subjecting all calls to order by the Chair to the revision of the Senate. This was entirely a new provision. It had not been formerly introduced, for the very plain reason, that no power to call to order in this case had ever been conferred on the Chair by the rules of this body. If it had been, as was done in the other House, expressly—then, undoubtedly, as there, it would here, have been subjected to an appeal. To suppose that the Senate would confer such an essential and controlling power over the deliberations without any restriction, when the other House had imposed implicit restriction, would be to suppose the Senate less vigilant and more servile and slavish to their presiding officer, than any other legislative body in any free government. The other house acting under the same clause in the Constitution would limit the power, though the Speaker is appointed by themselves—is one of their own number, and daily amenable to their authority: and yet the Senate would not limit the power, when their presiding officer was not appointed by themselves; was not elected in the same manner, and was not amenable to their pleasure for any supposed neglect of duty. To argue, therefore, that the Vice President has heretofore, by our rules, had this power to call to order for words spoken in debate, without any appeal to the Senate, is to aver, that those who made these rules were most regardless of their safety,

as compared with the other House, or were "ineffably stupid." The words of the rules exempt from this reproach, most clearly, our fathers who cautiously formed them. The sixth and seventh contain no language in any way consistent with the idea, that by them the Vice President is any thing but an umpire in all calls to order for words spoken. In both of them he is expressly authorized to render judgment after the call; whereas, if he himself made the call he would render judgment before he made the call. He appealed to the gentleman from Maryland, as a lawyer, as well as a politician, to say, if the words of the rules admitted of any other construction, and that their spirit would admit of no other, since no appeal was provided for from the decision of the Vice President, no man of independent feeling, and of due respect to those who made the rules, could for a moment believe.

I shall vote then for the last part of the amendment, if the first part be adopted; because the first part confers a new power, never before conferred by our rules. I should vote for it also if the first part be not adopted, as it is a salutary restraint on the old powers conferred by our rules.

But I am utterly astonished, that gentlemen can support this branch of the amendment, and still argue that the Vice President has a power to call to order for words spoken in debate, independent of any rules made by this body. This has truly been pronounced a doctrine most dangerous and alarming. Where does he obtain it? From the Constitution? But that confers upon the Senate, and not their presiding officer, the right to make rules. He can only preside, or administer rules already made. The express grant to them of this right to make rules, excludes his right to make them; and if he cannot make one by the Constitution, it is, on this same principle, an usurpation, if he undertake to make one by the *lex parliamentaria*, or *virtute officii*, or in other way not authorized and ratified by the Senate, to whom alone constitutionally is delegated this important trust. But a single and decisive answer to all claim of an implied or inherent power in the Vice President to make and enforce this rule, without an express grant of the Senate, to call a member to order for words spoken in debate is, that if he possess this power we cannot rightly subject it to an appeal. If he possess it in any way, I care not what, independent of an express rule made by us—we can neither divest him of it nor in any manner restrict it. It becomes an encroachment and usurpation by us to attempt to subject it to an appeal. He can, and ought to put our appeal to defiance. He is not responsible to us for the exercise of powers not conferred by us; but responsible to the people alone.

All, then, who believed that the Vice President did not derive his power from express grant by the Senate, must of course vote against the appeal, or be guilty of attempting to impose shackles on that officer, which, under the Constitution and his constitutional rights, cannot lawfully be imposed. But all who believe that he derived it from express grant by us, would certainly not make that grant without the caution and jealousy of subjecting the power to our revision. Nobody has greater confidence than myself in the present presiding officer, in his integrity, intelligence, or liberal principles.

But we are about to establish a new precedent, perhaps to last many years: we are about, in my opinion, to confer, by the first part of the amendment, a new, and, standing alone, important power; times and men may change; and, for one, I will never consent to bestow it on any officer whatever, unless subject to an appeal and revision by this body. By such an appeal, the grant becomes of little consequence, and will leave, unimpaired, in this body, the highly essential attribute of controlling its own deliberations.

Mr. BERRIEN said, that he had framed an amendment



FEB. 12, 1828.]

*Powers of the Vice President.*

[SENATE.]

in the form of a resolution, which he would now offer to the consideration of the Senate. He considered the power of calling to order in other cases than in debate, a well settled ministerial power, which could exist in no other hands than those of the Vice President—because the attention of the members is not supposed to be upon the proceedings in such cases. But in the debate, the attention of every member would be wide awake; they would be the most interested in checking disorderly language; and, therefore, a delegation of power to call to order in such cases would imply a want of confidence in the Senators themselves. The general disposition of the Senate to preserve decorum seemed to make such a delegation of power unnecessary. He was, thus, disposed to confirm to the presiding officer the right of calling to order in all ordinary cases; and to retain to the members of this body the right of calling to order during debate; imposing upon the President the duty of determining whether the call should be sustained or not, with a right of appeal to the Senate in difficult cases.

Mr. B. then proposed to amend the said proposed amendment, by striking therefrom the words “by the President or a Senator,” and inserting the words, “for any other cause than for words spoken in debate, by the President or a Senator, or for words so spoken by a Senator.”

Mr. FOOT said: I rise to defend my amendment against the unfounded charges which have been made against the amendment itself, and, by implication, against me, for offering it to the consideration of the Senate. But before I proceed to consider these charges, I will first reply to the amendment offered by the Senator from Georgia, [Mr. BERRIEN.]

What, sir, does his amendment propose? To strike out from my amendment that part which recognises in the President the power to call a Senator to order. If adopted, it will defeat the original amendment entirely, and leave the 6th rule with all its imperfections and embarrassments.

This amendment, proposed as an amendment to the amendment under discussion, applies to the 7th rule, which relates to calls to order for words spoken. [Here Mr. F. read 6th and 7th rules.] The original amendment applies only to the 6th rule, directly, but involves all questions of order, so far as to embrace the right of appeal. The Senator may obtain his object by amending the 7th rule—but if his amendment should now prevail, it will entirely defeat one of the principal objects of the first amendment, which is, not so much to settle a disputed point, as to explain an ambiguity in an existing rule—not to confer any new power, but to strip an existing rule of ambiguity and doubts—which this discussion, from both sides of the Senate, proves incontestably to exist in the present rule; and which it appears has exposed the presiding officer to very serious and unpleasant imputations, because he has given to the rule a construction different from any of his predecessors. One object in proposing this amendment, both in committee and now in the Senate, was, to remove any doubts and embarrassments which have been, or may be, caused by the present rule, and to settle the question definitively, by a vote of the Senate. If the amendment prepared by the Senator from Georgia should prevail, this object will be defeated. I am, therefore, opposed to this amendment.

As to the amendment proposed by me in committee, and now before the Senate, by a call from the Senator from Virginia, [Mr. TAZEWELL]—for, sir, I must be permitted to say, that, on this subject, I feel myself absolutely and imperatively called upon to defend the amendment, and to state my reasons for opposing it in committee—I have only to say, that, standing in my place as a representative of one of the sovereign States which compose this Union, I claim the right to propose to the consideration of the Senate any measure, either in relation

to the general interests of the Nation, or to our own proceedings, which appears to my judgment to be expedient and proper, on my own responsibility, and shall always be ready and willing to assign the reasons which induce me to make such proposition; and I know the courtesy of the Senate will accord to every Senator this privilege.

What is my amendment? A plain proposition so to amend an existing rule, as to recognise in the President of the Senate the right and the obligation to call a Senator to order for a breach of the written rules, or any violation of that decorum which is indispensable to preserve the dignity of the Senate, and facilitate the transaction of the public business; to restore the rights and powers of the President, which have been limited and destroyed by the written rule, or by the construction which has been given to it—with this additional guard against its abuse, to allow an appeal, in all cases, from the decisions of the Chair: in short, to secure to the Senate the control of their own deliberations, and the same privileges which are enjoyed by every other deliberative body, in this, and every other country which has a representative assembly.

Now, I appeal to every Senator on this floor: Is this proposition obnoxious to the harsh epithets which have been heaped upon it? Is this the monstrous power—as stated by the Senator from Delaware? [Mr. McLANE.] Is this a gag law—as stated by the Senator from Kentucky? [Mr. ROWAN.] Am I, sir, to be charged with proposing to give to any man a “monstrous power,” or with having proposed a “gag law”? Sir, my political course has never exposed me to such a charge among my acquaintance; it does not apply to one of my political tenets, however familiar it may be with some gentlemen.

But, sir, in proposing and advocating this amendment, I have nothing to do with any disputes or altercations in this body, previous to the present session, when I first became a member; and I will not be dragged into any such discussion—although, as a member of the committee and of the Senate, I shall never hesitate to do my duty.

My only object in offering this amendment, was, to correct an evil which may arise from the construction of the present rule, and which this debate fully proves to have existed, and which certainly requires a remedy. Under the present rule, with the construction which it has received, taken in connexion with Jefferson's Manual (which is considered as the guide for the proceedings of the Senate in all cases not specially provided for by the rules of the Senate,) I contend that no Senator can be called to order for offensive words until he has finished his speech. Now, Sir, unless we provide, by a special rule, that a member may be called to order while speaking, we shall be compelled to sit as patiently as we can and bear the whole abuse; and after he has finished we may then call him to order and punish him; this certainly is not a remedy for the evil. Every other deliberative body has, by a special rule, provided a remedy for this evil; and my amendment proposes a similar rule for the Senate.

But, Sir, the amendment proposed by the Senator from Georgia, [Mr. BERRIEN,] will prevent the President from exercising this power, which is considered indispensable for the preservation of order and the prerogative of every other presiding officer. My own experience proves, and every Senator present will agree with me, that this power involves too much delicacy to be often used by members. It is extremely unpleasant for a Senator to call a brother Senator to order; but if the President in his official character calls to order, this delicacy is not felt, nor is offence given; nor can there be any danger of the abuse of the power, if an appeal be allowed to the Senate, from the decisions of the Chair.

The question was then taken on the amendment offered by Mr. BERRIEN, (the yeas and nays having been call-

SENATE.]

*Powers of the Vice President.—Process in Courts U. S.*

[FEB. 13, 1828.]

ed by Mr. CHAMBERS,) and it was rejected by the following vote :

YEAS—Messrs. Benton, Berrien, Chandler, Dickerson, Ellis, Hayne, Johnson, of Ky. Kane, King, McLane, Macon, Ridgely, Rowan, Smith, of Md. Tazewell, Tyler, Van Buren, White, Williams, Woodbury.—20.

NAYS—Messrs. Barton, Bateman, Bell, Boulogny, Chambers, Chase, Cobb, Foot, Harrison, Hendricks, Johnston, of Lou. Knight, McKinley, Marks, Noble, Parris, Robbins, Ruggles, Sanford, Seymour, Silsbee, Smith, of S. C. Thomas, Willey.—24.

The question then recurring on the amendment to the 6th and 7th rules, proposed by Mr. FOOT, the yeas and nays were called by Mr. CHASE.

Mr. ROWAN moved a division of the amendment, and that the question on striking out be first taken.

Mr. COBB suggested that the gentleman's object would be attained by moving to amend the amendment, by striking out a certain portion of it.

Before the division proposed by Mr. ROWAN took place, Mr. JOHNSTON, of Lou. moved an adjournment.

WEDNESDAY, FEBRUARY 13, 1828.

#### PROCESS IN COURTS OF THE U. STATES.

On motion of Mr. ROWAN, the Senate went into consideration of the bill to regulate Processes in the Courts of the United States admitted into the Union since the 29th September, 1789.

[This bill establishes the modes of proceeding in suits in the Courts of the United States in those States admitted into the Union since the year 1789—in those of Common Law the same as in the Supreme Courts of the same State—in proceedings of Equity according to the principles, rules, and usages, of the Courts of Equity of the said States—and, in those of Admiralty and Maritime Jurisdiction, according to the rules and usages of Courts of Admiralty, as contra distinguished from Courts of Common Law, except so far as may have been otherwise provided for by acts of Congress, and subject to such alterations and additions as the Courts of the United States may think expedient, or to such regulations as the Supreme Court of the United States shall from time to time prescribe.]

The amendment of Mr. ROWAN, to strike out all the bill after the enacting clause, and insert a first section, similar to the first portion of the original bill, and a second section, in the following words : " That so much of " any act of Congress as authorizes the Courts of the " United States, or the Supreme Court thereof, at their " discretion, to add or modify any of the rules, forms, " modes, and usages, aforesaid, of the forms of writs of " execution, and other process, except their style, shall " be, and the same is hereby, repealed ; " was the question before the Senate.

On this amendment a Debate arose, which continued until a late hour, in which Messrs. MCKINLEY, SANFORD, TAZEWELL, JOHNSON, of Kentucky, BERRIEN, VAN BUREN, KANE, McLANE, and ROWAN, participated.

The yeas and nays were then called, by Mr. SANFORD, on the question of striking out the original bill, and was decided in the affirmative, by the following vote :

YEAS—Messrs. Benton, Chandler, Cobb, Dickerson, Eaton, Ellis, Harrison, Johnson of Kentucky, Johnston of Louisiana, King, McKinley, McLane, Parris, Ridgely, Rowan, Smith of South Carolina, Tazewell, Tyler, Van Buren, White, Williams, Woodbury.—22.

NAYS—Messrs. Barnard, Barton, Bateman, Bell, Boulogny, Chambers, Chase, Foot, Hendricks, Kane, Knight, Marks, Noble, Robbins, Ruggles, Sanford, Seymour, Silsbee, Smith of Maryland, Thomas, Willey.—21.

The question then recurring on the first section moved by Mr. ROWAN. Mr. JOHNSTON having called for the yeas and nays—

Mr. SMITH, of South Carolina, moved an adjournment, which was not agreed to ; and the question being taken, the first section was adopted, by the following vote :

YEAS—Messrs. Benton, Chandler, Cobb, Dickerson, Eaton, Ellis, Harrison, Hendricks, Johnson of Kentucky, Johnston of Louisiana, Kane, King, McKinley, McLane, Macon, Noble, Parris, Ridgely, Rowan, Smith of Maryland, Smith of South Carolina, Tazewell, Thomas, Tyler, Van Buren, White, Williams, Woodbury.—28.

NAYS—Messrs. Barnard, Barton, Bateman, Bell, Boulogny, Chambers, Chase, Foot, Knight, Marks, Robbins, Ruggles, Sanford, Seymour, Silsbee, Willey.—16.

Mr. ROWAN called for the yeas and nays on the second section offered by him ; his call being sustained, the amendment was rejected, by the following vote :

YEAS—Messrs. Benton, Cobb, Eaton, Ellis, Harrison, Hendricks, Johnson of Kentucky, Johnston of Louisiana, King, McKinley, Macon, Ridgely, Rowan, Smith of South Carolina, Tazewell, Tyler, White, Woodbury.—18.

NAYS—Messrs. Barnard, Barton, Bateman, Bell, Boulogny, Chambers, Chandler, Chase, Dickerson, Foot, Kane, Knight, McLane, Marks, Noble, Parris, Robbins, Ruggles, Sanford, Seymour, Silsbee, Smith of Maryland, Thomas, Van Buren, Willey, Williams.—26.

Mr. WHITE moved to amend the bill, by striking out the words " Supreme Court," and inserting, in their stead, " the highest Court of original general jurisdiction."

Mr. CHANDLER inquired the object of this alteration.

Mr. WHITE said, that, in some of the States, there were no Supreme Courts : therefore, if this change was not made, there would be no Courts, to the rules of which those of the Circuit Courts could be assimilated. The amendment would make the bill applicable to the condition of all.

The amendment was then agreed to, and the bill was ordered to be engrossed for a third reading.

#### POWERS OF THE VICE PRESIDENT.

The Senate resumed the consideration of the report of the select committee on the rules of the Senate ; the motion of Mr. FOOT still pending—

Mr. JOHNSTON, of Louisiana, said he was in favor of the amendment which conferred the power of preserving order on the presiding officer of the House, because he believed order essential to a deliberative assembly ; and, as the exercise of the power had been declined, it became necessary to invest the Chair with a power without which his duties under the Constitution could not be performed, nor the order of the Senate preserved. The power must be vested somewhere. It pertained he thought of right, to the presiding officer. It was a power usually exercised by those who presided over the deliberations of public bodies, and it could not be exercised with effect by any other. It was clear, from experience, that the power of calling to order would not, in extraordinary cases, be exercised by members. The person entitled to the protection of the House, who was the object of personal animadversion, would not claim the interference of the House, because he is on the floor to defend himself. His friends will not, because, seeing the injury already inflicted, they will prefer the right of repelling the attack. The friends of the assailant will not, seeing the party is present either to stop it by appealing to the Chair, or by exercising the right of self defence. The party excited by the sense of the injury, assails his adversary in return, retorts, criminations, and insults. The party rejoins, and a scene disgraceful to the actors, to the Senate, and to the country, ensues. Where can it end, but in blows on the floor, or in an appeal to the field of honor ? It being considered the duty of all to call to order, it is the particular duty of no one—and no one will take upon himself to do what equally belongs to every other member to do : the interposition would be deemed at least officious, and perhaps by both parties ; and what becomes of the business, the

FEB. 13, 1838.]

*Powers of the Vice President.*

[SENATE.]

order, peace, and dignity, of the Senate? But, if the power is conferred on the Chair, it becomes his peculiar duty, under his responsibility, to exercise it promptly and firmly. In the Senate the duty is divided, and the responsibility lost by diffusion: it becomes a mere right, without imposing any obligation or duty, and there will be no remedy for the confusion and disorder which personal quarrels may introduce into this place.

This much I have said in regard to the expediency of conferring the power. But the power to preside over the body is derived from the Constitution. The power of presiding presupposes certain duties inherent to the officer, and requires no law or rule to confer the right. He has a right, by virtue of his office, to sit in the Senate; to superintend its proceedings; to preside over its deliberations; to put all questions; to administer oaths; to judge of the violations of the rules, and to enforce them, and to do every other thing which belongs to the office. The Senate have the right to prescribe rules; but he is the executive officer here. He has a general duty of presiding over the body according to the custom of such bodies. The Senate may prescribe rules to extend, or limit, or explain his general duties.

The right to perform the duties which belong to the office, is a right inherent in the officer, not expressed in words, nor are the duties susceptible of enumeration. That without which the office cannot be, is an essential part of its nature, and is inherent in the thing, as the quality is inherent in matter. The right to preside is expressly conferred by the office; but the right to enter the Senate, and to be present at its deliberations, which cannot be questioned, is inherent, not expressed: it is implied, because it is essential to the performance of the duties of the office, and without which the office could not be. The right to do, when there, what pertains to his office is also inherent, and there can be no doubt of his right to do the duties that belong to the office. What those duties are, must be derived from the nature of the office, and the general understanding and usage.

The Constitution creates the Vice President, ex-officio, "President of the Senate." The right and duty of presiding in that body is inferred from the words which create that office. The act of presiding over a body whose duty it is to deliberate, to debate, and to decide on questions of greatest interest, legislative, executive, and judicial, requires that the body should be kept free from interruption, confusion, and disorder. It requires that order, in its strict parliamentary sense, should be maintained. It is the right of protecting and preserving the body itself. It is a right without which the regular action of the body could not be carried on. To whom does this duty belong? to the presiding officer, or the collective body, or the members? What was in contemplation of those who created the office? What is the general acceptance? What is the duty of all those who, under whatever name, are called to preside over public bodies? Order is the first law of every body, and he who presides must preserve it: such is the universal understanding and usage with regard to it.

The Constitution has provided that, when the President of the United States is tried on impeachment before the Senate, the Chief Justice shall preside. What rights and duties does this impose? Certainly it constitutes him the head of the Court, though not a member. He presides over the Senate, conducts the trial, preserves order, and does all other acts necessary to fulfil the duty. On the trial of a Judge, that office would devolve on the President of the Senate, who, in like manner, would conduct the trial, preserve order, interrogate witnesses, take the opinion of the Senate, and do all other acts pertaining to the presiding officer of the House, of which the trial of Judge Chase furnishes an example. In like manner, the President of the Senate must preside in all legislative

proceedings. There is equal authority and necessity for both; and no sensible distinction can be taken. In both cases it implies the same duties. The Chief Justice would, under the right to "preside," exercise the power of preserving order, by a right universally conceded as indispensable to his duty, not by any express delegation, or by virtue of any rule, but as a necessary incident. The President of the Senate, in similar circumstances, would have the right to exercise the same privileges; and the right to preside in all other cases implies the use of the same means; and such has been the uniform practice in the Senate from the beginning—a power never doubted by the presiding officer—never questioned by the Senate. The Senate cannot be organized, or hold its sessions, until the President of the Senate is present, or some one in his place. He administers the oath to the other members; he puts all questions; but there is no law or rule of the Senate for this. It is purely by virtue of his office, call that power what you will.

Mr. Jefferson, when he came to be President of the Senate, had a just and comprehensive view of the duties of the place. He saw that they did not consist in the execution of the few and simple rules of the Senate, but that it required a knowledge of the whole subject of parliamentary law, practice, and usage. He therefore prepared a work from the best authority, for his own government; and, in the preface, he explains his views, from which I read the following:

"The Constitution of the United States, establishing a legislature for the Union, under certain forms, authorizes each branch of it to determine the rules of its own proceedings. The Senate have accordingly formed some rules for its own government, but those going only to a few cases, they have referred to their President, without debate, and without appeal, all questions of order arising either under their own rules, or when they have provided none. This places under the discretion of the President a very extensive field of decision, and one which, irregularly exercised, would have a powerful effect on the proceedings of the House." "The President must feel weightily and seriously this confidence in his discretion, and the necessity of recurring, for its government, to some known rules," &c. "I have begun a sketch, which those who come after me will successively fill up and correct, till a code of laws shall be formed for the use of the Senate, the effects of which may be accuracy in business, economy of time, order, uniformity, and impartiality." He quotes from Hartsel—"That it is very material that order, decency, and regularity, be preserved in a dignified body."

I read this to show the sense in which Mr. Jefferson understood the duties of the place. This manual of Mr. Jefferson was never adopted by the Senate. It is a book convenient for reference to the presiding officer, in deciding the daily questions of order that are submitted to his discretion, in which he finds the rules which have been uniformly acted on in this body. The *Lex Parliamentaria* is evidence of the usage of parliaments, and is consulted as a safe guide, perhaps the best on all questions of order, and on all subjects on which it treats; and, although not binding on the President of the Senate, is of high authority, and, like the writings of enlightened men on every subject, entitled to great respect.

The Senate, with this knowledge of the powers of the presiding officer, and with the practice of Congress before them, declare "that every question of order shall be decided by the President," and "when a member shall be called to order, he shall sit down until the President shall have determined whether he is in order or not." Of the jurisdiction of all questions of order there is no doubt, and if there was, here it is expressly delegated. But who has the right to call the members to order? Certainly the President, or the rule would have said, "when called to

SENATE.]

*Powers of the Vice President.*

[FEB. 13, 1828.]

order" by a member: the omission of these words renders it clear that the member was not intended. Besides, the power to make rules is a collective power in the Senate, and if a single member has any right to call to order, it is in virtue of no express authority, but a right incidental to his place, and no better right than that of the President, and at most only concurrent. It was not necessary to express in the rule who should exercise the right of calling to order; that belonged of right, according to the general understanding, to the officer charged to preside over the body, and it is doubtful if negative words could have taken it away.

But it is said, can the President assume the high power of calling a Representative of a sovereign State to order, for words spoken in debate? Why not? The Vice President is elected by all the States—the second officer of the Government: he is the head of this body, and presides over it. But if he cannot call to order, how shall a Senator, who is only equal to the other members?

But it has been urged that this is a most dangerous power to confer on the President of the Senate. That it involves the freedom of debate, and the most sacred privilege of the members, &c. The right to call to order is a mere nominal privilege. It is the power you have already, by your rules, conferred on the President, of deciding on the question of order, when made, that is dangerous, under which he may restrain the freedom of debate. But there is no danger any where. The liberty of speech and the freedom of debate are perfectly understood. They are almost without limit. The utmost latitude of remark and animadversion, with regard to the principle, measures, and motives, of those in power, is allowed. There is no limit but the sense of decency and propriety. What violates the order of the body, and infringes the rights of the members, is equally well known.

I am no advocate for abridging the freedom of debate. I know it is essential to our free institutions. There can be no free Government long without it. We may say what we please of public men and public measures; they are not under the protection of the Senate. It is our duty to speak of abuses, and it is their chief security that we do bring every thing to the light of day. Suspicions and surmises of abuse in the Administration, are infinitely more dangerous and more dreaded by men in power, than open charges manfully preferred, which gives them the opportunity of defending themselves, and vindicating their conduct. Besides, it has a most salutary effect; it keeps both parties on the watch, and the public are safe. It is when members impugn each others' motives, and direct personal abuse against each other; it is when decency and decorum and order are violated, that he must interpose his authority. In this he must exercise a wise and sound discretion, enlightened by the best usages on the subject; for what is order, cannot be defined by apt and precise words.

The power of calling to order confers no power that can be abused. It is merely conservative and ministerial. The power to punish belongs, under the Constitution, to the body itself; and if the presiding officer should grossly violate the law and the rights of the members, if he should infringe the freedom of debate, there is a remedy here.

But I have no such fears. The President would act under a high sense of duty, in the presence of the Senate and before the country. He presides over the body, and looks down with calm and settled dignity on the scene below. He does not mingle in the debate, nor catch the passions engendered in the conflict. He feels that he is the umpire here; although he may be at the head of a party contending on the floor; he throws off the partisan to preside, under the obligations of his duty, and the sanctions of his oath, with every motive of ambition to do it impartially. To avail himself of that place to serve

the purposes of a party, either by overdoing his duty, or refusing to do it, would be fatal to him and his party. We every day trust our property and lives to the Courts of Justice; and, although they are composed of men connected with the political parties of the country, they do not carry their politics to the bench. Almost every eminent man has had his feelings enlisted, and perhaps his political fortunes identified, with one of the great parties that have divided and agitated the country; many of them owe their elevation to the influence of the party to which they belonged. But I have never heard that in any case, between individuals, in the most violent times, that the ermine had been sullied by political passions. And if, in a few cases, in public prosecutions, the political feelings of the Judges have led them into error, they stand as memorable examples of the judgment that awaits the abuse of power.

I have no fear of any man who reaches that place, who must be in general a leading man of a party. The public favor which carries him there, the hopes it cherishes, the ambition it animates, are the security for his faithful conduct.

We are told that such is the courtesy of the members, and such the impressive dignity of the body, that no rules are necessary to preserve order. It is true now; but this calm may be deceitful. We have ardent hopes, and strong passions, contending, like other men in the great struggle, in which we may unexpectedly find ourselves, in spite of all our moderation and self respect, carried away by those very feelings we deprecate. It is to guard against this, that I desire to arm the Chair with a power which, by timely interposition, will prevent the occurrence of scenes disgraceful to the Senate; and now is the proper time.

The gentleman from New York [Mr. VAN BUREN] has taken a distinction where there is no difference, and a distinction which is fatal to his whole argument.

He says the President has a right to call to order in every case, except "for words spoken." By what authority can he call to order in any case? There is no rule that gives him the power. It must, therefore, be by some right inherent in the office; which does not require the action of the Senate to bring it into existence. That is the inherent power of the office for which I have contended. Having obtained a power to call to order, how does he limit to special cases? How does he establish a criterion between words spoken and conversation, or any other noise which interrupts the House? There is no such distinction in the rules; there is no such in nature; there is none in Parliamentary usage. If the President has a right to call to order in any case, it must be by virtue of some rule of the Senate; or it is incidental to his office. The rules do not confer any right to call to order in any case. They were framed, evidently, under the idea, that that power belonged, of necessity, to the presiding officer. If he can call to order in any case, it devolves on them to show the authority; and having shown that, they must show the distinction to be fairly taken, which deprives him of jurisdiction over any disorder created by words spoken.

Let us examine the rules. "No member shall speak to another, or otherwise interrupt the business," &c. But if he does, what is to be done? The gentleman says he may be called to order by the President, although the rule is silent, and confers no authority on him. It will be said he has the right, by virtue of his office, to execute the rules; and is not that right inherent? But the 7th rule, which he is equally bound to execute, says—"if a member be called to order for words spoken;" and yet in this case, precisely similar, he has not, agreeable to the distinction of the gentleman from New York, a right to call to order. It is a discrimination where there is no possible difference. If he has any power it is inhe-

FEB. 13, 1828.]

Powers of the Vice President.

[SENATE.]

rent in the office ; it is not in the rules ; and if he can call to order, it embraces all cases of order ; and if he has the right to execute one rule, it must be to execute both rules.

It has been broadly stated in the debate, that there are no powers inherent, or incidental or derivative ; that there is no power in any department or office of this Government not expressly delegated. Let us examine the correctness of this doctrine.

Whence comes the power of the President to dismiss from office ? That is not delegated in the Constitution. Yet at the first Congress, fresh from the discussion of that instrument, and composed of members who had taken a leading part in its adoption, jealous of power then, as now, it was determined, upon full argument, that the power of dismissal belonged to the President alone ; and there has been a general acquiescence in the exercise of the power ever since. This was not a grant of power by Congress. The words implying a grant were stricken out of the bill, to insert words to recognise the power in the President, in contradistinction to the President and Senate, by whom the officers were made. It is a high and important power ; it is a transcendent power. In effect, it throws the whole patronage into the hands of the Executive ; it gives him a direct control over the tenure of office, which, in every instance, is held at his will, as well as a certain influence over the political opinions of those who fill them. This power is liable to great abuse, and may become a tremendous machine in the political conflicts of the country. It was, for political reasons, a necessary power to be trusted somewhere, to be promptly exercised when the public service required it. It had been forgotten or omitted in the Constitution. The power is derived as a necessary incident to the appointing power. Yet, in every view, the power of dismissal, in the hands of the President coming into office, is greater than the power of appointment to the vacancies that may arise by natural causes.

Again : The President is commander-in-chief of the Army and Navy of the United States, by virtue of which he must perform many duties incident to that station, or inherent in that office, not delegated to him by law ; such as communicating with the enemy by a flag, establishing a cartel, making truce, signing a capitulation, surrendering the army and public property, taking private property for public use, dictating the terms on which the enemy may abandon a position, or surrender ; and every other thing that pertains to a commander by the custom of war ; and these incidental powers run through every grade.

While speaking of the powers incidental to the commander-in-chief, I will take occasion to remind the gentleman from Virginia, [Mr. TAZEWELL,] that on the debate on Executive powers, he said "that he repeated, that, war existing, the President is authorized by the Constitution to send a Minister to negotiate for peace, not under his general power of appointment, but under his special authority to direct the operation of the war."

The doctrine of implication runs throughout the Constitution, the Supreme Court having decided many questions upon this principle. They have, for example, said "the authority to carry into complete effect the judgments of the court necessarily results, by implication, from the power to ordain and establish such Courts." Again—"there is nothing in the Constitution of the United States similar to the articles of confederation, which exclude incidental or implied powers." And under the power "to make all necessary rules for the orderly conducting of business in said Courts," they administer oaths, define contempts according to their legal discretion, extending constructive disrespect to their authority to cases out of their presence, and even to publications ; and they try and punish the offender. The authority has never been denied. It is essential to the Court :

without the power to punish contempt, they would soon be contemptible. They cannot go back beyond the Constitution to find power in precedent, any more than the presiding officer of this House to the British Parliament.

The gentlemen have expressed great sensibility at the use of the word inherent, in relation to power. They appear to startle at its introduction in the debate, and pronounce it monstrous and odious. The gentleman from Virginia says, "that when it is argued that inherent rights mean rights not specifically granted by the Constitution, but appertaining to their supposed possessors, *virtute officii*, merely, they urge no new doctrine, but repeat what has been often asserted in many different forms, and always denied when it has been asserted." Yet, I perfectly remember that in this House, on a debate upon Executive powers, in 1826, it was distinctly stated, as the opinion of that gentleman, [Mr. TAZEWELL,] who I now understand denies the doctrine of inherent power, "That as the Constitution has expressly declared the Executive powers shall be vested in a President, this power of appointment to office would have necessarily belonged to him, as an incident of the general Executive authority, with which he was thus clothed ; but for the other provision, by which the advice and consent is made necessary, to give effect to this power," and that this latter clause merely operates as a limitation : and "but for this clause, the whole power would have been his." Here the whole power of appointment, with all its patronage, would have been incident to the Executive, without any delegation of this power by the Constitution, and consequently would be inherent in the office of President. Was not that an express admission, that there are necessarily incidental and inherent powers ? But the same Constitution has created a Vice President, "who shall be President of the Senate," that is, to preside in the Senate. Are there not likewise appropriate powers incidental to his office, without which he could not carry it into effect, and which the Constitution has not expressly delegated ? If the power of appointment and dismissal from office, are both inherent in the Executive office, why was not the power of preserving order in the Senate, over which the Vice President must preside, inherent in his office ?

The gentleman also said, "that the place of Secretary to a Mission had always existed, and been annexed to every Mission, as an incident as necessary to the legation as its cipher or paper." The President, without any authority of law, appointed a Secretary of Legation, because it was necessary to a mission. The power to appoint was as inherent in his office, as the office was incident to the mission.

I refer to this opinion, because I believe it is the true construction of the Constitution—because it shows that the doctrine of inherent power is not now broached for the first time to apply to a particular case, and because I think it at variance with the principles which have been urged in this debate.

What is that sovereign, undefined, but unlimited power, which the President, by and with the advice and consent of the Senate, exercises under the power to make treaties, which are the supreme laws of the land ? Under which he regulates commerce, a power expressly delegated to Congress ; under which he makes peace, an incident to the war power ; under which he extinguishes the claims of indemnity of our citizens upon foreign Governments ; under which he can establish the boundaries of the country, surrender titles to territory, acquire immense domains of land, and stipulate for the payment of the money ? These powers are no where delegated to the President by the Constitution. The power is contained in a general delegation to make treaties. The power to make treaties would be incomplete and inadequate to the purposes for which it was intended, if we

SENATE.]

*Powers of the Vice President.*

[FEB. 13, 1828.]

did not, by construction or implication, ascertain the meaning and extent of the grant.

"Congress have power to establish post offices and post roads." There is no express power to carry the mail; but it is clearly implied, as the end for which the power was granted.

The power to declare war includes the power to make and carry on war; it confers the use of the usual means, and carries with it all the incidents, circumstances, and customs of war, and embraces the military academy, fortifications, and the whole system of defence.

During the present discussion, principles have been advanced and doctrines asserted, whose influence go beyond the importance of the present question. They go to the foundation of the Government, to impair, if not to destroy, the beneficial powers of Congress, and to annul, as unconstitutional, many important acts of legislation.

It has been asserted that there are no powers not expressly delegated; and the great question which has so long divided the politicians of the country, and which has been so often decided here, has been renewed in its full extent.

There is a principle which has its foundation in the nature of things, and is of the essence of all power—and above all law—and that is, the use of necessary means to an end: the right to employ the means, without which the power could not be. This power is necessarily implied in every grant. But it is not necessary to invoke this in regard to our Constitution.

Congress have a few general powers specifically set forth—and, therefore, expressly delegated. They are the great objects for which the General Government was instituted. The power is limited to a few subjects of national concern, to which the means of the several States were inadequate—upon which the common defence and general prosperity of all depend. In confiding these great interests to this Government, the Convention designed to give them plenary power to carry into effect the end of its institution. These necessary means are implied in every general delegation of power, as amply as if they had been, or could be, specifically enumerated. Any other principle involves us in two absurdities, the power to do a thing without the means, and the prohibition of the use of means, not expressly delegated, which are so various and infinite, as to defy the possibility of being specifically delegated. The effect of such a principle would be to stop the operation of the Government.

In consequence of the imperative necessity of this principle, the Constitution delegated to Congress "the power to make all laws necessary and proper for carrying into effect the general powers of Congress," and "all other powers vested in the Government, or any department thereof." This power would have been implied, if it had not been expressly granted, because they could do no act without it. This latter clause is a general and express delegation of all necessary and proper power, and as unlimited as the means to be employed are various and infinite. In this sense, I understand the power is expressly delegated, but all that Congress may do to carry on this Government, is not, and cannot be, specifically and expressly enumerated and set forth. These principles are too familiar to require illustration.

Congress have power to levy and collect taxes—duties and impost—under which they determine the quantum of taxes, on what articles, &c. &c. which has given them a direct control over the whole labor of the country, and under which is established, not only the whole Custom House system, with all its incidents, but an immense corporation for banking. There is no power to create corporations, or establish banks. It is, itself, a high act of sovereignty. I shall be told that this is a violation of the Constitution. It has been considered by Congress, at two distant periods, upon full argument, as a necessary and

proper means for collecting the revenue. It has received the Executive sanction under two Administrations, and the confirmation of the Supreme Court.

What an extensive jurisdiction have we acquired under the power to regulate commerce?

I might go over every power—but I will not.

In fulfilling the duty imposed on Congress, they are bound to select the best means, in the exercise of a wise discretion, to adopt those that are necessary and proper. What are necessary and proper means, can be referred to no human standard—they rest on the judgment and wisdom of those whose duty it is to prescribe them. Suppose it is the duty of Congress to defend the country—one recommends a navy, another says it is too expensive. One proposes a standing army, but that is thought to be dangerous to the public liberty. One relies on the militia as the cheap and safe defence of the country—it is objected that they are only for the first moments of war—One thinks fortifications essential—another believes they are very expensive and useless.—Many believe that all these are proper means; and Congress, in their discretion, adopt a system out of all these. Who can determine that they are not necessary and proper means, under the Constitution, to the end? I can see no limit to this discretion, but the wisdom of both Houses of Congress—the integrity that binds the Representative to his country—the supervising power of the President, and the judgment of the Supreme Court; and in the great supervising and controlling power of public opinion. The gentleman behind me says this is a dangerous doctrine. Dangerous to whom? To this country, where this principle has been acted on from the foundation of the Government?

Dangerous! If they are erroneous the people will find it out. The danger, if any, is not in throwing out the opinions, but in concealing them, while you act on them, without avowing them. If there is danger in the doctrines, the danger is in the principles of the Constitution, and the practice of the Government.

But, sir, who are we? The citizens of those States whose rights are said to be in danger, and upon which this Government would make dangerous encroachments: we, whose property and interests, whose families and friends, are in those States; we, the Representatives of those States, where all that is estimable in life, all that is associated with our happiness, or dear in our remembrance; where all our affections are centred, and to which we must all soon return, to render our account; that we, sent to protect them, should have the folly to utter dangerous doctrines, and the madness to combine to destroy the rights of those States!

In those States every thing is secure—life, liberty, and property; within their sphere they exercise uncontrolled power of legislation. This Government was instituted for other purposes, less important, perhaps, but essential to the security and happiness of all. Our business is a defence of the whole, by a union of our strength—the regulation of commerce and intercourse with foreign States, with the several States, and between citizens of the several States—and within this jurisdiction, this Government has full power. In the exercise of this power we must guard against the encroachment on the proper rights of the States: many of these powers are concurrent, and may come in conflict, and in such case must be exercised with great delicacy. But may not we be trusted to take care of the rights of our States, and of all the States, against the claims and usurpations of the central Government, which seems to have excited an unnatural degree of jealousy and prejudice?

I believe the right of calling to order, preserving order, and deciding on all questions of order, belongs to the presiding officer. The Chair declines to exercise the power. [The Vice President rose and explained, that



FEB. 13, 1828.]

Powers of the Vice President.

[SENATE.]

he stated specifically that he did call to order in all cases, except for words spoken.] I take the distinction of the Chair. As far as the decision goes it is correct. But it supports the very argument I have endeavored to maintain—that power by which you call to order in any case, which you distinguish as ministerial, is by virtue of a right inherent in the office. There is no rule that vests that power, in any case, in the Chair. But assuming that power, how is the distinction taken between those cases, where you can act from cases of disorder arising from words spoken? There is none in the rules. The distinction seems to be artificial. My mind cannot perceive the criterion on which the discrimination is made. The delicacy which declines the exercise of power, because it is doubtful, is meritorious. But I am sure the Chair will never avail itself of the pretence which has been urged in this debate, that the surrender of power is favorable to liberty. Power is delegated to be exercised for the security of liberty. Liberty depends not on its being without limits and without control, but on its being regulated. The power of the presiding officer is necessary to the despatch of business, and the order and dignity of the body. To release every member from the restraints of the rules, and restore him his liberty to say and do what he pleases, instead of being favorable, will be fatal to liberty. It is not liberty in that sense for which Government was instituted: it was regulated liberty secured by law.

Mr. President, I have no time to recapitulate. The President, in exercising the power of dismissal, exercises a high and incidental power, derived by implication. As commander-in-chief, there are powers and duties inherent in the office. The Courts exercise incidental power. Every grant of power contains inferior grants implied. Every legal grant contains the rights and incidents which appertain to the object. I hope I have shown by analogy, by parliamentary usage, and by the general understanding, that the right to preside over this body implies the right to call to order, and the duty of preserving it.

Mr. TYLER rose in reply. He would fain believe that no difference of opinion could exist on the question, when fairly stated. Had the Vice President a right to originate rules, by which we are to be implicitly bound? The answer to the argument of the Senator from Louisiana, on the powers inherent in the office of the Chair, is, that the power of the Chair is confined to the construction of rules, while their origin is with this body alone. Who questions the power of a Court to construe the laws? Who believes that a Court can make laws? How many swords would be unsheathed, if the President of the United States were to undertake to make laws! The powers of the Chair are limited to the construction of the rules; and that power no body denies.

Mr. T. thought the power claimed was despotic, and, if exerted, would be destructive of the object for which the Senate is constituted. Who doubts that the Senate has plenary power to accomplish the objects of its institution? If the Chair has a right to frame rules of proceeding, the Senate has not. The right must be complete, either in him or in us. If in both, we should be brought into continual collision. Here Mr. T. defined the powers of the Chair to be ministerial, and properly exercised under the rules originating from the Senate—and he contended, at great length, that no other power was or could be given to the Chair, by implication, or by the *Lex Parliamentaria*.

Mr. T. also vindicated the decision of the Vice President, who, he said, was debarred, by his station, from self-defence. The high crime of which he had been accused was his declining to exercise a power, which, in his opinion, did not belong to him. If actual improprieties were indulged in, why was it not the duty of the Senator from Louisiana, as well as the Chair, to interfere? Why did

the Senator remain silent, and throw the responsibility on the Chair? He announced his construction of the rules, and the Senate acquiesced. Mr. T. believed that the decision of the Chair was correct. It belonged to this body to originate rules—to the Chair to enforce them.

Mr. VAN BUREN would be disloyal, he said, to his Senatorial duties, if he did not enter his protest against the doctrines advanced in this debate. He then spoke, at considerable length, in opposition to the opinion expressed, that the powers delegated, in the Constitution, could be enlarged to so great an extent as was claimed by implication. There had been, he said, a continual struggle in this country between the aristocratic and democratic principles. There was an active principle, which sought to draw power from the sources to the head; and there was an antagonist principle, which sought to draw power from the head to the sources. That man consulted the interests of his country who endeavors to restrain all encroachments of power. Mr. V. B. had at first viewed this question as one of expediency merely; and he was disinclined to vote for the amendment. But he had determined to vote for it: for he knew of no better mode of declaring the opinion of the Senate that there is no inherent power in the Chair, than by adopting that amendment.

Mr. DICKERSON spoke in favor of the amendment—declaring it to be his opinion that the Chair ought to have and to exercise the power to prevent such acts and words as might disturb the business of the Senate.

Mr. JOHNSTON, of Louisiana, said, he would not delay the Senate by a reply, but with a short explanation. He concurred with the gentleman from New Jersey, that we claimed very little power for the Chair; it was the mere power of calling to order—to prevent disorder. He had no power to punish—it is a mere conservative right. The power to decide what is order is already conferred by the rules. One gentleman founds his argument on the danger of the power, while the other argues there is no such power, because he cannot enforce his authority.

The gentleman from Virginia [Mr. TYLER] has misconceived the argument with regard to the Manual of Mr. Jefferson. It has not been considered as adopted by the Senate. But it is a work compiled by an eminent man, who presided over the Senate, and is high authority on subjects of parliamentary usage. It is read as evidence of that usage. Our rules "are few," but we know what intricate and difficult questions arise for the decision of the Chair, which are submitted, says Mr. Jefferson, to his discretion. He informs himself by a reference to the best writers on the subject. These are read as the results of experience—they have the authority of reason—and no more. As in military courts you refer to works on courts-martial, and as in civil courts you would read what enlightened men in every language and in every age and country have written on the subject—that which makes Pothier authority in our courts, and the opinions of our Supreme Court respected every where.

One word only to the gentleman from New York. It would have become him more to have replied to the argument, than to have denounced the principles on which it was founded. I have offered to him and the Senate my opinions, supported by those illustrations and reasons that occurred to me. The gentleman finds it more convenient, by a short cut, to leave the argument unanswered, and to denounce the principle as "anti-republican,"—"aristocratic,"—"dangerous,"—"and monstrous." I have stated only the practice of this Government, under the Constitution. The principles have been acted on by the ablest men in this country, at different periods, or have received the sanction of every branch of the Government, and have been approved by the People; and it is not now for him to stigmatise these principles with such epithets.



SENATE.]

*Powers of the Vice President.*

[Feb. 13, 1828.]

The object of his remarks seems to me intended rather to review old party distinctions, than to discuss political principles. They can only be invoked to excite prejudices, which it has been the object of all parties, for the last twelve years, to forget. The principles which I have maintained are not to be shaken by that mode of argument. I rose merely to explain, not to reply.

Mr. MACON expressed himself at length in opposition to the amendment, which he considered unlikely to be of any benefit. He had rather expunge the 6th and 7th rules, than pass this amendment. He did not believe in the doctrine of inherent powers, and was of opinion that the discretion of any man, if he were as wise as Solomon, would not be a proper guide for his direction.

Mr. CHAMBERS said, he did not rise to go into the general argument; he wished, however, to confine the attention of the Senate to the true question. It had nothing to do with latitude of debate. He did not wish to restrain it, and he did not believe any man on the floor had such a wish. His wish was to secure Senators in their feelings, as well as their persons. He wished to vest in the Chair the duty, as well as the right, to call to order a member, who, in debate, might use offensive or insulting personal remark toward a member. He was not solicitous about the manner. The Chair does not believe it now has this power. The gentleman from New Jersey, [Mr. DICKINSON] had argued the propriety of this necessity sufficiently. He was surprised that any could doubt the propriety of it. The whole effect of an offensive remark is to be traced to the time, place, and circumstances which accompany it—and, above all, to the person to whom it is made. We have every day occasion to witness and deplore the total want of truth which exists in relation to charges made by irresponsible individuals against public men. We are ourselves often the victims of gross slander. Our expressions are perverted, our opinions misrepresented, and sentiments ascribed to us which we never entertained, and even when we disclaim them. But will any intelligent portion of the community pass judgment against an honorable member of this House, because, forsooth, some irresponsible, unknown scribbler in a newspaper thinks proper to impeach his character? Will any man on this floor, who has the certificate of a Sovereign State as the evidence of his integrity, be injured in public estimation by the foul attacks of an equally irresponsible and upstart editor, who, begotten amid the mad passions of excited political elements, pursuing the business of calumny and detraction, as his avocation, with an assiduity and a zeal which proves him equally regardless of truth, and insensible to shame; whose insatiate thirst for the life-blood of honor is never allayed by the victims daily immolated on his polluted altar—will such aspersion, I ask, injure the fair fame of any man whose life and conduct has claimed the confidence of his constituents? No sir, they will not; and therefore we want no rule on the subject. With such individuals, no gentleman on this floor can enter the lists, or wish to engage in altercation: for one, sir, I would not be made to do so. The vile work of such a being is destined to the fate which its author merits and will certainly experience. A few revolving moons will bring on the period when such an ephemerical creature, having blustered through the impure atmosphere in which alone he can live, will be annihilated by the calm and sober sense of even those who once tolerated his vices; when oblivion will shroud both the agent and his infamous labours, and conceal their odious character from the memory of all. But, sir, widely different is the case of an offensive remark made here, and recorded amongst your Journals. The station of the speaker, the theatre of his operations the supposed responsibility under which he acts, are all calculated to attract the notice of all who hear him; and when in after times the knowledge of the charge is fur-

nished by your records, the grave circumstances which surround it will leave much room to infer that it would not have been made without some ground on which to erect it. I would therefore use every means to prevent the introduction of such language into a debate here. Let it be known and proclaimed by your rules, that it is not a matter of speculation whether the member who so far forgets himself as to indulge in personal and insulting remark, shall be called to order. Let it be certain that any effort to do so will be repressed, and that the vigilant observation of the chair will prevent the intention of such a person, and make it result in a recoil upon himself.

On motion of Mr. BELL, the yeas and nays were ordered on the question.

Mr. ROWAN moved that the question be divided. He might vote in favor of the latter clause of the amendment, but was opposed to the former.

Mr. FOOT asked whether the amendment could be divided.

The CHAIR considered that two propositions were embraced in it, and that votes might be taken separately upon them.

Mr. BERRIEN expressed the same opinion, and, after a few remarks, he made a motion to adjourn: which was rejected.

Mr. ROWAN withdrew his motion to divide, and moved to strike out of the amendment, the words "President or"—leaving the right to call to order in debate, to the Senators only.

Mr. FOOT inquired whether this proposition had not already been decided by the rejection of the amendment proposed by the Senator from Georgia, [Mr. BERRIEN] yesterday.

The CHAIR expressed an opinion that the propositions were not the same, as that amendment embraced the proposition of the Senator from Kentucky, and several other objects.

Mr. VAN BUREN asked for the yeas and nays: the vote was then taken on striking out the words "President or;" and decided in the negative, by the following vote:

YEAS.—Messrs. Benton, Berrien, Eaton, Ellis, Johnson, of Kentucky, Kane, King, McLane, Macon, Ridgley, Rowan, Smith, of Maryland, Tazewell, White, Williams, Woodbury.—16.

NAYS.—Messrs. Barnard, Barton, Bateman, Bell, Boulogny, Chambers, Chandler, Chase, Cobb, Dickerson, Foot, Harrison, Hayne, Hendricks, Johnston, of Louisiana, Knight, McKinley, Marks, Noble, Parris, Robbins, Ruggles, Sanford, Seymour, Silsbee, Smith, of South Carolina, Thomas, Tyler, Van Buren, Willey.—30.

Mr. WHITE moved to divide the amendment, so as first to decide the question of conferring the right on the President, and then on the appeal of the Senate.

The division having been agreed to, the question upon the first portion of the amendment was decided in the affirmative, by the following vote:

YEAS.—Messrs. Barnard, Barton, Bateman, Bell, Benton, Boulogny, Chambers, Chandler, Chase, Cobb, Dickerson, Foot, Harrison, Hayne, Hendricks, Johnston, of Louisiana, Knight, McKinley, Marks, Noble, Parris, Robbins, Ruggles, Sanford, Seymour, Silsbee, Smith, of South Carolina, Thomas, Tyler, Van Buren, Willey.—31.

NAYS.—Messrs. Berrien, Eaton, Ellis, Johnson, of Kentucky, Kane, King, McLane, Macon, Ridgley, Rowan, Smith, of Maryland, Tazewell, White, Williams, Woodbury.—15.

The question on the second portion of the amendment then occurring, and Mr. FOOT having called the yeas and nays, it was adopted by the following vote:

YEAS.—Messrs. Barnard, Barton, Bateman, Bell, Benton, Berrien, Boulogny, Chambers, Chandler, Chase,

FEB. 15, 1828.]

*The Militia—Breakwater in the Delaware—Judicial Process.*

[SENATE.]

Cobb, Dickerson, Eaton, Ellis, Foot, Harrison, Hayne, Hendricks, Johnson, of Kentucky, Johnston, of Louisiana, Kane King, Knight, McKinley, McLane, Marks, Noble, Parris, Ridgley, Robbins, Rowan, Ruggles, Sanford, Seymour, Silsbee, Smith, of South Carolina, Tazewell, Thomas, Tyler, Van Buren, White, Willey, Williams, Woodbury.—44

NAYS.—Messrs. Macon, Smith, of Maryland.—2.

So the amendment of Mr FOOT, to the 6th rule, was agreed to.

The VICE PRESIDENT then rose, and said, that he took this opportunity to express his entire satisfaction with that portion of the amendment giving to Senators the right of appeal from the decision of the Chair, as it was not only according to strict principle, but would relieve the Chair from a most delicate duty. As to the power conferred upon the Chair, it was not for him to speak; but he assured the Senate that he should always endeavor to exercise it with strict impartiality.

Mr FOOT then moved to amend the 7th rule by inserting, after the words "called to order," the words "by a Senator," making it requisite to write down the offending words uttered by a member, only when a Senator should have called him to order; which was agreed to.

Mr. MACON asked whether a vote should not be taken on the two amendments.

The CHAIR answered, that the division of the amendment precluded the necessity of doing so.

Mr. NOBLE remarked that the Chair ought to be assisted by every member in keeping order. He had voted for the amendment, because it made the power of the President doubly sure. It gave him a power which he, Mr. N., had no doubt he possessed from the Constitution; and he hoped that, under the present regulation, the flood-gates of the waters of Roanoke would never be opened to inundate the Senate Chamber again.

FRIDAY, FEBRUARY 15, 1828.

#### THE MILITIA.

On motion of Mr. CHANDLER, the bill for the organization of the Militia of the United States, and for the discipline thereof, was taken up.

Mr. HAYNE moved to amend the bill by striking out "21," and inserting "18," making the bill include all persons between the ages of 18 and 28.

The motion was opposed by Mr. CHANDLER, and supported by Mr. HARRISON; when the question being taken, the Senate divided, and the vote stood 22 to 22. The Vice President gave the casting vote for the amendment.

A further debate took place on the bill, in which it was supported by Messrs. MACON, SMITH, of Md. and CHANDLER, and opposed by Mr. HAYNE.

Mr. HARRISON did not agree in all the provisions of the bill; but was clear that something must be done. He, therefore, moved to lay the bill upon the table, and submitted the following resolution:

*Resolved*, That the report on the subject of the militia, made in the year 1790, by Henry Knox, Secretary of War, and submitted to Congress by the President of the United States, be printed for the use of the Senate.

Mr. CHANDLER said, that the only objection that occurred to him to the motion was, that it would create great delay. He should not be opposed to it, if the bill could be called up early.

The motion to lay the bill on the table was then agreed to—and the resolution submitted by Mr. HARRISON was, by unanimous consent, agreed to.

MONDAY, FEBRUARY 18, 1828.

#### BREAKWATER IN THE DELAWARE.

On motion of Mr. WOODBURY, the Senate proceeded to the consideration of the bill to provide for the con-

struction of a Breakwater at the mouth of Delaware Bay; and an amendment proposed by the Committee on Commerce to authorize the expenditure under the direction of the Secretary of the Treasury, instead of the Secretary of the Navy, was agreed to.

Mr. WOODBURY explained the objects of the bill, the different plans that had been formed for the construction, and the various estimates of the cost of the Breakwater, and moved to fill the blank in the bill with the sum of 250,000 dollars.

Mr. SMITH, of Maryland, made some remarks in favor of the bill, when the motion to fill the blank with 250,000 dollars was agreed to.

Mr. MARKS made some remarks in favor of the bill.

Mr. KING moved to strike out the "Secretary of the Treasury," and insert the "President of the United States." He thought the expenditure could be made more advantageously under the direction of the President.

Mr. WOODBURY remarked that there could be no objection to the proposition; and the motion was agreed to.

Mr. MACON called for the yeas and nays on engrossing the bill; which was sustained.

Mr. SMITH, of S. C. moved that the consideration of the bill be postponed to Wednesday.

After a few remarks from Messrs. WOODBURY and SMITH, of Maryland, the motion of Mr. SMITH, of S. C. was agreed to.

#### JUDICIAL PROCESS.

On motion of Mr. ROWAN, the bill to establish process in the States admitted into the Union since the year 1789, was taken up.

Mr. PARRIS moved the reconsideration of the vote taken on Friday, on the amendment offered by Mr. ROWAN; which motion was rejected.

Mr. PARRIS then prefaced a motion to recommit the bill, with some remarks explanatory of his motives.

On this motion considerable discussion took place, in which Messrs. SANFORD, KANE, ROWAN, WEBSTER, TAZEWELL, and JOHNSTON, of Louisiana, expressed themselves.

Mr. PARRIS then withdrew his motion to recommit; and Mr. JOHNSTON, of Lou. having questioned the Chair as to the propriety of moving to reconsider the vote of Friday, on Mr. ROWAN'S amendment, the President observed that it would be in order to move to reconsider the vote on reconsideration.

Mr. SMITH, of Md. moved to reconsider the vote on the motion to reconsider.

This motion was warmly opposed by Messrs. ROWAN and TAZEWELL.

Mr. WEBSTER said, that some extraordinary propositions had been laid down in the argument that had just been pronounced; but the lateness of the hour induced him to move an adjournment.

TUESDAY, FEBRUARY 19, 1828.

#### JUDICIAL PROCESS.

The unfinished business of yesterday, being the bill to establish process in the States admitted into the Union since the year 1789, was then taken up, and the question being on reconsidering the vote on the motion of Mr. PARRIS to reconsider the vote on the amendment offered by Mr. ROWAN on Friday last—

Mr. WEBSTER addressed the Senate at great length in favor of the motion. He entered into a view of the ostensible objects and ultimate effects of the bill under consideration, and argued that the former were not adhered to, while the latter would be disastrous and inconvenient in the extreme. He replied in detail to the arguments urged yesterday by Messrs. TAZEWELL and ROWAN, discussing the signification given by the process acts of '89 and '92, to the term civil law, by which

[SENATE.]

*Columbian College—Claims of Abraham Ogden—Delaware Breakwater.*

[FEB. 20, 1828.]

equity process was to be regulated, and opposing the idea that the common law was alluded to by the terms of those acts. He considered that, if the bill passed in its present shape, it would destroy all equity process in many of the old States. He was perfectly willing that the advantages asked for by the new States should be acceded to them, but felt it his duty to oppose a bill which threatened so much evil to the older members of the Union.

Mr. VAN BUREN supported the motion, remarking that the bill, in its present form, was allowed to progress merely through an oversight of the Senate.

Mr. ROWAN said, that, in order to correct some matters of fact on this subject, it would be necessary for him to consult certain documents. He therefore moved to lay the bill on the table; but withdrew his motion at the request of

Mr. KANE, who replied briefly to some portion of the remarks of Mr. WEBSTER; to which the latter answered in a few words.

Mr. ROWAN then renewed his motion to lay the bill on the table; which was agreed to.

#### COLUMBIAN COLLEGE.

On motion of Mr. EATON, the orders of the day were postponed, and the bill for the relief of the Columbian College was taken up.

Some amendments were agreed to, and some conversation took place between Messrs. EATON and CHANDLER, which, from the tumult in the gallery, the Reporter could not hear.

Mr. SMITH, of South Carolina, said, that, as there were many persons connected with this transaction, he wished to know from the committee whether those persons who formerly owed the sum about to be given up, would now assume the debt. Would Mr. Rice become again liable for the 15,000 dollars due by him; and was Col. McKenney willing to suffer an embargo upon his salary for the sum for which he was indebted.

Mr. EATON made some remarks which were imperfectly heard. He was understood to refer the gentleman from South Carolina to the report of the committee on the subject.

Mr. SMITH, of South Carolina, said that he had not read the report. It was a very long one; and it was impossible for gentlemen to read all the reports that were laid upon their tables. If they could, they had better capacities and better constitutions than he had. He hoped, therefore, in order that he might read this document, that he should be indulged in a motion to postpone the consideration of the bill till to-morrow.

The motion was then agreed to.

#### CLAIM OF ABRAHAM OGDEN.

Mr. EATON moved that the question on reconsidering the vote on the bill for the relief of Abraham Ogden might then be taken. Mr. E. stated that the motive with which he asked the reconsideration of that vote, arose from a statement made to him by a gentleman acquainted with the subject, who informed him that further evidence was in preparation in the Navy Department, and would shortly be laid before the Senate.

Mr. FOOT said, if there was a point at which discussion should end, it had been arrived at on this subject, which had been decided by the yeas and nays.

Mr. WOODBURY said, that if, when the new evidence appeared, it should not alter the aspect of the case, the Senate could persist in its former decision. He did not pretend to declare whether such a result would or would not be produced.

Mr. KING opposed the motion to reconsider, and moved to lay the motion on the table; which was agreed to.

WEDNESDAY, FEBRUARY 20, 1828.

#### COLUMBIAN COLLEGE.

On motion of Mr. EATON, the preceding orders of the day were postponed, and the bill for the relief of the Columbian College was taken up.

Mr. SMITH, of South Carolina, said that it might be supposed, from his having asked the postponement of the bill to this day, that he intended to address the Senate upon the subject. He did not intend to do so, farther than to state that he had read the report of the committee, to which the gentleman from Tennessee had yesterday referred him, and had not received from it the satisfaction which he had desired.

Mr. CHANDLER said that the opinion might have been formed, from what he said yesterday, that he was opposed to the object of the bill. He was not. He only wished that the property and sureties in the hands of the College might be given up to the United States. If that was faithfully provided for, he did not oppose relieving the College from its obligation.

Mr. RIDGELY said that the object of the bill was to give up the obligation of the College, only on condition that the houses and lots conveyed to the College should be reconveyed to the United States, and the notes of McKenney were also given up. The notes had not been assigned to the College; they had been simply delivered to the College. It would be at the discretion of the officer of the Government to defer the relinquishment of the obligation of the College until the property and papers were delivered up. He moved to amend the bill, as was understood by our Reporter, to guard the bill more fully in this respect; which was agreed to.

The bill was then ordered to be engrossed for a third reading.

#### DELAWARE BREAKWATER.

On motion of Mr. WOODBURY, the orders were postponed, and the bill making appropriation for the construction of a Breakwater near the mouth of the Delaware, was taken up. [This bill makes an annual appropriation of \$250,000 for ten years.]

Mr. SMITH, of South Carolina, spoke briefly against the appropriation, on the ground that the reports of the engineers upon the subject were not satisfactory, and that the revenue did not authorize so large an expenditure as the bill contemplated.

Mr. McLANE spoke at great length in support of the bill, sustaining its importance, not only to the States in the vicinity of the Delaware, but to the interests of commerce throughout the country. He also supported his arguments by citing many documents and computations, showing that immense losses of property and lives had hitherto been sustained by the dangerous navigation of the Delaware, and the advantages to commerce and the revenue which would result from the completion of the Breakwater.

Mr. CHANDLER thought, that, as this was to be an experiment, the smallest sum reported ought to have been chosen, instead of the largest.

Mr. McLANE replied briefly to Mr. CHANDLER.

Mr. SILSBEE supported the bill, as a measure of great concernment to the interests of commerce throughout the Union.

Mr. SMITH, of South Carolina, replied at considerable length to the observations of Mr. McLANE.

The bill was further supported by Messrs. SMITH, of Maryland, RIDGELY, and BARNARD.

THURSDAY, FEBRUARY 21, 1828.

#### JUDICIAL PROCESS.

On motion of Mr. ROWAN, the Senate resumed the motion of the 18th instant, to reconsider the vote on the

FEB. 20, 1828.]

Judicial Process.

[SENATE.]

reconsideration of that of the 14th instant, on engrossing the bill for regulating process in the Courts of the United States, in States admitted into the Union since 1789.

Mr. ROWAN said, that he should have been contented to take the vote when this question was under discussion on the day before yesterday, but that the Senator from Massachusetts (Mr. WEBSTER) had referred to the process laws of Kentucky, in connexion with the rules of the Federal Court, in such a manner as rendered it necessary, in his opinion, to have special reference to those rules. The gentleman had, moreover, misstated the execution laws of that State. To have it in his power to correct the misstatement of the gentleman, and to produce the rules of Court, he had requested the postponement.

The gentleman had stated, that the laws of Kentucky would not permit an execution to be taken out by a creditor upon his judgment, unless he would endorse, that no current or unavailable bank notes would be taken in discharge of it. That, to remedy this evil, the Federal Judges had made the rules complained of by the Senators from Kentucky. He added, moreover, that the execution laws of Kentucky were declared, both by the State and Federal Judges, to be unconstitutional and void.

Sir, said Mr. ROWAN, as to the first statement of the gentleman, it is utterly erroneous—there never was a law of Kentucky which forbade the plaintiff to sue out execution upon his judgment, unless he would endorse that he would take unavailable paper in discharge of it. I do not know, said Mr. R. whence the gentleman obtained his information, but I do know that it is incorrect. It was always competent for a plaintiff to sue out his execution immediately after the term had expired, at which he had obtained his judgment. But there was a period in that State, in which the defendant in the execution, could when it came to be levied upon his property, replevy the debt for two years, unless the plaintiff had endorsed that he was willing to receive the current bank notes of the State, in which case he could replevy for three months only.

Why the gentleman should have referred to the execution laws of Kentucky, he could not well perceive, for whether those laws were, or were not, constitutional, or expedient, must be foreign from the point under discussion, which was, whether the Judges possessed the power to make execution laws under any circumstances. If, under color of making rules of Court, they possessed the power to make execution laws, then they could have exercised that power, whether the execution laws of the State had been wise or foolish, void or valid. And if they did not possess the power to legislate, then they could not, under any state of things, have made those execution laws, or rules. But, as the laws of that State had been mentioned by the gentleman, in a manner that might seem to imply censure, he would, while he reprobated, in the most emphatic manner, the right, or propriety, of any Senator's censuring the conduct of a State, claim the indulgence of the Senate for a few moments, while he vindicated the State, by which he had been honored with a seat in that body, from the imputation which that gentleman had been pleased to utter in innuendoes. He would, however, premise, as a fact well known, not only to physiologists, but to all close observers of human nature, that the Creator of man has wisely and benignantly endowed him with energies beyond what are required for the ordinary avocations of life—energies for special and extraordinary exigencies, which lie dormant until the emergencies, which awaken and call them into action, occur; that the degree of energy beyond the stock habitually employed in the ordinary pursuits of life, which shall be called into exercise upon any occasion, depends upon the excitement which the occasion produces. Now, sir, it is known that there is no general condition of society which excites its members so powerfully as a state of

war. Hence it has been said by wise men, that it is but little less dangerous to close, than to commence a war. To allay the stock of excitement which that condition produces—to ease men down to their ordinary pacific pursuits, from a high and fervid state of excitement; or, if the simile may be allowed, to let off the steam when the voyage is closed, without bursting the boiler, deranging the machinery, or injuring the passengers, is a task of great delicacy, and very great difficulty. This excitement may be extraordinary even for a state of war. It may be rendered so by an infinite variety of occurrences. A spirit of disaffection among those who are carrying it on; unexpected disasters: a savage and brutal species of warfare, on the part of the enemy, are among the causes calculated to produce almost preternatural excitement during its progress; and, upon its sudden termination, to expose society, in its pacific state, to the effects of the very highest wrought war-feeling. Sir, such was the character of our last war. We had beheld in other quarters, for more than twenty years before its commencement, the fiercest, the most desolating ravages of war. We had not looked on as cold and heedless spectators; we could not do so. The scenes, though tragic, were grand and magnificent. All Christendom, with the exception of the United States, were involved in the war; and the United States and all the rest of the world looked on with wonder and amazement. Never did nations contend more strenuously; never did war crowd upon the gaze of mankind events more splendid, or in more rapid succession.

The United States were subject, not only to the excitement which a spectacle so grand, so august, could not fail to produce on them as mere spectators; but they were unceasingly exposed to collision with some one of the beligerents. They were, in fact, for much of the time, in a state of *quasi* war with more than one of them. Then, sir, when the war really came, it found the people of this nation in a state of great excitement. Let me ask if the occurrences during that war were calculated to diminish that state of feeling? The disaffection of some of the States; their refusal to co-operate in bringing it to an honorable close, surely was not calculated to damp the ardor, abate the zeal, or diminish the patriotism of the people of Kentucky. The Kentuckians, said Mr. R. are, and I speak it with pride, a brave and chivalric people. They felt all the zeal for the glory of their country, with which its accumulated injuries could inspire an ardent, a brave, and a patriotic people. They never hesitated, never faltered for a moment. They poured out their blood like water on the northwestern frontier. They were prodigal of life at Tippecanoe, the plains of Raisin, at Dudley's rencontre, on the Thames, and Orleans. Sir, Kentucky was widowed by the war—she was bereaved, by its ravages, of some of her most distinguished sons. I need not, said Mr. R. name them; the occasion does not require it. Among them were Colonels Allen and Davies—men surpassed in none of the States, in no part of the world, whether you have reference to their virtues or their talents. Sir, the glory of the closing scene of the war was calculated, by its effulgence to excite to rapture such a people as the Kentuckians, and they did enjoy the raptures of that unparalleled victory—a victory which they had assisted to achieve—a victory, which obscured, by its splendors, the mortifying occurrences at this place—yes sir, which obliterated the deformation, by the enemy, of the proud edifice in which we now sit, and healed the wound inflicted upon the just pride of the patriotic portion of the American people, by that humiliating event. But, said Mr. ROWAN, I have dwelt longer upon this part of the subject than, perhaps, I ought. The object was to show that the people of Kentucky were not cold-blooded, indifferent spectators; that they were greatly excited, and entered into the cause of their country, with animation and zeal; that the disasters and

SENATE.]

Judicial Process.

[FEB. 20, 1838.]

victories, in which they participated largely, were calculated to excite, and did excite them greatly; that at the close of the war they were left in a state of very high feeling. And, in conjunction with these, he begged leave to state another fact, not without its influence in producing the state of things which ensued, and at which the gentleman has alluded, not, indeed, with express, but with evident implied reprobation. Sir, it must be recollected that the United States' Bank did not exist at that period; that the State Banks furnished much of the money, with which the war was conducted; Kentucky furnished her full portion. The needs of the government, and the excitement to which he had alluded, had produced, perhaps, an inordinate issue by the Banks, in that State. The men and supplies furnished by that State, caused, naturally, during, and at the close of the war, a plenary, if not profuse, circulation of local notes. This furnished, to the excited state of the public mind, facilities for the indulgence of feverish and extravagant projects; impracticable plans were honestly, but erroneously formed; chimerical notions of wealth and aggrandizement were cherished. In fine, the state of feeling was suited to the occasion which had produced, and not to the condition which had ensued it. They enjoyed peace, while they were under the influence of war feelings. The Bank of the United States was created immediately upon the close of the war, and the Government, very unwisely, as he always thought, determined, suddenly, through its instrumentality, to restore, not gradually, as it ought, but suddenly, a metallic currency.

The effects of this unwise measure are known to all; they were felt by almost all in Kentucky. The change, Mr. President, was too sudden—the shock inflicted by it was too severe—the sacrifices produced by it were too numerous and too agonizing—the basis upon which the enterprise, the hopes, and the happiness of the people of that State rested, was suddenly and unexpectedly taken from under them, and they were turned over, as lawful prey to the Bank of the U. States, and the mercenary vultures that hovered round that institution. The Legislature of the State, in the laudable view to mitigate the calamities, which had so suddenly and so unexpectedly overtaken the people, and to save from ruin as many as possible of her citizens, by affording them time to disembarass themselves, passed an act authorizing the defendant, when the plaintiff had not endorsed, that he would take the current notes of the State, to replevy the debt for two years, but denying to him, when the plaintiff had made such endorsement, the right to replevy, for more than three months. And what was the mighty evil of this delay? The defendant executed a bond, with two approved securities, for the payment of the amount of the execution within two years. The debt was made perfectly secure; it bore interest during the time, and had the force of a judgment, upon which execution issued, as matter of course, and upon which there could be no delay. The injury was, if an injury that may be called, which is a public good, that the plaintiff was not permitted to take the entire estate of the defendant for less than a one hundredth part of its value. There was no money which would be taken, save what little could be obtained from the United States Bank; and that was not obtained by debtors, and when obtained, was employed by those who could obtain it, in merciless speculation, at forced sales by the sheriff. The contracts had all been predicated upon the local currency—none other had been known or thought of, that had been put down by the United States Bank—a new state of things had ensued. The creditor refused the medium for which he had contracted, and demanded payment in one which had been suddenly created, and could not be suddenly obtained. The Legislature not only passed this law, but passed a law also abolishing imprisonment for debt; thus affording to the brave fellows

who had fought the battles of their country, an opportunity of paying their debts, without the entire sacrifice of their property, and the loss of their liberty, by imprisonment. And mark, Mr. President: The great majority of the creditors in that, as under like circumstances they will always be, in every State, were not the ardent, generous, brave men who had entered, with their whole soul, into the war which their country had been constrained to wage. They were mostly, your cold-blooded, cunning, calculating, avaricious men, whose only love of country was love of money—whose patriotism was cupidity, and whose zeal was to enrich themselves, and to ruin the men who had saved their country. These, sir, were few—but they were clamorous—and their clamors were echoed by capitalists from every quarter—and we all know that the capitalists were not the patriots in our last war.

But, he begged leave to ask, if Kentucky was the only State that had, by her enactments, attempted during the war to suit her code to her condition? Sir, a great majority of the States altered their execution laws. Public sentiment approved it, because the deranged condition of affairs required it. Virginia, the ancient dominion, a State as distinguished for the correctness and stability of her political creed, as for the heroes and statesmen which she has produced—even she suspended executions, for (he believed) twelve months. But why quote examples—what are the States for—what the annual session of their Legislatures—but, by changing the laws, to suit them to the varying condition of society?

It is true, sir, that the Circuit Judge pronounced the replevin law of Kentucky to be unconstitutional and void. He declared the law to be void, because it delayed justice, and immediately enacted a law which authorized the defendant to replevy for three months. He declared the replevin law of the State to be unconstitutional, and immediately made a replevin law. He declared the law of the State, abolishing imprisonment for debt, to be void for the same reason, and immediately enacted an imprisonment law. [Here Mr. Rowan presented to the House the rules made by the Federal Judges of the Kentucky District. They consisted of 17 Sections. They were read by the Secretary of the Senate in his place.] Sir, said Mr. Rowan, if the judge had really believed these laws of the State to be unconstitutional, and, if he had really believed, also, that he possessed legislative power—a respect for himself—the pride of consistency, and a decent respect for the sentiment of the State should all have restrained him from the course which he pursued. There was an unparalleled audacity in ordaining, by rule of Court, a replevin law, when he had determined that law on the part of the State to be unconstitutional. There was an insolent defiance of public sentiment, in ordaining imprisonment for debt, after the Legislature of the State, had abolished it. Sir, we hear a great deal about the purity and sanctity of the judicial character, and eulogies without number are pronounced upon the present incumbents. He had nothing to say about the men; it was the corporate powers of the judicial department, and not with the Judges, that this Senate had to do in the present question. He must, however, be permitted to say, that he did not rate very highly that sanctity which was unceasingly employed in profaning the State laws, and State authorities—which, in the exercise of a little usurped and brief authority, outraged the sacred principles of freedom, and drew into contempt the most solemn civil institutions. Sir, you have in the rules of court, which have just been read, a full and complex code of execution laws including replevin—imprisonment for debt, and a system of conveyancing. The very highest attributes of sovereignty are exerted in conclave by these judges. They make their rules, which subject your property to seizure and sale, and your body to

[FEB. 20, 1828.]

*Judicial Process.*

[SENATE.]

imprisonment. They are not printed nor promulgated; and yet, like the laws of the Tyrant, they must govern, though they cannot be read, or known. Sir, said Mr. Rowan, we are this day debating whether the Judges shall exercise a legislative power to an extent, and in a manner, which drew upon that tyrant, the just execration of all mankind. Our freedom consists, essentially, in the fact, that we are governed by laws, made by ourselves—that the will of the majority, definitely expressed, and duly promulgated, is the only power to which freemen are constrained to bend. But, what is the judicial doctrine which, he was sorry to see, had so many advocates in this body? Why, not that the voice of the majority, but that the will of one or two Federal Judges—under (he supposed) the sacred guidance of that faithful monitor, their conscience—should regulate the property and the liberty of the people of these States—and that, too, not published, but retained in the office of their own clerk. The Judges and the lawyers of the Court well know what the rules are, and the people may know, by making a pilgrimage to the office of the clerk and paying him for a sight of them. But that the Judges and the lawyers should know the law, seemed to the Senator from Massachusetts sufficient. It was not, in his opinion, necessary that the people should know them. This doctrine was urged by the gentlemen with a zeal, which he had but little expected. He would notice it more at large hereafter: for the present, he was concerned with the Legislative power asserted for, and exercised by the Judges. Sir, said Mr. Rowan, the legislative power, according to the theory of our Government, is never to be exercised but under strict responsibility to the people, whose will gives obligatory force to the law. But under what responsibility do the Judges legislate? They are in office for life, and can only be removed by impeachment, for malfeasance in office. Their office is judicial, not legislative. Could they be impeached for corrupt legislation? Would it be official malfeasance? They were commissioned to judge, not to legislate—to expound, not to make laws. Their legislative exertions would not be official, and so, not subject, to even the remote and nominal responsibility of impeachment.

Mr. President, all the distinguished writers upon political science agree that the concentration of the legislative, the judicial, and the executive power in the same person, or body, constitutes despotism. These three powers were exercised by the Federal Judges in Kentucky; and that, too, in relation to topics the most critically interesting of any that fall within the scope of those powers, in their divided and best adjusted shape in immediate relation to the enjoyment of his liberty, and the possession of his property by the citizen. That, surely, is the highest act of sovereignty, which takes from a man his liberty, or which takes from one man his property, and gives to another; yet these Judges make the rules by which this is done—they expound them, and they execute them. Sir, said Mr. Rowan, if this thing is sanctioned, we have gained nothing by the Revolution; we have lost by it. For such a power was never asserted for, or exercised by, the Judges of England. It would not be tolerated by the people of that country. The people of that Government have, at various periods of its history, been very much harassed and grieved by the pliancy and corruption of their Judges, but they never were, as the people of Kentucky have been, oppressed by the usurpation, on the part of even their most corrupt Judges, of the legislative power. Sir, this assumption of the legislative power, by the Federal Judges of Kentucky, has caused much anxiety to the people of that State. They have remonstrated to Congress, repeatedly, and most solemnly against it. Their remonstrances have hitherto been unavailing. They have been patient, not from any proneness on their part to submit to judicial, or any other kind of tyranny,

but from a love of order, and in the hope that their wrongs would be redressed by Congress; when that hope ceases, let the petty oppressors beware how, and upon whom, they exercise their ill-derived power. But, Mr. President, why should their reasonable expectations of redress from Congress be disappointed? What is there in judicial legislation which can enamour Congress with it? The excellence of all legislation is in the adaptation of the laws, by those who make them, to the condition of those for whom they are made. The Judges are not from among the people; they are, by their office and their salaries, placed above the fluctuations, and freed from the cares, to which the people are unceasingly exposed. They cannot, therefore, if they were qualified, in other respects, be sufficiently acquainted with the will of the people, their wants and their sufferings, to legislate beneficially for them. But, Sir, when did this idea of judicial legislation first present itself to the American People? The law of Congress, authorizing the Judges to alter the forms of process, and to make rules, for the regulation of its own judicial proceeding in court, was, we all know, passed in 1789, and re-enacted in May, 1792. But nobody ever thought that either of these laws conferred legislative power upon the Judges. They themselves were unconscious of possessing any such power. The alteration of State process, in the article of form only, so as to adapt its use to the organic structure of the Federal Courts, was known to be all that was intended by Congress, in those acts. Nor, sir, did the Courts ever dream of exercising any other or further power under color of those acts, until since the war, and the establishment of the United States Bank. The experiment was first made in Kentucky, in the case, and under the auspices, of that Bank—backed by all the talents, influence, and weight of character, which that institution possesses so amply the means of enlisting. The experiment was, unhappily, but too successful. The gentleman from Massachusetts tells us that the invalidity of the Kentucky execution laws was a great evil, and that the Judges were called upon to apply the remedy. It is admitted to be the duty of the Judges to apply the remedy. But it is asserted to be the right of the Legislature to make it. Every remedy pre-supposes an evil. To explore the condition of society, to ascertain the existing evil, and to frame and suit the remedy to the evil, is the province of the statesman. To apply the remedy, when provided, is the duty of the Judge. Neither should trench upon the province of the other. These different duties require very different capacities and attainments, so that the apology offered by the gentleman, for the Judges, is, at best, but the stale apology for oppression. The plea of necessity is the habitual excuse for tyranny. But if the Judges had felt the urgency of that necessity, which the gentlemen assert in their behalf, why did they not refer the case to Congress, whose exclusive province it is to legislate for the tribunals of the United States? Sir, the legitimate source of the governing power in this country, as we all know, is in the People. None can be exerted by any public functionary which has not been delegated.

How much more becoming and decent would it have been in those Judges, if they had even believed the State laws to have been unconstitutional, to have surrendered their judgment to that of the people of the State, until Congress could have passed upon the subject; to have supposed that, according to any, and every rational criterion of correctness, that half a million of intelligent people, who compose the State of Kentucky, were right, and they wrong; than to have bewildered themselves in the mazes of abstraction, to find that the legal obligation of a contract consisted in the remedy alone. Sir, the logic of the Judges upon this subject is new, and somewhat curious, but more dangerous than either. It is thus they reason: "The Constitution of the United States provides

that no State shall pass any law impairing the obligation of contracts; the obligation of a contract consists alone in the remedy for its enforcement; any State law which varies the remedy, impairs the obligation of all existing contracts, and is, therefore, as to them, unconstitutional and void." The evident tendency of this doctrine, if its absurdity could be tolerated, is consolidation. It is to paralyze the States, by denying them the exercise of the legislative power, upon which alone their freedom and their happiness depends. The laws of right and wrong are divine and unalterable. The laws for the suppression of wrong and the enforcement of right, are human, and may be modified and varied to suit the varying or varied state of society, as the wisdom of the people, legitimately exercised, shall dictate. The language of reason which has had the practical sanction of all free governments and without which free governments could not exist, is that the remedy is in the discretion of the sovereign legislative power. The gentleman may say—as he said in relation to the execution law of Kentucky—the sovereign legislative power may be misexercised or abused; and, in that case, the Federal Judges must apply the remedy to the evil. He would answer, that the power of enacting remedial laws must be lodged somewhere, and that the people were, at least, as safe a depository of that power as the Judges; besides, if it were lodged in the hands of the Judges, they too, might misexercise or abuse it; and who, in that case, should apply the remedy to the evil? For the doctrine of the gentleman is, that wherever there is an evil, there must be a remedy. Mr. R. said he agreed that there ought to be a remedy for every evil; he was sorry, however, to say, that the fact was not always so. There existed many evils, for which remedies had not been provided; and among the most enormous and grievous evil of that character, was the usurpation of legislative power by the Judges. He should be glad to see the gentleman support his doctrine by his vote, and assist in furnishing the appropriate remedy for this most afflicting evil. This evil, which, by violating the great principles of our free institutions, leads to, and threatens the destruction of our liberty; which, by usurping the power of the States, threatens their absorption; which, by conceding to the Judges the exercise of legislative power, denies to the States the right of regulating their own remedial system, according to their own will. Sir, the gentleman would remedy what he miscalls an evil in Kentucky, by an infinitely greater evil. He says, virtually, that the people of that State have abused the legislative power, and proposes to remedy the evil, by transferring that power to the Judges, without providing a remedy for its abuse by them. He is right in proposing no remedy for their abuses of this power; for when it is once conceded to them, it will be ille to talk of a remedy for their perversion or abuse of it. It must be irresponsibly, and will, of course, be irremediably exercised. But are we prepared for such a state of things? Are we prepared to sanction beginnings which will lead to such a result? Mr. President, the boundaries between right and remedy are planted deep in nature—the distinction between them is obvious and plain. Shall they be confounded, and the States be deprived of their legitimate power, by judicial mysticism? Shall it be filched from them by judicial subtleties, or extorted by the force of sophisms? Sir, the new theory of obligation is too wire-drawn, too sublimated, too evanescent, for the use of a republican people. The Judges should be permitted to amuse themselves with it as a sparkling abstraction, a pretty little brilliant, a glittering pageant of the fancy, or, if you please, an intellectual aurora borealis—but nothing more or farther. They should not be allowed to experiment with it upon the common sense of the people, at the hazard of their liberty: still less should they be permitted to impose it upon the people as the plan, upon which alone they could

exercise the power of remedial legislation. They should not be permitted to send it abroad among the States as a destroying angel, as impalpable, and as destructive of their rights, as was the visit of that mysterious agent to the first-born of the Egyptians. Sir, mystery on the part of the political agents, in any government, is the sure harbinger of the oppression of the people. It addresses itself to the credulity, not to the common sense of mankind. And common sense, or the power of reason, is the criterion to which alone should be referred the propriety or justness of any measure which may affect the liberty or the happiness of man. To the test of this standard alone, should every thing which affects his rights or his interest be subjected. Common sense revolts at the idea that the Legislature may provide a remedy for contingent and possible evils; but ought not, and cannot, exert any remedial agency for the mitigation of a present and urgent evil. That they may provide a remedy for evils which may never happen, but cannot, by any exertion of the remedial power, soften those which are present and pressing. Sir, a wise Legislature is like a wise and skilful physician, whose duty it is, not only to prevent, but, by remedial applications, to cure maladies, and to soften, by judicious lenitives, those which cannot be cured.

One gentleman, [Mr. M'Lane] says, that the Judiciary is the most important department in our Government. He compares it to a fixed star, shedding its clear, but mild light, throughout the political horizon. He, too, pronounces a eulogy upon the Judges, and says they can have no motive to do wrong. It is, (said Mr. R.) a sound rule in legislation, to suppose the worst, and provide against it. The Judges are men, and however good they may be, their successors may not be so. Wise men are subject to the errors of human frailty; foolish and vicious men are never without motives to do wrong. The Judges are men, and it is wise in the Legislature to guard against the injurious exertion of their power, either weakly or wickedly. While, like the fixed star spoken of by the gentleman, they continued to occupy their appropriate sphere, and to shed their lustre upon the other departments, they would have his approbation. But when, instead of the benignant beamings of a fixed star, they pursued the erratic, and desolating course of a blazing comet, threatening destruction to their coordinate orbs, he must be pardoned for withholding his approbation. But, to change the figure of the gentleman, for one less sublimated, he would say that the Judges, when caught poaching upon the legislative manor, should be driven off, and taught to confine themselves to the judicial demesne; and, dropping the figurative, into which he had been seduced by the gentleman from Delaware, he was willing to admit that the Judiciary were an important department in the Government. But their important usefulness consisted in the enlightened and faithful performance of their appropriate duties. Their duty was, he repeated, to expound, not to make laws. It was very far from his desire to disparage the Judiciary, or the Judges. He would avoid, alike, an idolatrous admiration, and a causeless censure, of the Judges. They were not more, and he would not have them thought to be less, than men. But he protested, once for all, against the morbid sensibility displayed by many gentlemen, whenever the powers or the duties of these Judges were drawn into discussion. Sir, the Judicial power is not of a complexion so delicate, nor of a texture so tender, that it cannot bear the breath of dispassionate scrutiny—at least, such was not the character of that portion of it which was exerted in vacating the Execution laws of Kentucky, and in creating a code of its own. It was hardly enough, in that instance, to defy and override the public sentiment of that State—and to outrage decency, and consistency in the manner of doing it, as he trusted, he had sufficiently shown in that part of his argument, which related to the Execution Code



FEB. 20, 1828.]

Judicial Process.

[SENATE.]

enacted by the Judges. He would venture to predict, without pretending to a spirit of prophecy, that whenever the most vigilant scrutiny of the people's representatives shall be withdrawn from that department, the liberties of the people will be endangered. Sir, that is the department through which oppression of every kind, and from every quarter, will attempt to smuggle itself upon the people. It is under color, and through the avenues of justice, in every government, that corporations exert their aristocratic influences. It is through that medium, masked in the forms of rules and usages of law, that oppression of every kind finds its way to the people. The power of wealth, and of all the factitious distinctions which arise in society, is harmless without the connivance of the Judges. Sanctioned by them, it is resistless—it is ruinous. Liberty, Mr. President, is never taken from a people at once, in their aggregate capacity. It is taken now from one, and then from another, under pretence of law, and with the sanction of its forms, until the only liberty left is the liberty of the rich to oppress the poor—the strong, the weak; and it ceases to be enjoyed by the citizens, only because of the resistless sanctity with which it has been wrested from them. Sometimes, indeed, it loses its fragrance by the frequency of its violation, and the people abandon it in disgust, or submit in despair. But in no free Government can the people be oppressed or enslaved without the consent of the Judges.

No man, as you may perceive, sir, said Mr. R., rates the judicial character higher than I do. But it is only valuable when it does its duty, and then it is inestimably so. He was, therefore, for requiring the Judges to do their duty, their whole duty, and nothing but their duty. The difference between the Senator from Delaware and himself, consisted in the supposition, by that gentleman, that the Judges would always do their duty, and no more; and by him, that they might, and would, if the restraining vigilance of the people were withdrawn, often transcend their duty. He was willing to appeal to history, ancient or modern, for the correctness of his opinion. He was persuaded that both would bear testimony in his favor. But why appeal, said Mr. R., to history? Why go to Rome, to Greece, to Carthage, or to England, in quest of facts? Have we not facts enough at home—at hand—of a modern and domestic character? Have not the Federal Judges boldly and unblushingly enacted a code of Execution Laws for the Kentucky District? Has not that State again and again remonstrated against their usurpation of the Legislative power? It was alleged by Cicero, in his prosecution of Verres, as an outrage of the utmost enormity, that, in his character of Quæstor, he had caused the punishment of stripes to be inflicted upon a Roman citizen, for an alleged crime; and that, too, in the most degenerate state of the Roman Republic. And shall it be thought a light matter, in our Republic, yet in its youth and vigor, that two Federal Judges passed a law subjecting the free citizens of the State of Kentucky to imprisonment for debt, contrary to the laws of that State? That they not only passed a law, making indebtedness a crime, but actually inflicted, by their decision, the punishment of imprisonment, by virtue of their own law, upon many unfortunate debtors within that State.

Now, Sir, said Mr. R., if to inflict stripes upon the body of a Roman citizen, charged with a crime, could draw forth from that immortal orator and patriot such a burst of indignant eloquence, what sensations of indignance ought to be felt by the patriots of this free and enlightened country against the Judge who, without color of crime—unless bereavements and misfortune subject their victims to that imputation—by a law of his own enactment, and by his own decision upon that law, and by the agency of his own marshal, has thrown into prison all the debtors of his court!—who has ordained, by rule of court, that poverty shall be punished with loss of liberty!

Sir, this is a point upon which, it would seem to me, there ought to be one opinion in this body and throughout the United States. If you accord to the judges the power of making laws, you do by that very act surrender to them the sovereign power of the Government. If you permit them to carry into effect, by their own judgment, the laws which they shall have made, you transform the Republic into an Oligarchy; and if, in addition to the power of making and interpreting the laws, you permit them to execute them, you substitute despotism for republicanism, and oppression and slavery for freedom.

But I feel almost ashamed to be urging, upon this body, arguments, of any kind, to prove what ought to be taken for granted. Sir, that the Legislative, the Judiciary, and the Executive powers, should be kept separate and distinct, and should be exercised by distinct bodies of magistracy, is an elementary truth acknowledged by all. It is recognized in most of the State Constitutions, and declared to be essential to the freedom of the People; and, in the Constitution of the United States, they are separated with an emphatic caution. And yet the assumption of this power by the Judges seems to excite no alarm. So far from exciting alarm, it is approved and advocated by some of the most distinguished members of this body.

Mr. President, there is a portentous indifference displayed by the States in relation to the violation of the great principles upon which their rights depend. When those principles are outraged in the case of any one of the States, the injured State complains, but her complaints are not heard, or, rather, not regarded, by the others; or, if heard, they are regarded as the ebullitions of a feverish impatience, of a restless and insubordinate temper, entitled rather to reprobation than sympathy. And what can the injured State do more than complain? She cannot alone repel encroachment upon her rights, by the General Government. The strength of each State is in the united efforts of them all, or, at least, of a majority of them. And how can that majority be enlisted in the cause of the injured State? Not by an appeal to her violated principles of State rights, nor by any portraiture of the wrongs which have been done her—nor by any invocation or remonstrance which she can make: for Kentucky has repeatedly remonstrated to the Congress on the subject of the usurpation of legislative power by the Federal Judges.

Sir, it is greatly to be feared that it is with the States as with individuals—they are only to be awakened to a sense of their wrongs, by their sufferings. It is owing almost exclusively to this cause that tyranny prevails, or oppression exists, or ever has existed, in the world. The heavy hand of tyranny is never laid upon a majority of the People at the same time. If they were, awakened by their injuries to a sense of their rights, they would annihilate the tyrant. It is so with the States—if a majority of them had seen the Federal Judges defy their laws, and dispose of the property and the liberty of their citizens, by laws arbitrarily made by themselves, they would have felt the outrage keenly and redressed it instantly. But be feared that, until the Judges should exert their legislative power in the other States as oppressively as they had in Kentucky, they would not awaken to the dangers with which they were threatened. They would not awaken to the consciousness that, in their connivance at the wrongs inflicted upon Kentucky, they virtually surrender their own rights, to the extent, at least, of the violated rights at which they have connived. But why talk of rights? When you have surrendered to the Judges the power of legislation, there are no rights left. You may, and no doubt will, have a splendid, but you will no longer have a free Government. You may have fine roads, and magnificent canals, made for you out of your own money, and by this bright illusion your attention may be diverted from the insidious underminings of your

SENATE.]

Judicial Process.

[FEB. 20, 1828.]

rights and your liberty, by the Judiciary Department of the General Government. But unless you associate with a quenchless love of liberty, and an invincible ardor to maintain it, the most untiring vigilance, your roads will be travelled, and your canals navigated, by an oppressed and enslaved, not by a free People. Sir, even now, while the Judges are legislating for the States, the General Government has, through the head of the Treasury Department, asserted its right to regulate the labor of the People of the States. Sir, the master regulates the labor of his slaves—a free People regulate their own labor.

Mr. President, I could not but remark, that, in the discussion of this matter, the gentleman from Massachusetts, [Mr. WEBSTER] instead of arguing the question relative to the right of the Judges to make execution laws—instead of attempting to prove, by some principle in the science of politics, heretofore undeveloped, that this power to legislate might be judiciously and safely inferred for, and confided to the Judges—has, throughout, taken it for granted that they possess the power. He is willing, to be sure, to limit it—to restrain it. He is willing that they shall not legislate as to the manner in which lands and slaves shall be sold, under execution, in Kentucky. But, Sir, that will not satisfy the People of that State—it ought not to satisfy the People of the United States. The People of Kentucky insist that either Congress shall furnish an execution code for the United States' Courts within the States, or that executions emanating from those courts shall be carried into effect according to the execution laws of the States respectively. They insist that the Congress and the Legislatures of the States possess the only law-making power which exists among us. They deny that either is so far decayed as to grow and sustain this execrable power asserted for the Judges. They will have none of it, and they invoke you to save them, by removing it, from the unpleasant necessity of resisting it. There is a point beyond which any thing would be better than forbearance. Kentucky has been made to drink deep of the cup of humiliation—her whole remedial system has been, at one time or other, violated by those Judges. First, the power of legislating over the soil within her territory was denied to her in the vacation of her occupying Claimant Laws. Next, her replevin and valuation laws were vacated. And last, though not least, her citizens were imprisoned by them, under color of rules made by themselves, and in contravention of the laws of the State. Her patience and forbearance has not been exceeded by even these enormities upon her rights. Her confidence in the General Government has been the cause of her patience. She has looked to that Government for the redress of these outrages. The fate of this bill will determine whether her confidence has been well founded or not.

But the objections made to the provisions of the bill, by the gentleman [Mr. WEBSTER], demand special attention. Before he examined them, however, he could not but notice the answer which the gentleman gave to the arguments of the Senator from Illinois. That Senator was anxious for the passage of this, or some other bill, to regulate the process of the Federal Court in that State. He stated that the process act of 1792 did not extend to the State of Illinois, she having been admitted into the Union since that period, and that Judge Pope had refused to make process rules or laws for his Court; consequently, that business in that Court was at a stand. Sir, the conduct of Judge Pope, in this particular, was such as I should have expected, from my knowledge of his talents and his virtues. His refusal to legislate on this subject, does honor to his heart, and his head. He possesses too much intelligence and humanity—too much respect for himself, and too clear a knowledge of the rights of the States, and of the extent and limits of his own legitimate powers, to pervert the one to the viola-

tion of the other. He will always do what he ought to do, and will never be seduced or driven to do what he ought not to do. He is not the kind of man whom the possession of a little brief authority would be likely to lead to its lawless extension. But the reply made to the complaints from Illinois, by the gentleman [Mr. WEBSTER], was simply that those complaints were groundless; that there was no defect of Law in relation to that State; that the Judge could, by a single rule upon his order book, have adopted the process code of the State. A Judge make a code of Execution laws, by a simple entry upon his order book!!! There is, Mr. President, something grand, something of the moral sublime, in this. It reminds one of the light-producing fiat "*Fiat lux et lux erat.*" Now, sir, although I like the brevity and the energy of this operation, I am not convinced of its legitimacy. Whence the power of the Judge to adopt the code of Illinois? Could he adopt the process laws of other States, or of any other kingdom, or nation? If he could not, why could he not? There is no power conferred upon him, by act of Congress, to adopt the laws of that, or any other State. He might be led, by considerations of fitness, to adopt the laws of that State—as he certainly ought, if he possessed the power. But the power, if possessed, was held under no restrictions, as to the subject or manner of executing it, but those which the will of the Judge might impose. The adoption of a law is equivalent to the making of it—it is a virtual making of it. The law, when adopted, is as obligatory as if it had been enacted. Its obligatory force results from the exercise of the sovereign legislative power in its adoption. Blackstone, quoted by the gentleman to another point, tells us that "sovereignty and legislation are convertible terms—that the one cannot subsist without the other." The gentleman would have the Judge of Illinois to exert the highest act of sovereign power; he would clothe him with the power to make a code of laws, than which a greater cannot be exerted by the Congress of the United States, with the concurrence of the President. What! a District Judge of Illinois, possessing as much legislative power as can be exerted by the two Houses of Congress, and the President of the United States, united!

Sir, the language of the gentleman shews the danger of the principle for which he contends. He speaks of this monstrous power in the Judge as a little matter; as a mere thing of course, of which nobody ought to entertain any doubt; and in relation to which the only matter of surprise is, that the Judge should have hesitated to exercise it. The pith and substance of the gentleman's reply to the Senator from Illinois is—Go to the District Judge of your State; it is his province to make the process laws which you need; why will you tease Congress about a matter which you can have done so easily and so dispatchfully at home: it is a small job; nothing but a system of laws, regulating the manner in which the property of one man shall be taken and given to another man, and by which the citizen may be imprisoned, if he fails to comply with the judgment of the Court; besides, the Judge will know so much better how to interpret it than if it were made by Congress; and, having made it himself, he will feel, on that account, a greater zeal to enforce it.

But, Mr. President, the gentleman (Mr. W.) does not seem to perceive, or, if he does, he has not indicated it, that, if the Judges possess the power which he contends the Judges should have exerted in the State of Illinois, the Congress do not; and that if the Congress do, the Judges do not. That the Congress do possess it, I presume no man will deny, or even doubt. It is pretended, however, that the Judges possess it by delegation from the Congress; that the act which authorizes them to make rules, and alter the forms of process, invests them with that power. But can the legislative power be delegated by Con-

FEB. 20, 1828.]

Judicial Process.

[SENATE]

gress? Can they, instead of doing the duties assigned to them by their constituents and the Constitution, appoint sub-agents to do it for them? Can they legislate by deputy? To whom are the sub-agents or deputies responsible, and what is the nature of their responsibilities? Sir, either this power is or it is not legislative. If it is legislative, it cannot be delegated to the Judges. If it is not legislative, and is a ministerial power only, then I yield that it may be delegated. But who can doubt of its being legislative? The power is that of altering the forms of process, and making rules for the regulation of Judicial proceedings; in short, the power of making Execution Laws. Now, sir, we are told in the book referred to by the gentleman himself, that "law is a rule of civil conduct, prescribed by the supreme power of the State, commanding what is right, and prohibiting what is wrong." Of course a rule of civil conduct, to be obligatory, must be prescribed by the supreme power of the State—and being so prescribed, must be a law. The same book says, "by the sovereign power is meant the making of laws; for wherever that power resides, all others must conform to, and be directed by it, whatever appearance the outward form and administration of the Government may put on." Would the gentlemen, by conceding the legislative power to the Judges, have all others to conform to, and be directed by it, or, which is the same thing, by them? *Burlemaque* holds the same opinion. He says, "the first part of sovereignty, and that which is, as it were, the foundation of all the rest, is the legislative power, by virtue of which the sovereign establishes general rules, which are called laws."—[*Burlemaque*, 52.] The same author assigns to the Legislature the power and the duty of prescribing the "necessary forms in contracts and testaments. The manner of proceeding in Courts of Justice," &c. &c.—[*Idem*, 112.] Again, he says that, "the sovereign ought, therefore, to declare his will, and to administer justice, not by arbitrary and hasty decrees, but by mature regulations, duly promulgated." *Vattel* says, in relation to this subject, that, "the Legislature should assist the understanding of the Judges, force their prejudices and inclinations, and subject their will to simple, fixed, and certain rules."—[*Vattel*, 137.] The same writer, speaking in relation to the administration of justice, says, "when the forms are prejudicial, it is the business of the Legislature to reform them."—*Idem*, 139.] Sir, it must be evident, not only from the nature of things, that the Legislature must be the sovereign power in every State; but the authorities which I have read are all to that effect, and prove that, even in the old Governments—monarchical, and aristocratical—the power of making the rules, and establishing the forms of proceeding in Courts of Justice, belonged not to the Judges, but to the Legislature. It is, then, a legislative, and not a ministerial power. It must be exercised by the Legislature, and cannot be exercised by the Judges. It does not belong to their office; they cannot obtain it by delegation; they can exert it by usurpation only. Is it not strange, sir, that we, just in the very flower of our freedom, should be anxious to concede to the Judges the exercise of the very power upon which our liberty and our happiness depends? Sir, legislation is the life's blood, the very soul of Government. It is by legislation that the will of the people is exerted in self-government. And it is in governing themselves, by their own will, that their freedom consists. In surrendering, therefore, to the Judges, the power of Legislation, we surrender our liberty, our freedom.

But the gentleman [Mr. WHEATON] says that all the arguments which I have brought against the delegation of this power to the Judges, applies with equal force to that provision of the bill which prescribes to the Judges the execution laws of the States in which they preside, as the execution laws of their Courts. He says that it is a de-

legation of the legislative authority to the States, and that such delegation can no more be made to them than to the Judges. This argument is used by the Chief Justice, in a case reported in *Wheaton*. I was sorry to see an argument which I considered so fallacious, so deceptive, and which leads to results so much to be deprecated, proceed from that exalted jurist; and I regret to see it acquiring strength, by its reiteration, on this floor. Sir, the cases are not parallel. In the one case, the will of the Judges forms the law for the People; in the other case, the will of the People forms the law for themselves, and, by the consent and adoption of Congress, for the federal Judges. In the one case, the law emanates from the will of the Judges who cannot exercise a legislative will, and upon whom that power cannot be conferred. It, nevertheless, controls the will of the People: in the other, the will of the People is elaborated into law by the employment of the constitutional machinery, and is selected by Congress as the rule of the Judges. The Congress does not confer upon the States the power of legislation; that power is inherent in them: and the Congress, confiding in the wisdom of its exercise, selects the law which is the result of the legitimate exercise of its legislative wisdom by the State, as the rule of proceeding in the Federal Court. It is not the potential legislative will of the States that is adopted by Congress. It is the exerted will embodied into law, which, as definite law, is adopted by Congress as the rule of the Courts. Sir, we have two Governments, and are but one People. Both Governments emanated from, and are sustained by, the will of the same People. There is not a greater paradox in politics than the belief that the same People have, or can have, two wills at the same time, in relation to the same subject. It is, therefore, immaterial whether they express their will upon the subject of process, through their Representatives in Congress, or their Representatives in the State Legislatures. Expressed through either medium, it must be the same. When, therefore, they declare, through their Representatives in Congress, that their declared will, through their State Representatives, shall be the rule of the Federal Courts, they do not confer a power upon their State Representatives to declare their binding will, but adopt, as a binding rule upon the Courts, their declared will. Sir, there is no mystery about this thing—a State can never be without an execution law, unless the People lose the power of will. That law is their defined will in relation to the subject of it, and it is, in its defined state, that this bill proposes to adopt it. Then, the execution law of a State is not a rule imposed by that State upon the Federal Court—it is a rule created for its own courts, and adopted by Congress, if this bill shall pass, as the rule of its courts in that State. And why should not the same rule govern both courts? They relate to, and regulate the concerns and the interests of the same People. But foreigners and citizens of other States may sue in the Federal Courts; and what of that, if, when they go into a State to transact business, by contracts or otherwise, the law of the State, the *lex loci*, must, it is acknowledged on all hands, govern in expounding the contracts?—and why not the remedial laws of the State, the *lex loci*, in carrying them into effect? Are the States less to be trusted, in relation to the laws of remedy, than of right? They are both the deliberately declared will of the same People, the latter by recognition, the former by creation. And, if the Congress were to enact a process law, the Representatives of the respective States would be faithful to their constituents, if they did not obey their will, as expressed in the process law of their State.

Mr. President, the American People exhibit the first instance of one people with two governments, which the world has ever seen. The success of the experiment, (if, indeed, it is destined to succeed,) must depend essentially upon the manner in which the will of the People is

SENATE.]

*Judicial Process.*

[FEB. 20, 1828.]

employed by their Representatives, in working this double machinery. The State Governments are more immediately under the eye of the People, and will be more likely to be worked by their will. But, unhappily, in this Hall, their will is not in quite such good odour, as in the States. Here, it appears, the will of the Government is more venerated than the will of the People. The will of the Judges seems to be all the rage here. They, instead of being governed, as they ought, by the will of the People, must control that will. Sir, there is no legitimate governing power, but the will of the People; and the substitution of any other will, for theirs, is an abandonment of that self-governing power of the People, for which they fought, and in which alone, I repeat, their liberty consists. They cannot be free upon any other grounds. If they are not governed by their own, they must be governed by some other will, and whether that be the will of a despot, or of the Judges, the result, in principle, is the same. They are the vassals of the despot, or of the despots—the Judges. The difference is only in the masters and the manner in which they exert their governing authority.

Now, Sir, the bill proposes to refer the administration of justice, by the Federal Judges, in the States, to the rules settled by the will of the People of the respective States. The gentleman [Mr. WENDELL] proposes to refer it to the will of the Judges, whenever the will of those dignitaries does not accord with the will of the People. He proposes, indeed, that the Judges shall exercise a supervisory power over the States, and control their will, by altering their rules, and by making new and conflicting rules of their own, to over-ride the will of the People of the State, by the will of the Judges. What, Mr. President, is the tendency of this doctrine? What, but to make the Government too strong for the People—to transfer the power from the People to the Government—to make the Government splendid, and the People wretched—to enable the Government to oppress, and finally enslave the People! Sir, the oppression of the People has always been, and will always be, by their Governments. The power delegated to promote their happiness has been turned against them, and employed to produce their misery. The manner has always been, as I have stated, the substitution, by the functionaries, under various pretences, of their own, for the will of their constituents.

Sir, by conceding this power to the Judges, you do not only open the gates of the city of your freedom to the enemy, but you invite them into the very citadel; and, if you permit them to stay there long, you will not be able, take my word for it, to turn them out. Take my word, did I say? No, sir: take the word of all history—of the history of all governments. Look abroad at the governments of the world—are they free? And why are they not? Sir, the People who compose them were once free; they were formed for freedom; nature made them to be free—she never made a slave. They have been enslaved by the weakness or wickedness of their agents—of their representatives. They have been cheated out of their liberty; they have yielded their power, under the illusive belief that it was to be employed to secure and promote their happiness, and have fared, as they ought to have anticipated—as every People will inevitably fare, who trust those concerns of their liberty to the agency of others, which they can perform for themselves. Sir, the People of the States can make as good Execution Laws for themselves, as the Federal Judges can make for them. Yes, sir, better than even Congress can make for them. They should not only not delegate any power which it is practicable for them to exercise; but they should reclaim, as soon as they legitimately can, all of that character which is now in a state of delegation. Does any man believe that the People could not themselves elect their President as judiciously as the Electoral College, or even Congress could? Sir,

the experience of every day admonishes the People to be jealous of their power, as they regard their liberty. But why wait to be admonished by their own sufferings?—why not learn wisdom from the folly and sufferings of others?

Mr. President: The sentiment that the Congress, and the President, and the Judges, are too exalted to be questioned, in relation to their duties, seems to be pervading the public mind. It is certainly strongly advocated here. The advocates of this sentiment in the country point to the grandeur of the operations of the General Government; to the exalted posture of its functionaries, and ask, triumphantly, if it is reasonable to suppose that weakness or wickedness were ever associated with such magnificence? And here we modestly suppose that we ourselves would not do wrong, and that the wrong-doings of others could not escape our detection.

Sir, the American People are at this moment, and for the last three years, have been, in a greatly excited state, because they supposed that a portion of Congress had, in the election of President, misused its acknowledged power, while the prostration of the State authorities, by the Federal Judges, in the exercise of usurped powers, is beheld with calm indifference. The mis-exercise of legitimate power, in the election of President alarms the nation; while a State is disrobed of its sovereign legislative power, by an arbitrary assumption of authority on the part of the Federal Judges, without exciting a sensation beyond the limits of the oppressed State!!

But to return to the argument of the Senator from Massachusetts, [Mr. WENDELL.] I have attempted to prove, and have, as I hope, proved satisfactorily, that the bill on the table proposes as the rule for the Federal Courts, not the power of legislation to be exercised by the States respectively, in which those courts may be held, but the exercised power of the States displayed in their process laws. The Congress chooses now, that her courts shall use them, then, as they shall exist, when they are needed. But, Sir, upon the supposition made by the gentleman, that the bill proposes to adopt, not the exercised legislative power of the States, but the power to be exercised, what can be the objection to even that form of the proposition? He is willing to adopt the existing process laws of the States. Are they different from what they will be ten years hence, or have been ten years ago. In their modifications and forms they may, but will they not be the same in essence? In the heat of summer we wear thinner and lighter clothes than we do in the midst of winter; we sleep under lighter covering in the former, than in the latter season. What is the motive? Comfort. Are not the persons thus differently dressed, in the different seasons, identically the same, and does not the same identical motive, or power, produce these different habiliments, and do these different habiliments constitute the apparel of the wearer? It is the same person, exerting the same power, for the same purpose, at different times, under different appearances.

An execution law is at least as necessary to the people in a state of civil society, as clothes, or covering are in their natural state. Civil society has the same natural inclination to be comfortable, and more power to promote its comfort, than individuals have. Sir, the remedial energies of civil society consist, essentially, in its will. They are the life of society, and it would be as absurd to say that the life which now animates any member of this body, who shall be alive ten years hence, is not the same which will animate him then. We have not different lives for different periods. We enjoy life under different circumstances, and under different states of cheerfulness and depression—we enjoy life, subject to be afflicted by accruing circumstances, which if we cannot control, must control us. It is precisely so with the body politic; like the human body its will is a part of, and identified with its life. Its remedial laws consist in its will, is

FEB. 20, 1828.]

Judicial Process.

[SENATE.]

identified with it, and is essentially the same identical unit with the body itself, whatever may be its different appearances, at different times, and under different circumstances. Sir, the same sun which rose this morning, and brightened and gladdened this gloomy region, will rise this day ten years, though his disk may then be concealed by clouds, or obscured by mists. So the same process law which now exists in Kentucky will exist there as long as the State exists. It may wear different aspects, as it shall be seen through the medium of different circumstances. It will wear one aspect in war, and another in peace, for the same reason that you appear differently clad in winter, from what you do in summer. And would you not, Sir, denounce as a tyrant that person, who would force you to wear the same light, thin dress through the winter, that you wear in the dog days? And ought not the States to denounce, as tyrannical, that act of the Judges, which obliged them, under the extremest privations of war, to renounce the process system which they had formed for themselves, and suited to their gloomy condition; and to use one formed and suited by the will of the Judges, to the most halcyon days of peace?

Sir, it is upon the principle which I am now urging, that all enlightened Judges have determined that all the forms of execution, *feri facias, ca. sa. veni. expo. eligi, &c.* are but one execution. Civil society is a unit—its will is one and identical, with itself, coexistent with it—they cannot be separated. Civil society ceases with the loss of its remedial will—in it consists the essence of its sovereignty; and it would be as reasonable to assert that there were different sovereignties in the same State, as a different execution law. Indeed the one could not exist without the other. But again, Mr. President: Does not the Senator from Massachusetts acknowledge, by the strongest implication, the force of my argument, in his proposition to adopt the existing (as he calls them) execution laws of the States? Why is he willing to adopt them? Has he examined, and does he know them? Can he, from knowledge, assert them to be fit and proper? No, Sir. Upon what principle, then, does he predicate this consent? Most certainly upon none other than that the execution law of every State, is the natural efflux of its wisdom; that essentially, it is unalterable, and that, in its modifications, it has been suited to the condition of the States, by the exercise of their legislative will. Well, Sir, will not the States be the same bodies politic ten years hence, that they are now? Will not the people possess the same inclination to be happy, which they now possess? Will they not possess the same wisdom, and the same will, to exert it in promotion of their happiness? Can it be supposed that the Federal Judges will then, at any intermediate, or future period, feel more for their happiness, or know better how to promote it, than they will themselves? Why, then, I ask, invert the laws of reason and of nature, in refusing to the people of the States, the exercise of the very power upon which their happiness, not less than their existence, depends?

But the gentleman is elaborate in his objections to the details of this short bill. And first he objects to the provision "that proceedings in equity shall be according to the principles, rules, and usages, which belong to the courts of equity in the States, respectively." This provision, he states, repels the equity jurisdiction of the United States Courts, in those States which have no Courts of Chancery; that Rhode Island, Massachusetts, Pennsylvania, and several other States have no Chancery jurisdiction, and that, if this bill shall pass, the Courts of the United States can exercise no equitable jurisdiction in any of those States. He tells us, moreover, that the jurisdiction of courts of equity is regulated by the civil law.

Mr. President, I differ from the gentleman, *to toto cœlo*, both as to the effect of the provision to which he objects, and in his extraordinary position, as to the civil law re-

gulating Courts of Equity. And first, as to the destitution of equitable jurisdiction in the States, which I have just named. I am apprised, sir, that there are no Courts of Chancery in those States; but does it follow that they are without principles and rules of equity? It would seem to me to be impossible that civil society could exist for a moment without those principles and rules. I admit that the civil law is not in force in those States, and I deny the power of Congress to force it upon them, through the Federal Courts, or otherwise. But I insist, that Pennsylvania, (and I take that State as an instance,) has as plenary a system of equitable rules and principles as Virginia, or any of the other States where Courts of Chancery prevail. Her manner of applying those rules to the transactions of men in her courts, is not according to the manner which prevails in Virginia or England. It is not according to the Chancery forms, as practised in either of those Governments; but it is as it ought to be, according to the will of that State, as displayed in her Statute Book, and in the usages of her Courts. Sir, in Virginia, or any of the States where Chancery Courts prevail, a mortgage is foreclosed by bill in Chancery, and this is denominated a proceeding in Equity. In Pennsylvania, the proceeding to foreclose a mortgage is by *scire facias*. I do not know how they proceed to foreclose a mortgage in Rhode Island, or any of the other States where Courts of Chancery do not exist, but I know, that they have mortgages in those States, and that they must have some mode of foreclosing them. Now, the principles of Equity, so far as they are involved in the proceeding to foreclose, by bill, in Chancery, must be involved in every mode practised in the States having no Chancery Courts. The forms and modes of applying them may be, and no doubt are, different in the different States; but the essential principles and rules of equity must necessarily be the same in every State. Public sentiment, in every State, requires that justice shall be done, in some form or other, to the litigant citizens; and when justice has been done, in any case, the principles of equity are satisfied. When, for instance, the obligee of a lost bond, has recovered its amount from the obligor, in Pennsylvania, equity is as well satisfied as when the same result is produced in Virginia or in England by bill in Chancery. In either of the last named States, the form of proceeding must be by bill in Chancery—in Pennsylvania the form is different.

But, sir, what ought to be conclusive on this subject is, that those States have not chosen to administer justice through Chancery forms. They have not chosen to have Chancery Courts. They are sovereign States, and, most certainly, as such, have a right to establish their own judicial machinery. They have a right to dispense justice according to, or rather through whatever forms they may choose. Now, sir, is it an abrogation of the principles and rules of equity in those States, to require the Federal Judges to administer justice according to those principles and rules as established and observed by them? Shall the Federal Judges decide the cases, which are drawn into their courts, in those States, according to principles and rules of equity which they shall carry with them there, or shall they decide according to the principles and rules of the States? Can any man, who is not prepared to surrender the rights and powers of the States, determine this question in their favor? We cannot suppose that any State is without a competent system. Why should not each State have a plenary system? Surely the transactions and agencies of the citizens, make it alike necessary in every State. If it does not exist in each State, it must be owing to the want of power, or of wisdom, in the State which has it not. It cannot be want of power, for all the States are sovereign and equipollent—*quoad hoc*. Can it be want of wisdom? Is there any member of this Senate, who will say in his place, that

SENATE.]

Judicial Process.

[FEB. 20, 1828.]

his State is deficient in wisdom? Is incompetent to furnish her citizens with an equitable, plenary, and competent code, both as to law and equity? If he will not say so, will he say that the rights and interests of the citizens of his State shall be decided, whenever drawn into question in the Federal Court, by an alien, or citizen of another State? not by those principles and rules of equity, which have been ordained by the wisdom, and consecrated by the usage of that State, but by a code imparted by the Judges, and unknown to the State?

Sir, the gentleman from Boston, [Mr. WEBSTER] in denying that the States in which there were no Courts of Chancery, had any principles or rules of equitable proceedings of their own, has given a new view of the oldest, and most commercial people of the United States. What, sir, has the dense population of the State of Massachusetts, and the commercial people of the ancient city of Boston, been able to get along for such a length of time, without rules and principles of equity? And if she has but just awakened to her need of them, will she submit to have them imposed upon her by the Federal Judges? Or will she exert her sovereign power in the adoption and creation of a system for herself? The gentleman says that she does not want them. But she owes protection to those of her citizens, who may be drawn into the Federal Court by non-resident suitors. She cannot, without compromising her sovereignty, permit her citizens, within her own precincts, to be subjected to alien rules; rules carried about by the Judges, in manuscript, or in their recollections, unknown to the citizens, and unsanctioned by their State.

Mr. President, we all know, that the obligatory effect of a rule, principle, or law, is derived from the sanction of the sovereign legislative power. The Judges possess no legislative power; their rules, of course, cannot be obligatory. Then the amount of the gentleman's argument is, that the rights of the citizens of his State, and of States in the same situation, are to be decided by rules which have no obligatory force—rules arbitrarily made by the Judges, or as arbitrarily adopted by them; which, in effect, is neither more nor less than to say, that the rights of the citizens shall depend, not upon legitimate rules, but upon judicial discretion. And this, sir, is the doctrine which has been stealing upon the public mind for years—the doctrine which has oppressed some of the States, and which, at the very time when they are invoking exemption from its ravages, is openly advocated, and boldly attempted to be fastened upon them, and extended to the other States!

Sir, the gentleman has told us that the Chief Justice, some years ago, made a set of rules for Courts of Chancery in all the States. Now, those rules are, or they are not, binding. To make them binding, they must have been produced by the exertion of legislative power. Does the Chief Justice, do all the Judges together, possess legislative power? This question must be answered in the negative. Then, however wise they may be, and I am willing to admit that, proceeding from that great man they must be wise, they are unobligatory. Strange, that while we are contending against the exercise of legislative power by these Judges, we are offered, as an argument, in favor of their possessing it, that they have, many years ago exerted it, and, of course, that the States have for many years been subject to the effects of its exercise. What encroachment—what usurpation is there, can there be, which may not be supported by the same kind of argument?

Yes, sir, the Supreme Court enacted a system, consisting of thirty-three sections, or rules, which purport to be rules for the regulation of proceedings in Chancery, and which conclude with a delegation of power to the Judges on their circuits, to make as many more, for the government of proceedings in their Courts, as they in their dis-

cretion shall think necessary; provided they do not conflict—with what?—the constitution of the United States? No, sir: with the laws of Congress, or the laws or constitutions of the States? Not at all, sir; who could suppose that the laws or constitutions of the States could, for a moment, obstruct or retard their rule-making power? With what, then, Mr. President? Why, sir, with the code which they had enacted. The only restriction imposed by the Supreme Court upon the Judges, in the exercise of this delegated law-making power, was, that their laws should not conflict with those already made by the Supreme Court. And this code of thirty-three rules, enacted by the Supreme Court, is printed in Gordon's Digest of the Laws of the United States, a work lately published. In the text of that work, it does not appear that they were enacted by the Judges; they would seem, from their collocation with the laws of Congress, and from their import, to have been enacted by that body. It is thus, sir, that the States are legislated for by the Judges; and the concerns of their People, under color of law, regulated by the discretion of unauthorised individuals. For the Judges have no more power to make binding rules and principles of proceeding, than any of the same number of private individuals, out of the millions who compose this Union. To what extent the Judges may have exercised the rule-making power, thus delegated to them by the Supreme Court, (having itself no such power) does not appear. You have seen the execution laws, enacted by the Judges below, for Kentucky. Where is this thing to end, and in what is it to end? In what, unless it be checked, but the annihilation of the State authorities? Indeed, the doctrine, contended for by the gentleman from Boston, goes virtually that length: for, when the States are prepared to be furnished by the Federal Judges, with rules and principles of equity, there can be no reason why the Judges should not also furnish them with the rules and principles of law: for the States are surely as competent to furnish themselves with a system of equity as of law, and the Judges are as competent to furnish them with a system of law, as of equity. And if, instead of asserting their own competency, the States submit to receive from the Judges the one, there can be no reason why they should decline the other. The People who submit to an usurpation of half their rights, are unworthy to retain, and unfit to enjoy, the other half.

But the gentleman urges that the civil law regulates proceedings in equity. Now, Mr. President, by the civil law, every lawyer understands that the municipal law of the Roman empire is meant. That law, he tells us, regulated proceedings in equity in England, and performs the same office in our country. Mr. President, can the gentleman be serious? If that code has force in England, it must either have been adopted by, or imposed upon, that country. The code of no one nation can have force in another, but by compulsion or adoption. Any nation may, if it shall choose, adopt the code of another; and a strong nation may subject a weak one to its code. Now, we know that England has never adopted the civil law; and we know, also, that she never was subdued to the use of it; we know, therefore, that the gentleman is mistaken; that the civil law is not, as a code, obligatory upon the Courts of Chancery in England; and, for precisely the same reasons, we know that it is not in force in this country. But, sir, if it were in force in either country, it could not be in force as the civil law, as the Justinian code. Any nation using it, must use it as her own, and not as a foreign or alien code. If that were not the case, the code would use the nation, and not the nation the code. A nation ceases to be sovereign, when the laws which it uses do not derive their authority from its sovereign power. Its laws must be its own—and this from political necessity. Sir, this is the language of sir William Blackstone, in relation, too, to this very subject; he



FEB. 20, 1828.]

Judicial Process.

[SENATE.]

holds this language "The laws of Justinian, [the civil laws,] bind not the subjects of England, because their materials were collected from Popes or Emperors; were digested by Justinian, &c. These considerations give them no authority; for the Legislature of England doth not, nor ever did, recognize any foreign power as superior, or equal to it, in this kingdom; or as having the right to give law to any the meanest of its subjects."—[1st Black. Com. 79.]

Thus, sir, is not only the language of England, but of every State that is conscious of its sovereign powers, rights, and duties. But, sir, hear the same author further upon the same subject. He says, "there are four species of Courts in which the civil and canon laws are permitted, [under different restrictions] to be used. 1st. Courts of Arch Bishops, Bishops, &c. 2. Military Courts. 3. Courts of Admiralty. 4. The Courts of the two Universities."—[Idem 83.] Here, sir, we are told expressly that there are but four Courts in England in which the civil law can be used, and in those by permission, and subject to restrictions. The Court of Chancery is not one of the four. How, then, could the gentleman expect us to believe that proceedings in equity in England were regulated by the civil law, when those laws were not permitted to be used in Courts of Chancery there, even subject to restrictions. Sir, the authorities read by the gentleman to prove his position, fall entirely short of sustaining it. They were 2d Black. Com. 429, and Cooper XXVI. They only prove what every body knew, that the learning of that country was, in early times, in the possession of the Ecclesiastics, who were Roman Catholics: that they were the first Chancellors, and that the machinery of Chancery proceeding was formed through their agency and influence, pretty much upon the Roman canonical plan. But, surely, the rules and principles of proceeding in equity are very different things from the form of a Chancery suit. But, sir, if the civil law is to govern—if it contains the rules and principles of proceeding in equity, why will the gentleman insist, as he does, that we shall derive our knowledge of it from England? It is not, as I trust I have shown, the code of that nation. It is not, as the civil law, in force there. Why not import it at once from Rome? Why not claim it as a waif? The Roman empire has been wrecked; yes, sir, and the Roman Republic has been wrecked, too. That republic had its code of civil law; why not import and use, as the waif of that republic, its civil code? I should, if obliged to submit to either, greatly prefer the civil code of Republican, to that of Imperial Rome. But the gentleman will have it from England; we must get the rules of equity, says he, from England, through learned judges and lawyers, who have made it (the civil law) their study. And pray, when gotten in that way, or any other, what is its obligatory force upon the people of any of the States? Surely he does not mean to be understood, that it derives its force from the channel through which it is obtained. So far as the Judges form the medium of its intromission, there is, I grant you, Mr. President, much reason to believe not that it will, from that circumstance, possess any intrinsic force; but that they will, in their use of it, give it force enough. The lawyers too, according to the gentleman, are to furnish us with law. As one of the Representatives from the State of Kentucky, I could say to the gentleman—thank'ee, sir, no occasion—the Judges have given that State law enough, without any supplement from the lawyers. So far from receiving it from the lawyers, the State of Kentucky will not receive it from the Judges. She will acknowledge nothing as law, which has not, in some way, had legislative sanction. She will insist, and I hope not without effect, that the Judges shall neither make nor import law.

Sir, the gentleman has kindly offered, as an apology, for what he supposes to be my ignorance, on the subject

of the rules, and principles, of proceedings in equity, the consideration, that being somewhat older than he is, I have withdrawn my attention from courts, and their practice, more than he has. I thank him. It is true that I am, perhaps, a little older than he is, and that I have not latterly been much conversant with courts, and their practice. But the gentleman must allow me to solace myself with the hope, that the ungracious weight of years, with which he has complimented me, while it has withdrawn me from courts, and their technicals, has afforded me more leisure than his crowded practice in courts has allowed him, to explore law in its origin, its source, in its first-principle aspect. Whether I have employed that leisure well or ill, it is not for me to say. My reflections, however, have led me to the conclusion, that law is not so mysterious a matter, as judges and lawyers have been disposed to have it considered. Law has been wrought up by its votaries, into a perplexed, and mysterious system. The difficulties of unravelling the transactions of men, rendered perplexed and complicated by artifice and fraud, have been ascribed to the law. The matters of fact are often perplexed, intricate, and difficult to ascertain. But the law is simple and intelligible, and upon a clear understanding of the facts, would be discerned, almost intuitively, by every man of common sense. Sir, instead of the civil law of imperial or republican Rome, translated from the numerous, and ponderous Latin tomes, in which it has lain locked up for centuries, or of troubling the learned Judges and lawyers to apply it, as compounded with the common law, I am for using the domestic law of the States. There is a natural equity in every State, as good as they had at Rome, or have in England. It is inherent in the people composing the States. In the abstract it is precisely the same which regulated proceeding in equity at Rome, in England, and in every State in the civilized world. It is the result of the exercise of mind upon matter. But every State has its own mode of exercising its intelligence upon the concerns of its citizens. That its mode or form of administering justice, should be its own, is essential to its sovereignty. The principles of justice are universal. They are co-extensive with reason; but the machinery of justice is as various almost as the States. Strange, Mr. President, that we should be so zealous to make our own woollen fabrics, so averse to using those made in England, and yet anxious that England should supply us, through learned Judges and lawyers, with the modes and forms by which we shall administer justice in the States! Not only with the modes and forms, but with the principles and usages of equity, as recognized and used by that nation. Sir, if it were contended by Congress that we should not only use British cloth, but that our clothes should be cut and made according to the taste and fashion of that country, I fancy we should rebel outright. Well: The case is precisely analogous. What is the difference, except that we cannot conveniently make all the woollen fabrics, which we need? We have neither the materials, the artists, nor the machinery. But in relation to the principles, modes, and usages of equity, every State has them, as abundantly, and of as good quality, as they exist in England. And, being sovereign, each State ought to be permitted to use them according to her own will. I insist that she has a right to do so. The gentleman has read Blackstone to prove that "Equity is the soul and spirit of all law." That "positive law is construed, and rational is made by it."—[2nd Black. 429.] Sir, if it be so important, and I grant its importance to the extent stated in the book, how wretched must be the condition of the States not to possess it—to be dependant upon learned Judges and lawyers for it!

Sir, the book read by the gentleman confirms the sentiment which I have urged—asserts the position for which I contend—and that is, that equity is justice, and exists



SENATE.]

Judicial Process.

[Feb. 20, 1828.]

in every state of civil society ; that it is, in relation to the moral, what the sun is to the natural world—it is the light of reason, shining upon the transaction of men, and shewing the relation of things ; and that each State has the right to use this light according to its own judgment and taste ; as in relation to the light of the sun every proprietor of a building has a right, in constructing it, to give it what kind of exposure, and as many, or as few windows as he chooses : aye, and according to what order of architecture he may select. \* Now, sir, we should smile at a proposition to restrict the States to the use of British sunshine ; and how much more absurd is it to oblige them to use the lights of British intellect, as the only medium through which to discern and ascertain the relations which their citizens bear to each other, to the transactions in which they may be concerned, and to their Government ? I have said, Mr. President, that Law, as a science, is the most simple and rational of all the sciences ; as an art, it is difficult, complex, and mysterious. It is peculiarly so in the country from whence it is the wish of the gentleman that the learned Lawyers and Judges shall import it. He has spoken of the laws, beginning with those of the universe, in a manner well calculated to show his own knowledge of them and their mystery. Waiving those of the universe, which are in better hands than those of the gentleman or myself—where I am content to leave them—I would say, that as nations have the relation of intercourse with one another, out of this relation results the laws which regulate it. Those laws are principles of natural fitness, recognised and acknowledged by the intelligence, by the common sense of the intercommuning nations, on account of their obvious fitness, as binding rules of intercourse between them. These rules are denominated the laws of nations, and are, in fact, the laws of nature. Each nation has laws relative to the governors and the governed. These laws, in free governments, are the obvious principles of fitness, resulting from that relation, and are denominated political law.

In every nation, or state, there are also laws regulating the intercourse of the People with one another, and these, Mr. President, are called civil law ; which is divided into civil and criminal. Every body is bound at his peril to know these laws. And can it be believed that before he can know them, he must apply for them to learned Judges and lawyers ? No, sir ; it is all a common sense matter. Every man of well balanced mind, knows the distinction between right and wrong, and knows the justice of every case, the moment he has clearly comprehended the facts of it, as well, and even better, than many learned Judges and lawyers. He knows it by intuition. Sir, not only his comfort here, but his happiness or misery hereafter, depend upon his knowing, and observing, practically, the principles of justice and equity. His duty to himself, to his neighbor, and to his God, requires the knowledge and practice of equity and justice. It would be idle to talk of duty, and of conscience, upon any other hypothesis. Why, sir, conscience consists, almost exclusively, of this very knowledge. And I presume, few of us would be willing to give our consciences into the keeping, of either Judges or lawyers. The latter, indeed, are not said to be very remarkable, for possessing good ones of their own. Then, I repeat, sir, that law but recognizes and enforces the distinction which exists in the conscience of every man, between right and wrong. It does not consist in any arbitrary or factitious system, artificially constructed, by the politicians of a state ; but in the principles of fitness, resulting from the relations of men to one another, in a state of society ; and of a recognition by civil society of those natural principles, as the rules of their conduct. In this recognition by civil society, of those natural principles of fitness, consists their obligatory legal effect. They were binding upon the conscience of man, and destined to regulate his con-

duct in a state of nature. They were to individuals, in a state of nature, what the laws of nature now are to nations. But their adoption and recognition by civil society, superadded to their natural, a legal obligation ; and the legal obligation of every rule of law or equity, in any State, results from the exercise of the sovereign, legislative power of that State, in the tacit, or express adoption, or recognition of it. No rule or principle can acquire the force of municipal law, from any other source. A man may learn in England, or at Rome, or Venice, the relations of things, and the resulting principles of fitness ; but to give those principles the force of law in any state, requires the legislative sanction of the sovereign power of that state. And herein, Mr. President, lies the difference between free and vassal states. Free states appropriate, by legislative sanction, those universal rules and principles of equity and justice, and use them as their own. Vassal states are regulated by laws enacted or adopted for them by others. Now, sir, the jurisdiction of courts of equity, is employed in administering justice in special cases, or in certain classes of cases, which the laws cannot, owing to the judicial machinery, in their ordinary operation, reach and explore. Those cases, or classes of cases, were not, more than the ordinary cases, without their obligatory rules and principles. Like all the common cases, decided in the ordinary course of adjudication, they were subject, in common with them, to the ordinary rules and principles of equity ; but they were special, and the operation of those principles was general. The general principles could not be applied to the special cases, or classes of cases, for the want of a judicial medium. Such was the case in England, and hence her Chancery Courts for the trial of that description of cases. But those cases, when tried in chancery, were decided by the same rules and principles of equity, by which the ordinary cases were decided in the law courts. The manner of examining and trying the cases was different, in the different courts ; but the rules and principles of decision were the same in both courts. The object in both courts was the same. It was to do justice. The rules and principles of decision were the same. And there never would have been a court of chancery in England, had it not been for the inaptitude of the judicial system of that country, and of the rules of the common law, to the trial of the special cases which I have named. But, sir, does this inaptitude exist in any of the States in which there are no Courts of Chancery ? The very non-existence of those Courts, in those States, is an evidence that it does not—is an evidence that, under the existing laws, full and complete justice can be done in every case ; and full and complete justice is the equity of every case.

Mr. President, I should not have dwelt so long on this part of the subject, if the gentleman had not made it the subject of his most elaborate efforts ; if he had not, by his manner, seemed to indicate that he was occupying a region which abounded in mysteries, scarcely known to any but himself ; a region, the Delphic duties of which he seemed to think belonged to himself. Thinking that there really was no mystery in the matter, except that produced by the mysterious operation of his own mind upon it, I, perhaps, in turn, have been a little too elaborate. But, sir, having a strong conviction that there should, in the laws and political machinery of a Republic, be nothing either mysterious in its nature, or intricate in its texture, I have been led into a detailed argument, which I fear may have been thought by some tedious. Yet, surely, sir, when the importance of the question is considered, I shall be pardoned. We have been contending at the boundary line which separates the legislative from the judicial power, and at the line which separates the National, and the State jurisdictions. Sir, the moment you permit either of those lines to be trans-

FEB. 22, 25, 1828.]

*The late General Brown.*

[SENATE.]

scended or obliterated, we are gone. There is nothing left worth contending for—consolidation ensues, and a splendid Empire will but point to a wretched and enslaved People. But, while the People continue to make and understand their laws, to use none that they do not make, and hold to strict responsibility those who administer them, they are safe, and will be happy. Sir, I can have no objection to a reconsideration of this question. I do not want the bill to pass, unless it has the approbation of a majority of this body. The Senator from New York, [Mr. VAN BUREN] and the Senator from Delaware, [Mr. McLANE] have each acted towards me, in the progress of this bill, with a generosity and magnanimity which commands my respect and demands my acquiescence in the motion for a reconsideration. Those gentlemen, I am sorry to say, are both opposed to the bill, but for reasons infinitely more plausible than those urged by the Senator from Massachusetts. I shall therefore assent to the reconsideration of the question, and to any modification of the bill which may be more agreeable to the Senate, and does not confer on the Judges the right to make rules—to that, I never will consent.

Mr. TAZEVELL followed, in opposition to the reconsideration: To whom Mr. ROWAN briefly answered.

Mr. WEBSTER replied briefly to some of the remarks of Mr. ROWAN.

The motion to reconsider was then agreed to.

FRIDAY, FEBRUARY 22, 1828.

[No business was transacted this day to give rise to debate.]

MONDAY, FEBRUARY 25, 1828.

#### THE LATE GENERAL BROWN.

Mr. HARRISON, Chairman of the Committee on Military Affairs of the Senate, rose and said: I rise, Mr. President, to perform a most painful duty—that of announcing the death of Major General Jacob Brown, the distinguished commanding General of our army. He died yesterday, in this city, at half past twelve o'clock. I am aware, Mr. President, that, in the performance of a duty of this kind, something like an eulogium upon the character and actions of the hero, whose loss we deplore, might be expected. At all times unequal to such a task, I am particularly unfitted for it at this moment. Besides, what could I say of General Brown, that is not already known? His best eulogium would be found in a recital of his brilliant achievements, and with these every Senator present is familiar. We all recollect, sir, with what thrilling anxiety our attention was turned towards the Niagara frontier, in the late war, when it was announced that an officer of acknowledged bravery indeed, but without military education, and with limited military experience, had been placed at the head of our Army. We must also recollect with what joy and gratitude to Heaven, we heard of his first brilliant exploit, rapidly followed by a second, and with what perfect confidence we then relied, that the final result would be such as it was—eminently glorious to himself, his army, and his country. Sir, said Mr. H. I will turn from this scene to one of a different character, but not less interesting, and eminently calculated to shew the ruling passion of his soul, at a moment when there can be no deception, no affectation of that which is not real. It was the good fortune of General Brown to be surrounded on his death bed by a large family. A wife, who was entitled to all his tenderness; and children, who justly merited his affection. In such a scene, on such an occasion, it may well be supposed that his mind would be turned with intense anxiety upon the future fate of objects so justly dear to him; and such was the fact. He knew that the hand which had directed them, would be soon cold; the hand from which alone they received their daily support, would, in a few short hours, be life-

less, and no longer able to supply it. But, after having committed these beloved objects of his affection to that Almighty Power which had hitherto protected them, his thoughts incessantly turned to his country—to that country which he had so faithfully and successfully served, for which he had bled, and for which, as he believed, he had given his life. He spoke with raptures of her happiness, of her exalted rank among the nations of the earth, and her glorious destinies; and almost his last sigh was breathed for her continued prosperity. Such, sir, said Mr. H. was the man, in life and in death, for whose memory I ask the tribute of respect contained in the resolutions which I now submit:

“Resolved, That the Senate have learned, with deep regret, the death of Major General Jacob Brown, the late Commanding General of the Army, and the distinguished leader in the glorious battles of Chippewa, Niagara, and Erie, in the late war.

“Resolved, That, as a mark of respect to the deceased General, the members of the Senate will wear the accustomed badge of mourning on the left arm for one month.

“Resolved, That, if the House of Representatives concur, the Senate will, in conjunction with the House of Representatives, attend the funeral of Major General Brown, on Wednesday next, at twelve o'clock.”

Mr. SMITH, of Maryland, opposed the first part of the resolution. He thought it would establish a bad precedent, to go into mourning for any individual other than a member.

Mr. HARRISON expressed his regret, that his friend from Maryland should oppose the resolution offered by him. That gentleman was so distinguished for his liberality of sentiment, and his high sense of the services of meritorious public officers, he hoped the gentleman would not persist in his objections.

Mr. SMITH, of Md. observed, that no man was more sensible than himself, of the eminent services performed by General Brown. But it was a new thing for the Senate to go into mourning on such an occasion. Other general officers had died without any such expression of respect; and he did not think it was proper to commence such a practice at this time. He could not oppose the resolutions; and he had no disposition to do so; but he thought they would be better without the second clause. It was all the Senate could consistently do, to say that General Brown deserves the thanks of his country; and that the Senate lament his decease; and that they will attend his funeral on Wednesday.

Mr. CHANDLER expressed his high opinion of the great merit and services of General Brown. He thought, however, that, when a military man died, it was an appropriate ceremony to bury him with the honors of war. He thought with the gentleman from Maryland, that it was a new thing for the Senate to go into mourning on the occasion. He believed such a method of expressing regret for the death of a military man, was not countenanced by the legislative bodies of any country. He should, therefore, be forced to oppose that part of the resolution.

Mr. NOBLE said, that if he voted against the resolution, he wished the reason to be understood. He was averse to the precedent which would be established by resolving to wear mourning for a military man. The case of General Washington was no parallel with the present. He was the saviour of his country—he had been at the head of its Executive—and lived in peace, as in war, the first, most virtuous man of the age. At his death the whole country was plunged in mourning; and it was consistent that the Legislative bodies should wear the badge. He was averse to voting against this resolution, because he regretted the death of Gen. Brown, and sympathized with the feelings of his family. He wished that the portion of the resolution, which declares that the Senate will go into mourning, might be withdrawn; as he thought a

SENATE.]

Judicial Process—Office of Major General.

[FEB. 27, 28, 29, 1828.]

homage of this kind to a military man, would assimilate us too much to a despotic Government. In every other case, the members of each separate profession bestowed these honors on their deceased companions. The members of the bar wore mourning for one of their fraternity; and Legislative bodies did the same. The Army, he believed, went on the same principle; and there it ought to stop. He did not wish to encourage any practice which should take the shape of idolatry, for services, however great. He was sorry that he felt constrained to make these remarks. He honored General Brown in every station; he lamented his death; and in every consistent manner he was ready to testify his respect for his character, and his memory. Nothing was farther from him, than to treat with disrespect the feelings of the family of the deceased, with whom he sincerely sympathized.

Mr. BELL moved to strike out so much of the resolutions, as related to the Senate wearing mourning.

Mr. HARRISON acceded to such a modification, and the resolutions having been so amended, were agreed to.

A joint resolution of the other House, for the appointment of a committee of three from each House, to make arrangements for the funeral of the late General Brown, was received and concurred in.

WEDNESDAY, FEBRUARY 27, 1828.

Both Houses of Congress this day attended the funeral of General Brown.

THURSDAY, FEBRUARY 28, 1828.

Mr. CHANDLER submitted the following resolution: *Resolved*, That the office of Major General of the Army of the United States is unnecessary, and, therefore, ought to be abolished; and that the Committee on Military Affairs be, and they are hereby, instructed to bring in a bill for the purpose of abolishing said office accordingly.

#### JUDICIAL PROCESS.

On motion of Mr. JOHNSTON, of Louisiana, the Senate proceeded to the consideration of the bill to establish Judicial process in the States admitted into the Union since the year 1789.

Mr. KANE offered several amendments.

Mr. ROWAN inquired whether they were in order?

The CHAIR stated that they were not in order; but that the gentleman might attain his object by a motion to recommit the bill.

Mr. JOHNSTON, of La. made a few remarks, and the CHAIR remarked, that it would not be in order to move any amendment which would strike out any part of the bill adopted at a former period, but that any proviso might be added to it.

Mr. KANE then moved an addition to the bill, giving the power to the District and Circuit Courts to alter and modify the rules of the State Courts, and to the Supreme Court to frame new rules from time to time, &c.

Mr. ROWAN moved to amend the amendment of the gentleman from Illinois, so as to restrict this power to "matters of form only." Which was agreed to—19 to 12.

The amendment, as amended, was then adopted, and the bill passed to be engrossed for a third reading.

A few moments after the last vote was taken, Mr. WEBSTER rose and said, that, when the amendment offered by the gentleman from Kentucky was adopted, he was absent; but as he understood that the bill in its present shape would operate upon all the States, he should move to recommit it to the Committee on the Judiciary. He thought its provisions ought to be so framed as to suit the purposes of all; and as the decision upon such questions belonged peculiarly to that committee, this bill ought to be once more referred to it. The bill had gone through various forms, and, in that in which it now appeared, he

could not vote for it, however anxious he might be for the adoption of some measure which would give to the new States the process promised by this bill. But he could not support it while it proposed an innovation upon the Judicature of the old States, with which, in reality, it ought to have nothing to do. He hoped, therefore, that this matter, made complex by the various motions in relation to it, would be again submitted to the investigation of the Judiciary Committee.

Mr. HAYNE inquired whether the motion to recommit was in order. The bill had been ordered to a third reading, and until it had been read a third time, he thought it was not in order to move its recommitment.

The CHAIR said, that in strict parliamentary rule, the motion was not in order; but it had been always the practice to accede to a motion to recommit, when not opposed by a Senator.

Mr. JOHNSTON, of Louisiana, said that he was averse to the bill in its present form, because it would doubtless be lost, if persisted in. The bill was framed for the new States, and for them only. If the old States were left as they were, they would be satisfied, and he knew no reason why they should be interfered with. If they were so interfered with, the members from the old States would vote against the bill, and it would probably fail.

The CHAIR said, that, if the gentleman from S. Carolina objected to the motion, it would be considered out of order. In that case, the gentleman from Massachusetts could move the reconsideration of the vote, by which the bill was ordered to be engrossed.

Mr. HAYNE said he made no objection to the motion, and had spoken merely on the supposition that it was contrary to the rules.

Mr. ROWAN observed, that he should object to the motion. He had no fear that the bill would be endangered by opposing it, as the Senate had twice decided in favor of the bill in its present form, and it had once been objected, at an early stage, that the old States were not included.

Mr. BERRIEN considered it an error, that all the old States were satisfied with the present judicial process. It was also a misapprehension to suppose that this bill would be otherwise than inconvenient, or that it would remedy the evils now complained of. To confine the exercise by the Courts of the United States, of the revising power, to "*matters of form only*," would, in a great degree prevent the Federal jurisdiction of the Supreme Court. The power to prescribe rules for their own courts had been hitherto given to the Federal Judges, under certain limitations; and it could not be confined to forms alone, without doing serious injury.

Mr. KANE said, that he should vote for the recommitment, as the amendment offered by the gentleman from Kentucky seemed to him inexpedient and improper.

The question was then taken on recommitting the bill and was decided in the affirmative, 23 to 16.

FRIDAY, FEBRUARY 29, 1828.

Agreeably to notice, Mr. HARRISON had leave to introduce a bill for the relief of Mrs. Brown, widow of the late Maj. Gen. Brown; which was read twice, by unanimous consent, and referred to the Committee on Military Affairs.

#### OFFICE OF MAJOR GENERAL.

The resolution submitted yesterday by Mr. CHANDLER, to abolish the office of Major General in the Army of the United States, was considered.

Mr. CHANDLER said that he fully believed the office of Major General was not necessary in the present state of our Army. This was no new opinion, but had long been entertained by him. In the year 1821, a bill was brought into the other House to fix the Military Peace Establishment; and a vote of the House was taken on the

FEB. 29, 1828.]

Office of Major General.

[SENATE.]

question of retaining one Brigadier General, and decided in favor of it by a large majority. But the friends of General Brown moved an amendment to the bill, and had sufficient influence to succeed, and thereby ensure his retention in the service. Mr. C. said he was not easily induced to second the views of the friends of General Brown; but he did eventually vote for the amendment providing for one Major General and two Brigadier Generals. He had after regretted the vote he then gave, and had determined, on the first occasion that might offer, by the vacancy of the office, to move to abolish the office of Major General, convinced, as he was, that a feeling of gratitude to General Brown, and not the sober judgment of Congress, had retained him in the office. One Brigadier General was, he thought, sufficient for the present condition and wants of our Army. There would be two Brigadier Generals left after the abolition of the office of Major General, and they would be able to do all the duties which could be required or needed from a Major General in a time of profound peace. The measure would also be a saving to the country of a considerable annual sum.

Mr. HARRISON observed that, until this morning, he had not been aware of the tenor of the resolution offered yesterday by the gentleman from Maine. He had supposed that it was in the general form of resolutions for an inquiry. On the contrary, he found it to be an imperative direction for the abolition of the office of Major General. The ordinary course was, to refer all such matters to a committee, which would investigate the practicability and expediency of carrying into effect the measures proposed, and make a detailed report to the Senate of all the circumstances relating to the subject, and probable effects of its adoption. In its present aspect, the resolution met with his decided disapprobation. It was well known that, besides the Major General, for whose death so much regret was now felt, there were three Major Generals by Brevet. If the object of the resolution went no farther than to refuse to fill the vacancy made by the death of General Brown, it would, in fact, not make the change anticipated by the gentleman from Maine. Each officer would take his rank, pay, and emoluments, as pointed out by the present regulations. If economy was, therefore, the object, the resolution would not compass the purpose for which it was offered.

Mr. CHANDLER said that his object was to abolish the office altogether. He would, however, go farther, and endeavor, by some additional provisions, to avoid the effects predicted by the Senator from Ohio.

Mr. HARRISON said that the whole object ought to be embraced in one bill, as it could be more conveniently considered when taken up entire, than when the details were separated. He wished to look at the whole of the projected change at once. To speak, however, of that which had been proposed by the present resolution, it was a well known, as it was a universal practice, where vacancies occurred, to fill them with the officer next in rank. This would be the case in the present instance. The oldest Brigadier General would take the situation vacated by General Brown. Another Brigadier General would succeed to the oldest. The senior Colonel would be promoted to the rank of Brigadier, and so on, through all the subordinate ranks of the army. There would be no economy in the adoption of the resolution. If it passed into a law, we should have officers in precisely the same places, doing the same duty, and drawing the same pay. Although a nominal change would be effected, it would not be a real one, so far as the object of the gentleman from Maine extended. There were other objections to the measure, which he had now, scarcely time to demonstrate to the Senate. The present establishment was supposed to be a permanent one. Its effects upon the condition of the army had been highly salutary, and he believed that it was popular. The system was most thor-

roughly sustained, by historical facts and experience. It was necessary that every army should have a Commanding General. By no other plan of command could unity of design and action be ensured: for in military affairs especially, was the direction of one head required. There had been memorable instances of defeat from an opposite state of things, which must be familiar to the minds of all who have become conversant with military history. A case in point was the failure of the French army in the Peninsula, which is attributed by a judicious historian to the want of a commander-in-chief. The French forces were commanded by several distinguished officers, of equal rank, whose operations wanted consistency, and were, therefore, rendered ineffectual. On the other hand, Lord Wellington, having the supreme command, gave to his movements that unity of purpose, and direction of all his forces to the attainment of the objects to which his operations were turned, that gave him a decided advantage. The same error caused much evil in our first campaign on the frontier of Canada, during the last war. It would ever be so; and, to prevent similar embarrassments, the present system had been considered effectual. The fact of the existence of peace did not alter the principle. The Army was organized with a view to a state of war. It was, in its present state, a skeleton, representing the outlines of its form in a period of hostility, which were to be filled up when a period of actual service should arrive. The grand principles of its formation were drawn from the position in which it would be necessary to place it in time of war. It could hardly be proper to calculate upon the continuation of the present state of things. He was not sure that the world, as it now existed, promised perpetual peace. While there existed a possibility that a state of war might exist, it was prudent to retain so much of an organized army as would ensure that our preparations to meet it, should it arrive, may not be disconcerted. The present system compassed this design, and went no farther, and he, therefore, considered that it ought not to be altered. He was desirous that the resolution might be made in the form of an enquiry, when facts and arguments could be produced to the Senate, which would materially assist in coming to a right and proper decision.

Mr. SMITH, of Maryland, said he understood the object of the resolution to be to abolish whatever related to the office of Major General. He dissented from the Senator from Ohio, as to the operation of the measure. Every officer, in case it should go into effect, would remain in the present rank, until promoted by the due course, which was the nomination of the President of the United States, and the consent of the Senate. Without this process, the vacancy made by the death of General Brown would remain without an incumbent. Nor did the death of this officer make a regular routine of promotions a matter of course. The President might nominate some citizen to fill the office, as in the case of General Brown, and of General Jackson, who were taken from the People. The President was not bound to promote the Brigadier Generals. He did not think the rank of Major General necessary, and he knew well the reason for retaining in the service the Brigadier Generals after the war. They had done great service during the war, and the country felt too much gratitude for those services to allow them to be turned off. It was not that they were needed to command our little Army of 6000 men. There seemed to him no difficulty in the question. The office was not required by the existing state of things; and he should, therefore, vote for the resolution of the gentleman from Maine.

Mr. CHANDLER said, that his object was to test the opinion of the Senate as to the abolition of the office of Major General. It was not necessary for this purpose to send the resolution to a Committee. He did not agree with the gentleman from Ohio as to the effect of the

SENATE.]

Office of Major General.

[FEB. 29, 1828.]

measure. He saw no inconvenience that could arise from it. The practice had been changed by the act of 1821, so that the orders of the Department, instead of going through the hands of the Adjutant General, passed first through the hands of General Brown. No inconvenience could arise from striking off the office, and he was not convinced that the reasoning of the gentleman from Ohio, as to the economy of the measure, was correct.

Mr. HAYNE observed, that it was the usage to appoint a committee, consisting of men most conversant with military affairs, to whom all questions on the subject were referred, as it seemed, as a matter of course. The gentleman from Maine and Ohio, who now differed so widely on the subject, were members, and it was certainly expedient to refer the resolution to their investigation. The proposition of the gentleman from Maine, was, he apprehended, a departure from the rules of the Senate; and, he thought, would produce much embarrassment, if persisted in. There were many considerations which would most appropriately occupy the attention of the committee, and which ought to be examined before the Senate passed upon the resolution. They must enquire what the effect of the abolition of the office of Major General would be upon the Brevet Generals, and upon the Army, and its discipline. Upon these, and many other questions which naturally presented themselves, and which could not be settled in a partial or hurried investigation, he wished the committee might deliberate and report. He found an additional reason for wishing the reference from the diversity of opinion that had been shown by the two gentlemen of the Military Committee. They are totally at variance in their opinions of the operation of the measure, and others, who are not so well versed in military affairs, may well, under such circumstances, ask for information. Let us, therefore, send the resolution to the Military Committee, that these gentlemen may meet each other, investigate the whole subject, compare their views, and report whether it is expedient to abolish Brevet rank altogether, or whether the country will be served by abolishing the office of Major General. When this is done, the Senate will be prepared to act understandingly on the subject. With these views, he was in favor of referring the resolution to the Military Committee.

Mr. MACON said he thought the gentleman from South Carolina was mistaken. He believed the rule was to settle the principle of any question first in the Senate, and then to send it to a committee to settle the details. He alluded to some instances of this in former legislation. As to the project itself, it met with his approbation. He believed, if a nation went to war, it was bad to have too many high officers. They were not generally the men who did the most for the glory of the Army. By whom, said Mr. M. were your great exploits performed during the last war?—I don't mean to say any thing against the old men—they were performed by men in the vigor of life, and full of ambition. And if you have another war, it will be so again. There was always about an equal share of military talent in every Army. Times of peace did not call out that kind of talent. When war came, the kind of character you want will come out, nor was it necessary to be seeking it out when it was not wanted. In time of need, military genius will always show itself without its being necessary to search after it. He was in favor of abolishing the office of Major General, and thought it not necessary that it should be submitted to a committee.

Mr. HAYNE rose to move an amendment of the resolution; but

Mr. BERRIEN said, that, with the permission of his friend from South Carolina, he would offer an amendment which he had committed to writing, and which would embrace the views of that gentleman. He then moved a substitute to the resolution, making its object matter of the inquiry of the Military Committee, to report upon it by bill, or otherwise.

Mr. HARRISON said, that, in answer to his remarks, the gentleman from Maine had stated that his objects were solely the abolition of the office of Major General, and to save the amount of that officer's pay. But Mr. H. felt well assured that the measure would not save a dollar. His friend from Maryland had mistaken his remarks as to the manner of promotion. He did not say, that, if an officer was killed, the next in command succeeded to his rank. He had intended to say that he did succeed to his command as completely as if he had his commission in his pocket. He could not suppose that a good reason could be adduced against referring the resolution to the Military Committee. They would report the facts, and give a statement of the probable effect of the resolution. He had no other anxiety on the subject, but as far as its decision would operate upon the discipline of the Army and the expectations of the People. There could be no objection to the reference; because any gentleman could have an opportunity of expressing himself when the report of the Committee came up. He would assure the Senate that there was enough to be said, and to be developed on this subject, which could not be done in a casual debate, to render it a fit subject for a reference. He, therefore, hoped the gentleman from Maine would accede to the motion of the gentleman from Georgia.

Mr. CHANDLER said, that there appeared to the gentlemen of the Senate a great difficulty in deciding whether the office of Major General was necessary or not. For his own part he did not think an investigation by a Committee necessary; and was opposed to it, not only because the question could be as well settled in the Senate, but for the reason that the session had far advanced, and many other important subjects were yet to be acted upon, which might interfere with this resolution, if it should be referred.

Mr. SMITH, of S. C. hoped the amendment would not prevail, because the discussion of the question could as well take place now as hereafter. The subject had, in former times, been thoroughly debated. After the war, the subject of a peace establishment engaged the attention of Congress. The number of men to be retained was fixed by different persons variously, from 10 to 20,000; the former number was fixed upon. Afterwards, in 1821, the matter was again discussed, a further reduction proposed, and the Army was brought down to 6,000, and certain officers were to go off the list. It was then argued that the officers could not be dispensed with; that their numbers could not be reduced without destroying the Army, by lessening the discipline which they assisted to keep up. Next year, however, Mr. Monroe, in his message, stated that the affairs of the Army went on well, and that its present organization was as it should be. It was well known that the office of Major General would not have been retained but for the merit of the incumbent. He had fought several battles; displayed great skill and courage; and was unwilling to leave the service. To retain him, therefore, and as a reward for his services, he was made Major General. General Jackson, who was willing to retire, was appointed Governor of Florida. That the office was useless, he never had a doubt. In the days of Jefferson there was but one Brigadier General retained upon the peace establishment. Nor was there any greater necessity for a Major General now than then. The Army was at present billeted about in parties of twenty men in a place—the whole consisting of but 6,000—yet, with all the discipline, and out of this small number, by the documents, it appeared that from 1,500 to 2,000 deserted every year. He recollected that, at the time of the appointment of General Brown as Major General, it was argued that it was necessary to have the commanding officers at the Seat of Government, that they might despatch the orders from the Department, and be directly in contact with the Go-

Frs. 29, 1828.]

Office of Major General.

[SENATE.]

verment. But he knew not one advantage that had arisen out of it. Your Army, said Mr. S., is overstocked, and there are now, in this mere shadow of an Army, officers enough for one of 50,000 men. All the facts were now before the Senate. Every member was more or less acquainted with them. He, therefore, thought it better to let the gentlemen of the Committee express their views here. Or, if they are taken off their guard by any sudden argument, let them ask for delay. He would favor such a request. He wished to hear the views of gentlemen conversant with the subject, and hoped they would express them before the Senate.

Mr. BENTON was of opinion that the decision of the Senate, on this resolution, would not be assisted by the investigation of a committee. He believed its discussion in the Senate would be equally productive of a satisfactory result. Not thinking, however, that the subject could be decided in a moment, he thought the resolution of the gentleman from Maine had better be laid over until another day. With this view, he moved to lay it on the table until Monday; but observed that he would withdraw the motion, if any gentleman desired to express himself.

Mr. HARRISON said he hoped that a decision might first be taken on the motion of the gentleman from Georgia. If that failed, he would accede to the motion of the gentleman from Missouri with pleasure.

Mr. BERRIEN observed that, in making his motion, he had been actuated by a wish to obtain information on a subject with which he was not familiar. He had heard nothing in this debate to alter the opinion he had previously entertained, or to enlighten him on the subject. If the resolution was referred to the Military Committee, gentlemen conversant with the matter would be able, at a future day, to give information upon which it would be safe to decide. With a desire to confine the Military Establishment within the narrowest limits, he wished to avoid any measure which should operate injuriously upon the usefulness or efficiency of the Army. He would submit to the gentleman from Maine, whether it would not be better to allow the resolution to go to the committee, to afford that light upon the subject, to enable the Senate to come to a deliberate decision, and enable the Senators to examine their votes on the subject, with satisfaction, at an after day. He should suppose that these considerations would operate to demonstrate the propriety of a reference. He was not a military man, but was called upon to perform his duty, which he wished to do understandingly.

Mr. HAYNE expressed a hope that the gentleman from Missouri would not press his motion. Should the amendment fail, he would then be disposed to lay the resolution on the table. If the Senate was favorable to an inquiry by the Committee on Military Affairs, it ought to be made immediately: and, if not, a delay ought to be had, and the subject acted on liberally. Some discussion has arisen on the effect of the measure. But, if the office should be abolished, would that settle the difference between the two gentlemen of the Committee, whose opinions are at utter variance? One says that it will remove the expense of the pay of the Major General, and the other says that it will not save a dollar; but that a motion will take place through all the grades of the Army. Let us have these questions examined, and let us have some ground to act upon. If it can be demonstrated that the army may be reduced from a division to a brigade, I am willing to do it. But I want, in the first place, to have light upon the subject, and know how and why to act. As to the remark of the gentleman from North Carolina, [Mr. Macon] that principles were first settled in the Senate, and the details afterwards in the Committees, there is a wide difference between cases, where the principle is to be settled before the details, and those in which facts are, to be explained, to enable

members to form a decision upon the subject. This matter peculiarly required to be investigated by a Committee, and he hoped it would be referred.

Mr. NOBLE said, that we had had two peace establishments, and in each there had been a Major General. How the Senate were, by the gift of prophecy, going to suppose the effect of abolishing the office, he did not know. It would be the duty of the committee to go back and make inquiry into the causes for the creation of that office, and report the result of their inquiries. He was in favor of the motion of the gentleman from Georgia. He wished to have the facts. It could not be that the gentleman from Maine was afraid to trust to a committee of the Senate; and if not, his object would be more easily obtained by the reference. He did not wish to vote in the dark. It was a very important subject, and ought to be acted upon with caution. He had formerly been opposed to a standing army; but it was difficult to say whether, at this time, it could be safely increased or diminished. The subject ought, therefore, to go to the Committee on Military Affairs.

Mr. TAZEWELL remarked, that he did not understand the reason for wishing for a precipitate decision. The gentleman from Maine did not oppose the motion of the gentleman from Missouri to lay the resolution on the table until all the members should have become informed upon the subject. But it is said that it is proper to refer the subject to a committee. This is a statement to which a doubt may be started. In different bodies the modes of proceeding are different. Had this resolution been introduced in such a body as the House of Representatives, it would have been committed—to what?—To the Committee of the Whole, because, as it affects the whole country, every member ought to have an opportunity to hear the arguments *pro* and *con*, and to offer his opinion upon it. But in this body, said Mr. T., it is, the same thing to submit a subject to the whole Senate as in the House to refer to the Committee of the Whole. This was the reason why he thought the resolution should be laid on the table until every member was satisfied with the opinion he should have formed upon it. There were subjects of great importance, which ought not to be referred to a Committee of the Whole, because they depend upon facts not accessible to all the members, and which could be more easily obtained by a standing committee, or of which the members might be in possession. But was this such a subject? The questions he would ask were: Does this subject interest the whole country?—and is it necessary that it should go to a committee to obtain the facts? Now, Sir, said Mr. T., I think we can get as much information in the Senate as from the Committee on Military Affairs. Besides, the opinion you get from the committee is but the opinion of a majority of its members. You do not hear the opinions of the minority, while, if it was discussed in the Senate, you get the opinions of all. Therefore, this being a subject which interests the whole Union, and which, in the other House, would be referred to a Committee of the Whole, and as the subject under consideration can as well be understood without a reference to a select committee as with, he was in favor of laying it on the table.

Mr. BERRIEN said, that, when the report should be brought up, there would be ample opportunity for discussion, so that the minority of the committee would have an opportunity of opposing the report. Those who were unacquainted with the subject, would be better able to understand it by the assistance of the report. He was not disposed now to discuss the matter. But, in asking for information from the Committee on Military Affairs, he simply desired to avoid any error which he might fall into, if, uninformed, he should be called upon to give his vote. If the Senate should be averse to the reference, he wished to record his vote in favor of obtaining that informa-

SENATE.]

Public Debt.

[MARCH 3, 1828.]

tion, without which, he must feel doubtful what course to take. He, therefore, asked the yeas and nays on the motion to amend.

The call being sustained, the question was taken on the amendment offered by Mr. BERRIEN, and decided in the affirmative.

MONDAY, MARCH 3, 1828.

#### ON THE PUBLIC DEBT.

On motion of Mr. BENTON, the Senate proceeded to the consideration of the following resolution, submitted by him on the 26th ult.

"Resolved, That the Committee on Finance be instructed to inquire whether any error has occurred in the construction of the fourth section of the act, entitled "*An act to provide for the redemption of the public debt*," passed the third day of March, 1817, in reference to the amount of surplus revenue to be retained in the Treasury; and, if so, to report an amendment for restoring the section to its true intent and meaning.

"Also, That the same Committee be instructed to inquire into the expediency of so altering and amending the same section (if no error be found in the construction thereof) as to reduce the amount of surplus revenue required by that section to remain in the Treasury, from two millions of dollars, to one million or less.

"Also, That the same Committee be instructed to inquire into the expediency of so altering and amending the fifth section of the same act, as to invest the Commissioners of the Sinking Fund with a *discretionary*, instead of a *limited* authority, in making purchases of the public debt, *at its market price*, whenever, in their judgment, such purchases can be made beneficially for the interests of the United States, and when the state of the Sinking Fund and existing engagements will permit them to do so.

"Also, That the same Committee be instructed to make a report to the Senate, showing within what time the present debt of the United States may probably be paid off; and upon what articles, and to what amount, the present duties may then be reduced or abolished, consistently with the general interests of the whole Union."

The resolution being read, Mr. BENTON rose, and addressed the Senate. He said that the first branch of the resolution went upon the supposition that there was an error in the construction of the Sinking Fund Act of 1817 and that he might avoid all occasion for misapprehension, here or elsewhere, he would say at once, that this error, if it existed at all, was of older date than the existence of the present Administration; and, of course, that the inquiry that he proposed to institute, whatever might be its result, was not intended to have any bearing on the conduct of gentlemen now at the head of affairs. He believed, himself, that the error existed, that it was injurious to the public service, and that it was the duty of the legislative department of the Government to correct it. The fourth section of that act directed, that, whenever, "*in any year*," there should be, "*at the rise of Congress*," a surplus in the Treasury of more than two millions of dollars above the appropriation for the service of "*such year*," that all the excess above that sum should be forthwith paid to the Commissioners of the Sinking Fund, to be by them immediately applied to the purchase or redemption of the public debt. The words of this section, said Mr. B. are as clear and positive as words can be, in limiting the amount to be left in the Treasury, to two millions of dollars, over and above the appropriations for the year; but the construction which has been put upon them, as we see from the annual Treasury Reports, makes these two millions to be exclusive of the unapplied balance of the previous year's appropriations. These unapplied balances usually amount, at the end of each year, upwards of three millions of dollars, and are usually re-

duced, in the course of the first quarter of the ensuing year, to less than two millions; so that a reservation of two millions, at the rise of Congress, is amply sufficient to meet them. The difference of the two constructions is, that, by my construction, there must be a surplus of two millions in the Treasury before any thing can go to the Sinking Fund; by the Treasury construction, there must be a surplus of about four millions first. This construction is clearly at war with the words of the statute, and still more with its plain intent and obvious meaning. Its intent was to hasten the extinction of the public debt, and for that purpose to prevent a single idle dollar from lying in the Treasury; but this construction leaves two millions idle in the Treasury, or rather in the Bank of the United States, idle to us, though it may be productive to that institution, while the People of the United States are paying its interest, equal to \$120,000 per annum, to the public creditors.

Mr. B. entered considerably into detail, for the purpose of showing the nature and amount of these unexpended balances. He said they existed in all Governments, and must necessarily exist to a greater or less amount, according to the magnitude of their receipts and expenditures. To illustrate this, he would suppose that the present year was the first of the existence of this Government, and that the appropriation for its service was ten millions of dollars. Now, it would follow, of necessity, that the whole amount of this ten millions could not be paid out in the course of the year. Distance alone would prevent some demands from getting in; casualties and accidents would prevent the regular arrival of others; defective vouchers, or press of business in the offices, would prevent some from being adjusted, for weeks, or months, after they came in; in some instances the service could not be rendered, the work could not be done, the contract could not be performed, for which the money was to be paid, until after the lapse of the year; and in many cases, the amount appropriated, would be more than enough, and would leave a balance that would not be called for at all. From all these causes, it would certainly happen, that a considerable portion of the ten millions voted for the service of the year, would remain unexpended at its end; and so on, year after year, as long as the Government existed. The history of our own Government shows that these balances amount to upwards of three millions of dollars; and they are always considerably reduced in the first quarter of the ensuing year, so that two millions at the rise of any session of Congress, is an ample allowance to meet them. It was upon the knowledge of these facts, that Mr. Lowndes, the able and accomplished author of the Sinking Fund act of 1817, fixed upon two millions for that purpose; but even this I hold to be an unnecessary provision; for the annual appropriation of another ten millions before the rise of Congress, for the new year's service, would leave another unexpended balance of three millions to meet that of the preceding year; and so on, as long as the Government lasted; at the end of which, and not before, would the two millions be wanted to pay off the outstanding claims.

Mr. B. said, that the manner of stating the public accounts at the British Treasury, shewed the nature and amount of these balances more plainly than they are seen in our annual Treasury Reports. The English used three columns, we but two. In the British account, the first column shewed the *object* of the appropriation; the second shewed the amount *appropriated*; the third, the amount *paid out*. In ours, we only see the *object* of the appropriation, and the amount *paid out*. The difference is, that in the British account, you see the balances in detail, upon each separate item; in ours, you only see it in gross, and that some where else, in the body of the report.

With respect to these balances, Mr. B. said they amounted to a large sum, constituting a standing deposit



MARCH 3, 1828.]

Public Debt.

[SENATE.]

Bank which had the keeping of the public money, and certainly yielded a handsome profit to that institution. In England, while the principal disbursing officers were their own Treasurers, the profit on the keeping of these balances, was a perquisite of the office, and quickly made the fortune of the incumbent. The elder Mr. Pitt, when he was Paymaster of the forces, about the year 1740, was the first who refused to appropriate the profits of these balances to his own emolument, and accounted for them to the Government. The average balance in the Paymaster's hands, was then about 100,000 pounds sterling, and interest about four per cent.; so that Mr. Pitt gave up about 4,000 pounds per annum, which any banker would have given him for the deposit and use of his balances. In later times, when the financial concerns of the Government were so much increased as to swell this balance to a million sterling, Mr. Burke, being Paymaster of the forces, followed the example of Mr. Pitt, and accounted to the Government for the thirty thousand pounds per annum, which it commanded from the bankers. At present, the Bank of England keeps the Government money, and the aggregate balances amounted some years, to eleven millions, equal to double the amount of our whole revenue. Whether the bank paid interest on so large an amount, he knew not, but he did know that the Bank of the United States paid nothing for the use of the public money in its hands; he believed there was often five or six millions on hand, from the collection of the public revenue; and he submitted it to the Senate to say, whether it was right or excusable, to augment that great and gratuitous deposit, to the amount of two millions more, by acquiescing in an erroneous construction of one of our own statutes?

Mr. B. proceeded to the second branch of the resolution, which proposed to reduce, or to repeal entirely, the reservation of two millions of dollars, if the construction he contended for was not adopted. If his construction was adopted, and the act of 1817 amended accordingly, then the reservation might remain to pay so much of the outstanding claims of the previous year, as remained unpaid at the end of each session of Congress. But, if that construction should not be adopted, and the Treasury practice should continue, of reserving this two millions, in addition to the unexpended balance on hand, then the question would present itself, how far it was proper or justifiable to leave this two millions as a permanent and gratuitous deposit in the Federal Bank? He conceived it would be neither proper nor justifiable to make such an unprofitable disposition of so large a sum of the public money. There was no necessity for it, nor any possible way of using it for the public good. The common notion, that this reservation was a contingent provision for unforeseen demands, was unfounded and fallacious. No such demand had ever occurred since the foundation of our Government, and none such could be paid, if they did occur: for, not a cent of this money could be used, until Congress should meet, and pass an appropriation law to draw it from the Treasury. No such reservation existed before 1817, and no part of it had been used since; and these facts should be sufficient to shew the correctness of the construction for which I contend. But, if that construction is not adopted, the same facts will shew the propriety of repealing the reservation *in toto*. The repeal would let two millions more go annually to the Sinking Fund than would otherwise go to it, and would save \$120,000 of annual interest, a sum of sufficient magnitude to claim the attention of all the friends of economy.

The third branch of the resolution proposes to enlarge the authority given to the Commissioners by the 5th section of the Sinking Fund act, so as to vest them with a discretionary, instead of a limited authority, in making purchases of the public debt at its market price. As the section now stands, the authority given by it is nugatory.

The limitations defeat its intention. The Commissioners are restricted from purchasing the three per cent. stocks until they fall to sixty five dollars for a hundred, and the six per cents until they are at par; and the four and a half and five per cents they cannot purchase at all, because they have been created since the passage of the act, and are not included in it. The three per cents are now at 95, and will not fall lower except upon the prospect of being paid, (for the value of stocks is now in proportion to their duration;) the six per cents will never be at par; and the four and a half and five per cents are, some of them, irredeemable for seven or eight years to come. In the mean time, it is certain that the means of the Treasury will be competent to the extinction of several millions of debt more than is redeemable, and, unless the Commissioners of the Sinking Fund have authority to purchase at the market price, this large accumulation of money must either lie in the federal Bank, as a gratuitous deposit, or be lavished upon objects which might not be thought of except for this tempting pile of money. The question, then, for Congress now to decide, is, whether this accumulation of money shall go to the bank for nothing, or be lavished upon unknown and unknowable objects, or be applied to the reduction of the public debt in the only practicable mode, that of purchasing it up before it is redeemable, at the market price. My own opinion is decidedly in favor of this last alternative. I believe that our Commissioners may be safely trusted with this authority. The British Commissioners have exercised the same authority since the first establishment of their Sinking Fund in 1816: they have purchased twenty times the amount of our present debt, and have never been accused of abusing their trust. Our Commissioners must be equally worthy of public confidence. They consist, and must consist, of men who cannot be presumed to lack discernment to see, or integrity to prefer the best bargain for their country. They are gentlemen who fill, and must fill, the highest offices of the country—the Vice President, the Chief Justice, the Secretaries of State and Treasury, and the Attorney General. An objection to conferring this authority on such a body of men, cannot be an objection to them, but an objection to the object of the authority; that is to say, to the payment of the debt itself. That there are persons who will make that objection, is beyond question. I speak, not of Senators nor of individuals, in or out of this Chamber, but of numerous and powerful classes of the community, whose sentiments are known to me. There are such classes, and I will specify them. 1. The holders of the debt are against its payment, because they wish to live at their ease upon the interest, and have the whole country bound and mortgaged to them for the ultimate payment of the principal. 2. The inhabitants of the places in which the debt is owned are against it, because it has drawn an hundred and fifty millions of dollars into their neighbourhoods, and is still drawing on at the rate of three millions per annum. 3. Some disinterested people are against it, because they are afraid that foreigners will carry off the twenty millions owned by them, and make a dearth of money at home; as if the place of this twenty would not be supplied by the forty millions paid to domestic creditors, and which would then come into circulation; and as if the foreigners had not already three times carried away the amount of their capital in interest, and would again carry off its amount, in the same way, in every successive period of sixteen years, until the capital was paid! 4. Another class is opposed to it, because they look upon a public debt as auxiliary to the strength and duration of the Government, by interesting the moneyed interest, and binding them to its support. This, Mr. President, is a very ancient doctrine, but not without its advocates in modern times. It is the invention of a crafty Greek, who had to make up in fraud what he lacked in force; I speak

SENATE.]

Public Debt.

[MARCH 3, 1828.]

of Eumenes, who was Secretary to Alexander the Great. This man of the pen, upon the death of his master, put in, among the Generals, for a kingdom out of the wrecks of his empire; and having no army to sustain his pretensions, he had recourse to fraud to raise one and bind it to him. For this purpose he borrowed all the money he could from officers and soldiers, and then told them that their chance for payment depended upon their supporting him in possession of Cappadocia and Paphlagonia, provinces which he had marked out for his future kingdom. Of course these officers and soldiers did not want to lose their money; and, like provident men, fell in with the only course which could save it. They fought for Eumenes; they made him king, they made his children kings after him; and, in return, the king and his children made the People of the kingdom perpetual tributaries to these money-lenders, in the payment of interest on the sum borrowed. And this, Mr. President, is the origin of the notion which has been so compendiously expressed in our own country, in that famous declaration, *that a public debt was a public blessing*. In later times, and in our parent country, we have seen the policy of the crafty Greek revived and acted upon by a crafty Dutchman, William, Prince of Orange, who had need of both fraud and force to maintain himself on the throne, from which he had chased his father-in-law. He also bound the moneyed interest to his support by borrowing their cash, and thus laid the foundation for that frightful national debt, which now overhangs and overwhelms the British empire. Such an example as this should explode the notion that a public debt was a public blessing. The doctrine, at best, is only applicable to monarchies, founded in force or fraud, and where one part of the subjects have to be bribed to keep the rest in subjection; and even then the debt must be large, diffused over the country, and held in many hands; while our Government is Republican, founded on the affections of the People, and our debt is small; one third of it owned by foreigners, the rest centered in a corner of the Union, and held by a few. 5. The last class of objectors which I shall mention, consists of those who think our debt a trifle, which can be paid at any time, and who are for letting it alone at present, and applying our money to other objects. This, Mr. President, is the most dangerous class of objectors; for they are numerous, honest, perfectly well intentioned, and mean no harm themselves, but do the greatest possible mischief, by becoming the allies of the money-lenders, and of the sticklers for the blessedness of a public debt. It is to this class of politicians that Great Britain is indebted for her present tremendous debt. That debt is the growth of a single century—a short period in the life of a nation—and took its gigantic start, in the very doctrine which I am now combating. At the commencement of the last century, this debt was but sixteen millions and a half sterling (about seventy millions of dollars)—very nearly the amount of our debt at present, and as little prospect of its growing to what it now is. One class of politicians were then anxious to pay it off; another considered it as a trifle, which could be paid at any time, and insisted upon applying the public money to other objects. This class prevailed; and what was the consequence? Why, sir, the season of peace, in which alone a public debt can be paid, passed away; wars came on; and one year of war creates more debt than many years of peace can discharge. The war for the security of the Protestant succession came on, and raised the sixteen millions to fifty-four millions; that for the Dutch barrier followed, and raised it to seventy-eight millions; then the seventy years' war, which carried it to one hundred and forty millions; then the war with us, which put it up to two hundred and thirty millions; and, finally, the wars of the French Revolution, which advanced it to nine hundred millions, equal to four thousand millions of dollars, at which it now stands, mocking

all idea of payment, and crushing the People under a frightful load of taxes, to meet the annual interest. Such a result should be a warning to us. It should admonish us to eschew the policy which has proved so fatal in our parent country. It should caution us to pay our debt while we can, and not to run the risk of meriting from our posterity of an hundred years hence, the bitter reproaches which the English are the present day lavishing upon their ancestors of the reigns of Queen Anne and George the First.

The fourth and last branch of the resolution requires the Finance Committee to report on the probable time within which the present debt of the United States may be paid; and upon what articles, and to what amount, the duties now payable, may then be reduced or abolished. This is an inquiry, Mr. President, of the deepest concern to the People; and the report of the Committee, if ordered to make one, will be looked for with the greatest impatience and solicitude. In my own opinion, our debt may be paid off in five years, and duties abolished to the amount of eleven or twelve millions. The debt is now, nominally, sixty-seven millions—in reality, about fifty-eight; for seven millions is in the United States' Bank Stock which is worth more than par, and brings a dividend equal to its interest; and thirteen millions is in three per cent. stock, which is fifteen per cent below par, and may be bought for about eleven millions. A Sinking Fund of thirteen or fourteen millions would extinguish the actual debt, in five years, (letting all the public works go on as usual) and it would require but little aid from our legislation to make that fund amount to thirteen or fourteen millions. It is ten millions now, and is increasing from the improving state of the commerce. The restoration of the 4th section of the act of 1817 to its true and obvious meaning, would increase it two millions more; and a more rapid sale of the public lands, according to the plan which I have had the honor to propose, would further increase it, to the amount of another million or upwards. Thus, in five years, the debt may be extinguished, and the great questions placed before Congress, whether the present revenue shall be kept up? And if so, for what objects? Or reduced? And if so, upon what articles the reduction shall fall, and to what amount? These will be great questions, worthy to engage the deliberations of the whole Union, and the discussion of them may develop a new line in the division of political parties. Some may be for keeping up the whole revenue, and making the Federal Government strong and splendid; others may be for a reduction of the taxes, and for limiting the revenue to the just and necessary support of a plain Republican Government. I shall myself be found in the ranks of this latter party; and to enable it to act best for the public good it is necessary that the public mind be consulted before it acts. The abolition of duties will be a delicate and responsible task—it will be the counterpart of an imposition of duties—and should be executed in strict subordination to the will of the People. For one, I should wish my constituents to know my sentiments, and, in return, I should like to know theirs. If we disagree, I promise them one of two things—either to execute their will, or to retire from my station. Here, then, is my creed: I am for abolishing duties in toto, as soon as the public debt is paid off, upon all articles of prime necessity, or ordinary comfort, which are not made at home at all, or not made in sufficient quantity to merit national protection; and I am for continuing them on articles of taste and luxury, and upon such rival productions of foreign countries, as our security in time of war, and our general independence as a nation, requires to be made at home. This is what I have said on a former occasion, and now repeat, because I have been misrepresented, and my words mutilated and garbled for party purposes. I will be more explicit, and specify some of the articles which I would

MARCH 3, 1828.]

Public Debt.

[SENATE.]

select for exemption from duty. I will name coffee, of which we have imported forty millions of pounds weight in the year; teas, of which the imports have been ten millions of pounds; spices, imported to the amount of six million of pounds; cocoa and chocolate, four millions; *linens* to the value of three millions of dollars. Upon these articles, and others of the same class, which might be named, the duties might be abolished, I apprehend, with advantage to manufactures, as well as farmers and merchants: for they are necessities of life which enter into use in the living of every family, and lowering their price, would be lowering the price of labor, which the manufactory demands. Salt, sugar, blankets, and flannel, present another class of necessaries and comforts, upon which some diversity of opinion might arise. They are necessities of life, and partially made at home, but not in sufficient quantity to answer the public demand. Large importations of them are made from abroad, and heavy duties are paid upon them. Of salt, we import four millions of bushels, the duty twenty cents to the Government, and ten cents profit on it to the merchant; of sugar, eighty millions of pounds, the duty three and four cents to the Government, and one more to the merchant; of blankets and flannels, we import to the value of a million and a half of dollars, paying above four hundred thousand dollars to the Government, and near two hundred thousand more to the merchant. Upon these items there may be diversity of opinion, and the will of the People should be known. Let no one say it is too soon for the People to begin to think upon this subject. I detest that saying, in all its bearings and applications. It is never too soon for the People to think, but often too late! It is not too soon for them to begin to think now about the abolition of duties. Their Representatives will have to act one way or the other, in four or five years; and would, doubtless, wish to be informed of the sentiments of their constituents. The report of the Committee, which I propose to obtain, will give them that advantage. It will set the public mind to work, and will enable the People to manifest their wishes in time to guide and enlighten the decision of their Representatives.

Mr. SMITH, of Maryland, said that the Committee on Finance did not, on any occasion, shrink from its duty, and they would take up the subject as speedily as possible. He would make but one remark upon the statements of the gentleman from Missouri, in relation to the two millions of dollars reserved in the Treasury. There were several contingencies to which this sum was liable. One was the practice of Congress frequently to make appropriations of large sums of money, not calculated on by the Secretary of the Treasury in his estimates; and then this sum came in and fulfilled the designs of Congress. Last year, this application of the two millions was made to a large amount. Congress made such liberal demands upon it, that but four hundred thousand dollars remained in the Treasury at the commencement of this year.

Mr. JOHNSTON, of Louisiana, rose in reply to Mr. BISTON. He said he should not oppose the reference of the resolutions, which was the usual course; but he could not permit them to pass to the Committee, after the elaborate argument by which they had been recommended, without expressing his entire dissent to the opinions and views of the gentleman from Missouri.

I do not believe there is any error in the act of the 3d of March, 1817, either in principle, or in the construction of it. I think the act plain, that there is no misconception of its meaning, and that it is founded in just views of our financial affairs. This act was intended to appropriate ten millions of dollars annually to the redemption of the public debt, after the year 1817, and was, consequently, a standing appropriation after the current expenses of the year, if the Treasury was adequate to pay it. This part of the law gives rise to no difficulty, as the reservation does

not apply to this section. But an additional section of the act is in these words: "That, after the year 1817, whenever there shall be, at any time after an adjournment of Congress in any year, a surplus of money in the Treasury, above the sums appropriated for the service of such year, the payment of which to the Commissioners of the Sinking Fund will yet leave in the Treasury, at the end of the year, a balance equal to two millions of dollars, then such surplus shall be, and the same is hereby, appropriated to the Sinking Fund, to be paid at such times as the situation of the Treasury will best permit, and shall be applied by the Commissioners thereof to the purchase or redemption of the public debt."

By this section, two millions are directed to be left untouched in the Treasury, and all the surplus, after such reservation, is to be applied to the public debt. The gentleman from Missouri supposes that this reservation is either a misconception of the act, or is founded in erroneous principles, it being, as he supposes, unnecessary to reserve, even by estimation, any money in the Treasury, and, consequently, that all the estimated resources for the year may be safely appropriated by anticipation. The act seems too plain to be misconceived, and has received a uniform construction by the Commissioners of the Sinking Fund. It must be a surplus of money in the Treasury, over and above the appropriation for the service of the year, and the ten millions, and the two reserved millions. The balance is surplus, and is, by the act, appropriated to the public debt.

"After the adjournment of Congress," the estimate is made for the year. The nett balance of the Treasury, at the close of the year, (excluding what was appropriated for the service of the last year, and all funds not available) is added to the estimated revenue of the year. A sum equal to the appropriations made by Congress for the service of the year is set apart—ten millions are directed to be applied during the year to the principal and interest of the public debt. If any balance remains in the Treasury, according to the estimate of the revenue, two millions is allowed to cover all deficiencies and variations of the revenue, and the surplus is applied to the public debt.

The reason why two millions was directed by the act to be reserved, was, that the calculation of the amount on which they are to operate, is founded on an estimate of what may be in the Treasury during the year, not what is actually there. It was known that our revenue was liable to fluctuations of two or three millions a year, from causes that could not be anticipated even one year in advance. Our importations are subject to variations, and the revenue arising therefrom to corresponding irregularities. There are, besides, inequalities in the different quarters of the year, that materially affect the receipts of the year; and we have experienced the same thing from the sales of the public lands, so as to baffle all calculation of the actual result of the revenue for the year. It was a knowledge of this uncertainty, in all financial estimates, that induced the reservation of the two millions, to guard against a probable contingency of applying more to the public debt than might be found in the Treasury. The wisdom and the foresight of this provision has been exemplified by the experience of the last ten years. In 1817, the estimated receipts from customs were twenty-four millions; the actual receipts exceeded that sum by two millions, and this is probably a solitary instance. In 1818, the estimated receipts were twenty millions; the actual were three millions less. In 1819, estimated twenty-one millions; and the revenue fell short near a million. In 1820, the estimate of nineteen millions was found by the result to be four millions too much. In 1821, the Secretary of the Treasury estimated fourteen millions; but the Committee of Ways and Means, with the same data, estimated 15 millions. It produced but 13 millions. These differences arise with the ablest men, with all the informa-

SENATE.]

Public Debt.

[MARCH 3, 1828.]

tion necessary to a correct judgment. They can but approximate the true result. There are some facts and some principles which are useful in forming these estimates; but, with all their aid, it is but conjectural. There are no known laws that govern them. Experience has shewn, perhaps, that two millions is a safe allowance for the fluctuations of commerce, and the various exigencies that may arise during the year. In the last twelve years, the receipts have varied from near thirty-four to thirteen millions. But from this series we are able to form a more accurate estimate of the general average of the revenue. The receipts for twelve years may be said to average twenty-one millions—for the last five years twenty-two millions; and this is a sufficient basis for all financial calculation. It will probably vary from twenty to twenty-four millions. We may allow, in round numbers, ten millions for the ordinary expenses of Government, established by law; ten millions for the public debt; and the extraordinary appropriations average from one to three millions. So that, upon no ordinary calculation, can more than ten millions be applied, nor can we anticipate there will be a surplus.

Again: We know that, during that period, the receipts of the Government have not allowed the regular application of the ten millions, and have not been found equal to this standing demand on the Treasury. We have paid, during that period, \$134,506,206, of which \$18,786,748 was provided for by loans; leaving the amount actually paid \$115,719,453; whereas, the application of ten millions for twelve years would have extinguished one hundred and twenty millions. There is, therefore, due to the sinking fund, more than four millions. This shews, however, how nearly it has met the expectations of the country, and is an evidence of the ability of the distinguished man who framed the bill. But it shews, at the same time, that there has been no surplus.

It seems to my mind the gentleman labors under some erroneous impression on this subject. He seems to think that something has been lost, by mismanagement of the funds, either by the operation of this act, or the misconstruction of it, and supposes, by changing the act, he will save the interest of two millions a year. Sir, since the operation of the act, there has never been a surplus of two millions, which could have been applied to the debt. On the contrary, on the 1st of January, 1818, '19, '20, '21, the four first years after the act creating the Sinking Fund, and also in 1824 and 1825, there was no balance in the Treasury, but a great deficiency, to wit:

1st Jan. 1818, \$4,953,852	1st Jan. 1821, \$2,056,724
1819, 2,060,483	1824, 2,382,030
1820, 5,201,157	1825, 151,259

On the 1st January, 1822, there was in the Treasury only \$491,166; on the 1st of January, 1823, there was in the Treasury \$5,462,412 not applied, because there was no redeemable debt to which it could be applied. On the 1st January, 1826, there was a sum equal to a million in the Treasury, and that balance still remains, and will be carried to the estimated receipts of the year, to compose the fund of the Treasury, for the year, out of which the appropriations for the year will be taken, including the ten millions; and if there is any surplus, after allowing two millions for variations of revenue, it will be also applied to the public debt. If the gentleman could find the two millions which could have been, but which have not been applied, in consequence of this act, I would consent to apply it; but if, at any period, that sum had been applied, the Treasury would be now minus a million. The error consists in the idea that such sum has laid idle in the Treasury. It was never there. A view of the whole subject will show the sound discretion which has been exercised over the application of the funds, since the peace, with the exception of the sum that remained, in 1823, unemployed; but that was the business of Congress.

The Secretary of the Treasury could not purchase stock; and there was none at that time redeemable.

The Secretary of the Treasury recommended, in his report, in December, 1826, a loan of sixteen millions, at 5 per cent., to pay off a debt of 6 per cent., and which, if carried into effect, would have produced, at once, a large saving to the Government, but this proposition was rejected by Congress at the last session. That, to my mind, was the time and place for economy. That would have realized more than could result from the interest of the imaginary two millions, if they had actually existed in the Treasury.

Sir, the payment of the current expenses of the Government, and the ten millions, will leave us from two to three millions a year, for all objects of a miscellaneous character, including internal improvements, roads, canals, breakwaters, piers, deepening channels, removing obstructions in rivers, purchases of land from Indians, and various other claims upon the country. During the last three years, a large sum has been applied by Congress to these objects of great utility, and of indispensable necessity. These appropriations will, doubtless, be continued by Congress. What future expectation can there be, that there will ever be a surplus of two millions? We have an actual surplus, now ascertained, of a million, but we have a bill appropriating a million to the surviving officers of the Revolution; and, while it is proposed to apply the million to the public debt, it is, at the same moment, proposed to raise the million for the officers by a new loan; and where is the economy of that?

The Secretary of the Treasury estimates an excess of receipts, for the present year, of \$2,352,874, and this sum is liable to the usual variations. But what are the demands upon it? There is a bill before us, which contemplates the commencement of a breakwater at the mouth of the Delaware, which will cost more than two millions, and which proposes \$250,000 a year. There is another anticipated at Nantucket, of about half that cost, which will also require \$200,000 a year. There are applications for opening a communication from Albemarle Sound to the Atlantic; deepening the channel at the mouth of Cape Fear river; opening the falls on the Wabash; removing the rafts in Red river, and obstructions from the Ohio and Mississippi rivers, and many others of less importance. This is besides the removal of Indians and purchases of land, the claims of States for advances during the war, and the private claims now pending, amounting to more than half a million.

Now, the simple question is, whether these objects are of more pressing importance than the payment of this additional two millions to the public debt, which would hasten its extinguishment little more than one year, while these great objects must be neglected. Upon this point my mind is made up.

The regular application of ten millions will extinguish the public debt early in 1836, and, in the mean time, from two to three millions a year may be distributed over the country, to improve the navigation, by artificial harbors, deepening channels, erecting piers, and other useful works upon the coast; to improve the communications between the States, by the internal commerce of the country, now vastly greater than the foreign. The public debt is in a progress of rapid extinguishment, and quite as rapid as it ought to be, not to disturb the commerce, or the capital, or the circulation of the metallic medium of the country. The stock of the United States, to a certain extent, forms a part of its capital. By paying it off, you do not increase the circulating medium, but you destroy that part which is a substitute for capital. How far this stock enters into the capital upon which trade and commerce is carried on, I do not know, nor can I anticipate the effect upon them, of withdrawing, in a

MARCH 3, 1828.]

Public Debt.

[SENATE.]

short period, seventy or eighty millions of stock. It is probable that, by a gradual operation of ten millions a year, no dangerous effect will result. Every thing will gradually accommodate itself to the changes going on. But nothing is more to be dreaded than causes which suddenly derange the money market; a panic, then, deranges every thing else. The moment the drain is felt, the Banks curtail, money appreciates, property sinks in value; pecuniary embarrassment, sacrifice, distress, and bankruptcy, follow. It is the business of statesmen to look to this, and to guard against it. If a drain of specie in the Western country has produced great sacrifice and ruin, what would be its effects upon the Atlantic States, and in our large cities? Twenty millions of this stock is held by foreigners, and the gentleman says that we are tributary to them, to the annual amount of the interest. When this debt is paid off, if this sum is reinvested in the country, we shall still contribute to them the amount of this interest; but there is reason to expect that foreigners will not invest in any institutions of the States. The capital is attracted here by a profitable investment in public stocks of the Government, on the faith of which they rely. They have no confidence in local institutions. If twenty millions were withdrawn too suddenly, it might disturb the circulating medium, and, thereby, the trade and commerce, as well as the value of property. I wish the public debt paid off, as fast as it is safe to do so. I think the rate of ten millions a year is rapid enough, and ought not to be accelerated.

The gentleman says there is a balance of four millions, at all times, in the Bank of the United States, the use of which that institution enjoys gratuitously. It is true, the Bank receives, in deposit, at different places, the whole revenue of the Government, which they pay out to the order of the Treasury, as it is called for, to meet the appropriations; that about a quarter of the amount, varying from three to five millions, is always in the vaults in advance; the use of which, he supposes, is a boon to the Bank, and without equivalent. If we had a treasury of our own, we must always have a quarter year's revenue in advance. That must lie idle and unemployed in our coffers. That immense sum must be trusted to the integrity of a single individual, and must pass through the hands of twenty irresponsible agents. Disbursements must be made, loans discharged, and pensions paid, at various points. It would require a complicated machinery; and, even then, expenses and losses would be incurred, and inconveniences experienced. I believe the Bank a necessary appendage of the Treasury, which, besides affording a sound currency for the payment of duties, facility of exchange, and transmission by checks, performs, without compensation, and without loss, all the moneyed operations of the Government. Is it nothing that we have a safe depository, and a responsible agent? Is security and accommodation nothing? We are large stockholders ourselves, and partake, to that extent, in any profit it may give. But, sir, how infinitely more important must this institution become in time of war. Besides, this balance is always appropriated, and no longer the fund of the nation. It is deposited for those who have a right to receive it, and that right is perfect at the end of the year, and liable to be drawn at any time.

I concur with the views of the gentleman, for political reasons, in the propriety of graduating the price of public land to the quality—this is but justice to all classes, and it is due to those States whose lands are of inferior rate. I concur, also, in the expediency of reducing the price of the lands, because I believe a man is a better citizen, and has a better provision for his family, who is the proprietor of a section of land, than the owner of half a section—as the owner of a half is superior to the owner of a quarter section. By making him a proprietor, you render him independent; you elevate him in the scale

of society; you give him a stake in the common stock of the community; you make him a citizen, instead of a dependent. I would go farther: I would give to every head of a family half a section of land, who should actually inhabit and cultivate it for five or ten years. The country, besides making him a freeholder, and stimulating his industry, and providing for his family, will be greatly compensated by the general improvement of the State, by the increase of population and production, and by contributions to the revenue. These lands are a vast resource to the People, but very inconsiderable to the Government. They will not yield more than a million a year, while you are exhausting the capital; but, if they were cultivated, they would add, by increased production, five or ten times that sum, in duties on consumption.

I differ, however, entirely, with him, as to the effect of a reduction of the price of the lands upon the revenue. He supposes the effect would be to double the amount of the receipts. These sales are limited now, by the ability of the purchasers; you may sell twice the quantity for half the price, but you cannot increase the amount of money; and, if you could, you would drain the new States of their specie, and produce the ruinous consequences we have before witnessed, from that cause, in the Western States. If it could be effected, it would be unwise to increase that drain, for the mere purpose of paying the public debt a year or two sooner than by the natural means now in operation.

If I differ with the gentleman on these points, I disprove still more his ulterior views. The object seems to be, to force the revenue to the highest point, to stop the progress of all our improvements, to press the payment of the public debt in five years, in order that, when that is accomplished, we may remove the duties, and lighten the burthens of the People. I think I have shown, that the ideas of two millions surplus in the Treasury, and of two millions from the public lands, are both fallacious.

If relief is the object, I think the mode extremely injudicious. The plan is, to discontinue the usual appropriations for Internal Improvements, by which three or four millions are annually carried back to the People, to reward their labor and improve the country; and to add an extra four millions to the immense Sinking Fund of ten millions, that, by a great effort, the debt may be extinguished in five years. Now, on the contrary, I would propose, if we must discontinue these important National works, and suspend all improvements, to abolish the duties at once upon tea, coffee, spices, cocoa, chocolate—those necessities of life, which enter into the consumption of every family, and of all classes, and which are not produced in the country—and, if necessary, to diminish those on wines, silks, and fine linens, &c. This would be a relief, while it would not impair, the protection of our productions, or retard, injuriously, the payment of the public debt. This debt will be paid in good time, by the regular operations—there is no motive for straining every thing to the utmost point of tension—suspending all works of public utility, extorting four millions from the People, merely to expedite that object.

The gentleman from Missouri, in looking forward to the extinguishment of this debt, has broached new and dangerous doctrines, which go to the foundation of all protection, and, carried into effect, would ruin this or any other country. I hope I misunderstood him. But what he has said touches me in a tender point, and I cannot permit it to pass. It is said in terms that mark deliberation—and it is distinctly announced—that these principles are to form the distinctive lines between the great parties that are to divide the politicians of this country.

He says, "I am for abolishing duties in *totò*, as soon as the public debt is paid off, upon all articles of prime necessity, or ordinary comfort, which are not made at home, or not made in sufficient quantity to merit national pro-

SENATE.]

Public Debt.

[MARCH 3, 1828.]

"tection." And, to make his views more intelligible, he adds, "salt, sugar, blankets, flannels, present another class of necessities, and comforts, upon which some diversity of opinion may arise; they are necessities of life, and partly made at home, but not in sufficient quantity to answer the public demand." If from this is to be inferred, that these articles do not deserve the national protection, because they do not supply the public demand—and the protecting duties are, consequently, to be removed—and this is to constitute the line between the parties, I have no hesitation in saying on what side of that line I shall be found. This doctrine followed out to its consequences, would reach wool, hemp, cotton bagging, iron, lead, and almost every article, agricultural and manufacturing, which is now the object of National protection.

Sir, I am unwilling to touch the great system of protecting duties, upon which I believe the prosperity of the country, now, essentially depends. The laws, upon the faith of which capital is invested, and labor directed to all the various pursuits of life, should be sacred. If this revision is to take place, where will it end? One interest will be sacrificed at a time, until all confidence is lost in the faith of our laws, and the permanency of our policy—until the capital, industry, and spirit of the country is broken, and disorder, confusion, and ruin, result.

The necessities of life, which the soil produces, instead of being singled out as peculiarly worthy of sacrifice, ought to be the objects of special care. No People can dispense with the use of them; no nation can be independent without them; in war, you could not procure them; in peace, you will have no means to buy them.

Sir, I am the more surprised, as the gentleman from Missouri has so recently aided in establishing this system. He rendered a most acceptable service to his State, by an ample protection of its chief staple. The removal of that duty now, would produce very injurious effects upon the industry and trade of that State; and with the People, to whom he now refers the subject of abolition of duties, it will be a question, whether they are willing to sacrifice, annually, a million of productive labor, to save a tithe of that sum, by removing the duties on other articles, which they obtain by an exchange of theirs. Let us test the correctness of this doctrine of abolishing duties, because the article is not produced "in sufficient quantities to answer the demand." We import, annually, more than 10 millions of pounds of lead, in different forms, equal to near half a million of dollars. Some of these articles are considerably increased in value by manufacture. Missouri abounds with lead ore—she produces now about half a million of dollars a year—but she does not supply the demand; she has, however, the material, the labor, skill, and capital, to supply, in time, "the public demand." Now, upon the principle assumed, because there is a market at home, and the public demand for lead not supplied by Missouri, the duty must be abolished. Sir, we have soil and labor to produce sugar and molasses, equal to the consumption of the country. But, at present, we require six millions of dollars worth from abroad. We have an open market at home for the employment of slave labor, to the additional extent of six millions a year; and we may safely calculate the annual consumption of these articles in twenty-five years, at sixteen millions of dollars. This demand, in due time, will be supplied under the present fostering care of the Government; but, upon the principle laid down, because we do not now, "answer the public demand," it will "not merit the National protection." The duties must be removed, and the market supplied by foreigners, and the value of the soil and labor sacrificed. Sir, that will present a great question to all the Southern States, the value of whose slave property must now depend on the cultivation of the cane. The market of all agricultural productions is now fully supplied. Flour,

tobacco, and cotton, are now pressing on the demand; they have fallen to the lowest prices; but there remains one great field of labor open to their enterprise, sufficient to give employment to a great portion of their slaves, and that alone, at this time, gives any value to that property. Remove this, and we are thrown into direct competition with the Islands, and our productions and our labor must sink to the level of theirs. It would annihilate, at one blow, at least half of the value of the Southern property. But, sir, without this protection, sugar could not be made. It would not only be an entire sacrifice of all the capital employed in it, but it would make a wide ruin. Besides, sir, what will you give in exchange for eight or ten millions of dollars a year in sugar? And, if you take that amount of your present exports for this article, you must limit yourselves to that extent in something else. Sir, the whole amount of the sugar enters into the internal trade of the country, and the whole of it either goes off by exchange with the several States, for their peculiar productions, or the money remains in the country.

Sir, I had no hand in creating this system of protection, but it is sacred now with me. The wealth of the country, and the prosperity and happiness of the People, are now intimately interwoven with it. It has become a vital interest. The extinguishment of the public debt, and the pension list, which will be effected in eight years, by the present operation, will reduce the expenditure below eight millions. The abolition of duties on articles not grown or made in the country, will reduce the revenue at least eight millions. Teas, coffee, spices, cocoa, chocolate, wines, silks, and linens, will produce \$7,600,000, which will reduce the revenue to 14 or 15 millions—and to 13 or 14 without the aid of the lands, and leave the capital and labor still protected; and, I trust, it will never become necessary to disturb the present order of things, or important to reduce the revenue below that sum. This will afford us from five to six millions a year of surplus revenue, to be disposed of by the wisdom of Congress, in the mode in which, according to their discretion, the greatest amount of good will be produced to the country. What can be more cheering and animating to the statesman and patriot, than the regular application of such a sum, for a single century, to the improvement and embellishment of his country? The rivers it will open, the harbors it will deepen, the canals it will form, the roads and rail-ways it will construct, and avenues of trade it will create—the monuments it will erect to the glory of the country!

The anticipation of the surplus revenue has already brought to the consideration of Congress two modes of employing the money. The one is to apply it, annually, to the great improvements of every kind, in their proper order, to facilitate the intercourse and the communications between the States; the other proposes to divide the sum among the several States, according to population. It is too soon to enter upon the relative merits of the two systems. I greatly prefer the former, because I believe the States incompetent to the great national works that are necessary to connect the several parts of the Union.

But, if the majority of the People should eventually decide against the expediency of pursuing the great system of improvement, I greatly prefer the distribution among the States, to the abolition of duties: and if we should ever determine—which I hope we shall not—to forego the general system, I have no hesitation in saying, that the most beneficial consequences may result, even by the direction of the States, in establishing permanent funds for education—rendering that cheap and accessible to all classes; and by judicious application to objects of public usefulness. If it was for no other purpose than to levy a fund for the support of the State Governments, it would be infinitely superior to the abolition of duties.

This fund, distributed among the States, according to



MARCH 3, 1828.]

Public Debt—Fortifications.

[SENATE.]

population, will enable each State to dispense with direct taxation. Their taxes are levied only on property, while capital stock and income is exempt. Those of the United States fall equally upon the wealth of the community.

Sir, I do not oppose the reference of the resolutions. I am satisfied to leave this subject to the Committee, believing they will disapprove all the objects contemplated by them.

[Mr. BENTON said he thought the gentleman from Louisiana had fallen into an error in relation to the two millions. He found, by the law for the regulation of the Treasury, that the sum of 2,000,000 was to remain in the Treasury over and above the appropriations of Congress. It, therefore, could not be disposed of, as the gentleman supposed. If the United States was to be considered as deriving happiness and prosperity from the existence of the public debt, then Great Britain must be the happiest nation in the world: for her debt amounted to nearly four thousand millions of dollars.]

Mr. JOHNSTON said, that nothing which had fallen from him could have called for that remark. He had uttered no sentiment of that kind, and was incapable of uttering such opinion in relation to the affairs of this country. His remarks were limited to the time of paying the debt, and the policy of forcing the payment in a short period, and to its possible effect upon the currency. The debt already exists; it is the excess of our expenditure, in two wars, over our revenues; it is the cost of our independence, and the acquisition of what will be four States in this Union. It is a subject little understood in its effect and operation upon the wealth, commerce, and currency of the country, and one upon which it is easy to excite public prejudice. A public debt is, no doubt, a public evil; but is an evil, from which, by injudicious management, much greater evil may result. By paying off large sums at once to foreign creditors, you may produce a drain of specie—by throwing large sums suddenly into the community, you may disturb the regular operations of the money market, in which revulsions may take place, not only injurious to individuals, but to great branches of trade—the whole commerce—and upon property itself. You draw upwards of twenty millions a year from the body of the People: the payment of the public debt goes back to large cities, and to foreigners; ten millions of this sum are now devoted to that object. Would it not be better to apply the balance to improvements in different parts of the country, or to reduce the duties upon certain necessities of life, not produced here? If a public debt is an evil, it is not so to the extent of the debt. The funding of the public debt created a capital of eighty millions. How far that capital has supplied the want of specie—how far it entered into commercial transactions—how much it augmented the value, and fixed a certain standard to property—how many debts it paid—how much distress it prevented—what has been its general effect upon national wealth and character—how far it has accelerated the rapid growth and advancement of the country, and the general prosperity—cannot now be known.

We have acquired a vast domain of land, and increased our revenues. A large portion of the purchase money went to our own citizens. The amount of the foreign debt is so much capital brought into the country, or has served to preserve the balance of trade, or to prevent drains of specie. It serves as a medium of exchange in large transactions, and is the basis of many institutions. It is a safe investment for widows and children, and there are eight thousand creditors holding this stock. Still, sir, there is an obligation to pay it off, easily to the People, and regularly, not to produce any unequal action.

The public debt of England was not created, because it was a public blessing; but is the effect of her peculiar position, the nature of her government, and the course of her continental policy. How far it has operated to create

her gigantic power and immense wealth, and to make her the first nation in Europe, we can all see: but whether the acquisition is worth the cost, to her People, is doubtful. It is a debt of enormous amount, and is an evidence of her vast resources, and the faith of the nation. It is, however, due to her own citizens, of whom three hundred thousand are stockholders: more than half of that number draw less than ten pounds a year each; and about a third less than three pounds a year. A large mass is held by a few individuals, but who, also, spend large sums, perhaps the whole amount of their revenues. The money is forced rapidly through the community, and back into the Treasury. But, while this goes on, the aggregate of wealth is increasing.

Mr. J. said, he did not wish to be misunderstood. He was happy to see the realization of all our wishes in the extinguishment of this debt. It will occur, by the regular application, in ten years. I shall be glad to be relieved from such a burthen, especially as it will relieve the public lands from the pledge—relieve us from the necessity of holding them up for revenue, and enable us to adopt a more liberal policy towards the States; as it will enable us to diminish the duties seven or eight millions, and give us the disposition of six or seven millions for great national objects.

Mr. MACON said, that, as he had understood it, this was merely a motion for inquiry. He did not accede to the proposition, that, if the public debt was paid off, it would reduce the capital of the country. The public debt was like a private debt. If he should give his bond of a thousand dollars, he believed that, if he did not pay it when he was able, it never would be paid. It was with a nation as with an individual. If we do not pay our public debt when we have money, there is no certainty that it will ever be paid. The difference between them was, that, exactly in proportion as the public debt was liquidated, the taxes upon the People would be reduced and they would have more money at home. He had long thought there was a strong party in the country, which did not want the public debt paid off. Not in the administration, but in the Legislature; and that party was for spending the money of the country for all kinds of projects, instead of applying it to the public debt. It was just as it was with individuals who spent all their income and neglected their debts; and it could not lead to beneficial results. England might have paid off her debt more than once, if they had followed a prudent course. For himself, he wished to see the public debt discharged. We shall not always go on as at present. There will come a time for war. We are continually preparing for it; and when we are ready, we shall go to war. He had been a long time desirous to see some more direct means taken for paying the debt of the Nation, but he began to despair; and now, instead of calculating upon its being done, he did not know as that happy event would ever take place.

The resolutions were then agreed to.

#### FORTIFICATIONS.

On motion of Mr. SMITH, of Md. the bill making appropriations for certain Fortifications, for the year 1828, was taken up in Committee of the Whole; and the amendment offered by the Committee on Finance, appropriating \$50,000 for the erection of a Fortification at the mouth of the river Barataria, near New Orleans, being under consideration,

Several letters and documents, in relation to the proposed object of appropriation, were read, on motion of Mr. SMITH, of Md.

Mr. DICKERSON opposed the amendment, observing that, last year, it was understood that the appropriations were to decrease yearly; instead of which, here was a new project, not mentioned in the former plans. He had



SENATE.]

Fortifications.

[MARCH 3, 1828.]

observed, that the estimates had always fallen far short of the expenditures on the works; and, as he believed the system of fortification was going on to a length, which Congress had never, by any vote that it had given, authorized, he wished to see those fortifications finished, which had been already commenced, before he could vote for any new ones.

Mr. HARRISON, in reply, contended that, when the estimates had fallen short of the expenditures, it was from the impossibility of arriving at the exact sum in advance which a work would cost. As to the fortification now proposed, he considered it essential to make valuable and efficient the various works which had already been completed for the defence of New Orleans. The passage which was to be defended by this fortification, could be entered independently of the passages which were defended by the works already constructed; hence, the expenditure upon them, without this additional provision, would be thrown away. The branch of the Mississippi, at the entrance of which it was proposed to place a fortification, would otherwise be accessible to an enemy, who could land there, and transport his forces up the river to New Orleans. The defence of that city was essential, from its great commercial importance; and it had been defended, during the last war, by the skill of its General, and the bravery of the troops. We could not always depend on having such a General, or such soldiers. If we shut one avenue of approach, and leave open another, the expenditures on the works would be fruitless. The vicinity of New Orleans was peculiarly undefended; and a large force could not be suddenly brought to bear upon its defence. Another reason why this appropriation ought to be made at this time was, that the officers who had been employed on the works already erected, would be enabled to superintend the erection of the fortification of Barataria; and, as they had become accustomed to the climate, no risk would be incurred by placing new officers there. It was true, that this position had been formerly overlooked; but this ought not to operate to prevent the completion of a work deemed necessary to the defence of a point so important. At the present time, the country was able to make the expenditures, and, as it was out of the power of any one to predict at what time such works would become necessary, it was prudent and expedient to prepare for any exigency which a state of war might present.

Mr. SMITH, of Maryland, in defending the amendment, remarked that, in 1816, Mr. Crawford, in a report upon the subject, had given it as his opinion, that \$800,000 might be annually appropriated for fortifications. For several years this sum was appropriated. In 1821 the amount was smaller, in consequence of a scarcity in the revenue: yet, when it could be done, this sum had been regularly applied to this object. The whole amount of the present bill, including an appropriation for Pensacola, and one for Charleston, was 646,000 dollars, 150,000 dollars less than the sum pointed out by Mr. Crawford, which had been followed up as the rule of Congress whenever the amount could be spared. The position of Barataria had hitherto been overlooked; yet all that had been done for the defence of New Orleans would be useless, without this further appropriation. An enemy would have the fortifications already erected in the rear, and pass up the inlet at the mouth of which this fortification was to be placed, and reach the city unobstructed. They would not be so stupid as to attack the fortifications, when they could advance upon their object by an unfortified pass, and could make the attack where there would be no defence. This fortification must be made at some time, and it seemed to be expedient to do it now, while the officers of the United States were employed at New Orleans in constructing other similar works. It was a prudent and economical course to provide for doing the work at this period. He was of the same opinion as the

gentleman from New Jersey, as to the errors which had been committed in the prosecution of the system of fortifications. In many instances, the fortifications erected had turned out to be useless. Still, he was in favor of going on with the system, and of providing, in particular, for the defence of those points which were weakest, and of the greatest importance. Little had been done in this way at the South, while, from the sparseness of the population, artificial defence was most required. The people in the North, from the populousness of the country, contrive to defend themselves in some way or another. They had also already received far greater attention from the Government than the South. But the fortification of New Orleans was not done solely for the benefit of that city. The whole Western country, the trade of which goes down the Mississippi, is to be protected by the defence of this point, and there was scarcely a State in the Union that was not, in a commercial point of view, interested in this object. Every section of the country sends vessels there for freights, and are, consequently, to be benefited by the protection of the commerce of that quarter of the Union. He hoped, therefore, that no serious opposition would be made to the amendment.

Mr. DICKERSON said, he did not think the fact, that certain men had been employed at New Orleans, and still wanted employment, and ought to be kept in employment, were good reasons for erecting any new works of the kind. He doubted the statement that an attack could be made by troops transported up the river Barataria in boats, as artillery could not be conveyed in this manner. Besides, they would land on the other side of the river, than that on which New Orleans was situated. As to the sums hitherto appropriated, he did not think Congress was pledged to apply \$800,000 to fortifications. He did think, however, that, whenever \$50,000 was expended upon any such work, they had had experience enough to show that it became a pledge for the expenditure of half a million. The gentleman from Maryland seemed to think the Government bound to appropriate eight hundred thousand dollars annually, because it was the opinion of Mr. Crawford, who had recommended it, or considered it expedient. Mr. D. had as high a respect for the opinions of Mr. Crawford as was entertained by any man; but he would not vote for any man's opinions. He was opposed to embarking in any new expenditure for fortifications until those already commenced had been completed; and some computation of the length the Government was to go could be arrived at.

Mr. JOHNSTON, of Louisiana, said, that, after the war, Congress had appointed a board of engineers to examine the various posts, with the view to the erection of fortifications; and, although no particular vote had been given by Congress upon the system, yet, they had been in the continual habit of appropriating money, from time to time, for these objects. The three first years after the war, these appropriations were made without designating the works to which they should be applied. Afterwards they made specific appropriations; and, in this manner, they had gone on ever since. Had a specific system been adopted, it would scarcely have been more binding upon the Government than it is at present. But there had been difficulties in the way of any such organized plan. It was formerly impossible to frame an entire system. But as far as it could be done, a plan had been marked out, and followed up. It was a general understanding that those works, necessary to national defence, should be gradually completed, and the first object was the protection of the great cities. The defence, for instance, of New York, whose commerce was of such vast importance, and where the property, always afloat, was of immense value, and involved the interests of citizens of every part of the Union, was a matter of national importance. It was also of great moment to protect the commerce of

MARCH 3, 1828.]

Fortifications.

[SENATE.]

New Orleans, although the amount of property in the city was not so great as that of New York: yet the trade of the vast interior country, of which New Orleans is the depot, creates, during three months of the year, a vast trade, in which all parts of the Union, in one way or another, participated.

It was needless to urge the necessity of defending a city where so much wealth was continually deposited, and needing protection in case of hostilities. Fully sensible of that necessity, Congress had hitherto made appropriations for the fortification of the most prominent points of defence. One point only remains; and unless it were also provided with a fortification, the troops of an enemy might disregard all that had been already done, and transport their troops and artillery up the Mississippi, and attack the city more easily than General Packenham ascended the main approach to it. There were several passages above the point, by which the enemy could pass into the Mississippi, without being obliged, as was the case with General Packenham, to cut a canal. Three or four canals, leading into the Mississippi, would afford this convenience to an enemy, after he had once ascended beyond the point which this provision proposes to fortify. The remark of the gentleman from New Jersey, that he could only reach the opposite side of the river, is, therefore, not correct. It was perfectly true, as had been said by the gentleman from Ohio, that, if this pass were not fortified, the money expended on the works already constructed, would have been entirely thrown away. On the score of economy, the project ought now to be carried into effect. Two engineers are now employed on the other fortifications in the vicinity. The materials for the work were all in a state of preparation. The works for making bricks, which had cost a large sum, were all in operation, and the principal articles required could now be obtained, from the existence of these preparatory works, and from the fact that the contracts are now open, at least thirty per cent. cheaper than three years after the suspension of operations. Then the whole expense of a commencement of the works must be incurred. So that it was not an unreasonable supposition, that, by making the appropriation now, the sum of 50,000 dollars will be saved to the Government. The amount of the appropriation proposed this year was 150,000 dollars below the sum originally fixed upon for annual expenditure on objects of this nature. There was no want of the means; and if the money was not expended for this object, it would be applied to some other. The question therefore, was, whether this was not the most important object to which it could be devoted. It appeared to Mr. J. that, if they stopped now, the whole system would be obstructed. Nor, in this case, would the gentleman's idea of beginning no new works fairly apply; as this new work was, after all, but a part of the plan contemplated at first, when the defence of New Orleans, by fortifications, was planned and commenced. It could not be supposed that the Government was to expend large sums to protect one approach to the city, and leave another entirely open to an enemy. Hence, it was but fair to argue, that, even if this pass were originally overlooked in the reports, Congress could not, with propriety, neglect it, when it was shown that its defence was essential to render useful the works on which large sums of money had already been expended. Mr. JOHNSON considered that the erection of these works ought to depend on the country to be defended, and not on the amount of the expenditure which they would require. Congress would not have refused to erect Fort Jackson, for the defence of the Mississippi, because its cost was 50,000 dollars more than had been estimated. It was not the cost alone, but also the object to be gained by it, that Congress was to consider. He did not believe that the expense had so far exceeded the estimates on these works as was supposed.

In some cases it doubtless had done so. But he believed that, when the whole contemplated chain of defence should have been finished, the excess would not be more than one million. This was trifling in comparison to the importance of the works which would have been completed. Able men had made those estimates, and he thought them as nearly accurate as possible. It was true, that inexpedient appropriations had been made; but they did not offer good ground of opposition to plans of self-evident importance and utility. As to New Orleans, there could be no doubt of the necessity of protecting the city and its commerce with fortifications. The facility of approach, the difficulty of defence, and the amount of property continually exposed, all pointed it out as a point which must be fortified against the attacks of an enemy. The only question seemed to be, whether the object should be carried into effect now or hereafter. The gentleman from New Jersey says, that the position is not to be found in the original system. But that fact, said Mr. J. does not decide the point as to the importance of the work. The point in question had recently been examined by General Bernard, and other Engineers; and, the proof was now as strong that the work proposed was needed, as it could have been, had it been laid down in the original system.

The amendment was then agreed to.

Mr. DICKERSON moved to amend the bill by striking out the appropriation of 50,000 dollars for fortification of the harbor of Pensacola. Mr. D. made a few remarks, which were mostly inaudible to the reporter, previous to reading an extract from the report of General Bernard on this subject. He observed, in conclusion, that he did not profess to have any recent information as to this point; but, if it was not explained, he could not vote for the appropriation.

Mr. SMITH, of Md. said, that this subject had been fully investigated in the other House. It was known that we had a Navy Yard at Pensacola, and that its position made it one of the most important points in the Southern section of the country, for the protection of our commerce. He read the report, made last year, of the Chief Engineer, in which was stated the necessity of fortifications at this point, and observed that the present appropriation only contemplated the purchase of materials.

Mr. HARRISON considered that the gentleman from New Jersey had not given the proper interpretation to the report of General Bernard. He thought that report went to show the importance of fortifications at Pensacola, rather than the contrary. Whether Pensacola was the proper point for a naval depot or not, was not the question. The navy yard is there, and wants protection. The position of the place is on the sea, and it can be approached, without notice, by an enemy's fleet. It was so situated, in a country which could not contribute much to its defence, that it was essential that means should be provided to protect the large amount of public property which will be deposited there, and for the protection of our commerce. A small naval force might find shelter under the guns of the forts of this place, from a superior squadron, and be able to give great facility to our trade, as a canal would soon be constructed from Pensacola to New Orleans; and thus the former place be an outlet to a great portion of the Mississippi trade. Mr. H. remarked, in conclusion, that some of the reports had stated that there were but two other points more important than Pensacola, and they were Boston and New York.

Mr. DICKERSON said, that, according to the report of Gen. Bernard, the fortification of Pensacola would require a garrison of 12,000 men in time of a siege. If this was the case, the protection afforded by it to our Navy and commerce would be dearly bought. He had always been opposed to the selection of this place as a naval depot, and if it had been fixed upon as such, and was to cost the

## SENATE.]

## Fortifications.

[MARCH 4, 1828.]

country so great an expense, he thought that the Government ought to back out of it. The matter ought to be thoroughly examined before any money was expended there for fortifications. The expense—the number of men required to defend it—its exposed situation—all these ought to be considered before Congress made this appropriation.

Mr. SMITH, of South Carolina, opposed the motion at considerable length. He considered the erection of fortifications, absolutely necessary at Pensacola, where, from the fact of its being a naval depot, large amounts of public property must continually be exposed. He agreed with the gentleman from New Jersey, that our fortifications had generally cost double the amount of the estimates. But he found, in this fact, no good reason why, if they were to be erected any where, they should not be in the Southern section of the country. He demonstrated, by a statement of facts, the importance of Pensacola, as a naval post; and spoke also in favor of the appropriations for fortifications at Savannah and Charleston, S. C. If they were to stop in this system, they ought to stop short, and deal by one part of the country as they did by the other. One portion ought not to be defended, and the other remain undefended. He was, therefore, in favor of going on—not that he wished to be considered an advocate of a system of fortifications, consisting of useless armaments, but he desired that, where necessity called for the means of defence, they might be given. He did not depend much upon the Engineers; but their estimates would be as correct in this case as in any other. He, therefore, trusted that the South would be allowed to share in the benefits of the system, since it was necessary that it should be continued.

Mr. BERRIEN opposed the motion. He considered that the question presented in the discussion of this system, was, whether Congress would force the enemy to carry on war without our limits, or, whether we shall suffer all the complicated evils, which our people endured in the last contest with Great Britain, and, from a want of preparation, undergo a similar expenditure of blood and treasure. The system has gone on thus far, unimpeded, and, since objections are now offered; it is to be asked, "Whether it is to be made general in its operation, or to stop short, after a partial application to but one favored section of the country?" North of the Chesapeake, millions had been expended, if not in a lavish, at least in the most liberal manner. At New Orleans a considerable expenditure had also been made; but between these points nothing had been done. And was this still to be so? Are we [said Mr. B.] without the pale of protection, that no appropriation can be extended to defend our shores from the assaults of the Nation's enemies? This was not a proposition of original expediency. It was not a question of mistaken policy. But here lies the essence of the question. You have fortified one portion of the country, so that the efforts of a hostile visitation are turned aside. Another portion of the country is left defenceless, and the natural consequence is, that the enemy is thrown upon that unprotected part; and that, while our Northern brethren are shielded from the terrors of war, upon us in the South the whole fury of hostility is poured out. North of the Chesapeake, the country is thoroughly defended; South of that point, the People are left to themselves. The selection, by the gentleman from New Jersey, of Pensacola, was, he thought, peculiarly unfortunate. Pensacola was so situated that its defence of our commercial interests was a most important consideration. The Island of Cuba was considered the key of the Gulf of Mexico. The only point whence we could exercise any control over the commerce of the Gulf, was Pensacola. It had been fixed upon as the only eligible point for a naval depot. He looked upon it as highly important in its defence of New Orleans, as there could

be no great time before the two places would be connected by a canal; and he deemed it not unlikely, that this communication would be continued to the Atlantic. The importance of a force at Pensacola could not be doubted. A strong post, in the rear of an enemy, who should attack New Orleans, would operate much to his embarrassment, and would require a great addition of force. It was not the people of Florida and Louisiana, who were to be benefited exclusively by such a work. He would correct an error of the gentleman from New Jersey. He had read the report erroneously; as 1,200, and not 12,000 men are said to be required to garrison the place. It has been well said by the report, that eight-tenths of the United States are deeply interested in the defence of this post. Mr. BERRIEN then read an extract from the revised report of the Board of Engineers, in support of his opinions, and concluded by urging, that the fortification of Pensacola was essential, because it is a naval depot, and a mass of public property must necessarily be collected there—because it would essentially protect the trade of New Orleans—because it would control the commerce of the Gulf of Mexico—and because it is idle to fortify New Orleans, if this important post is left undefended.

Mr. DICKERSON defended his motion by some further remarks.

Mr. COBB spoke at considerable length in opposition to the whole system. He considered the late discovery of the point of Barataria, not a little surprising. He said he laid down the ground broadly, that Congress had been regularly deceived by the Board of Engineers, ever since the late war. He did not know when the expenditures were to end, as every year they increased, and new projects were continually starting up. When one fortification was done, it must be torn down, and another of two hundred guns be put up in its place. This was the constant course of the system, which ought, instead of system, to be called a vampyre, which was feeding with insatiable appetite on the blood of the Treasury. Mr. C. then made some remarks on the tardy progress of some of our larger fortifications—Fortress Monroe, in particular. He considered the money expended at the Kip Raps so much money thrown into the ocean. He viewed the whole system to be nurturing the germ of a standing Army—and dangerous to the liberties of the country. He wished to know, after the forts were finished, how large the expenditures for their armaments would be; and supposed it would be a lucrative affair for the Ordnance Department. In conclusion, Mr. Cobb declared, that, if he could procure a vote of the Senate, he would move to refuse to pass a single appropriation for this system, whether for finished or unfinished fortifications—and then he would vote to send the Engineers over the ground again, to profit by the errors that had already been committed.

Mr. EATON then moved an adjournment.

TUESDAY, MARCH 4, 1828.

The following message was received from the President of the United States, yesterday:

*To the Senate of the United States:*

WASHINGTON, MARCH, 3, 1828.

In compliance with a resolution of the Senate, of the 3d January last, requesting the communication of information in my possession relative to alleged aggression on the rights of the citizens of the United States, by persons claiming authority under the Province of New Brunswick, I communicate a report from the Secretary of State, with a copy of that of the Special Agent, mentioned in my Message at the commencement of the present Session of Congress, as having been sent to visit the spot where the cause of complaint had occurred, to ascertain the state of the facts, and the result of whose inquiries I then promised to communicate to Congress when it should be received.

MARCH 4, 1828.]

Fortifications.

[SENATE.]

The Senate are requested to receive this communication as the fulfilment of that engagement, and, in making it, I deem it proper to notice, with just acknowledgment, the liberality with which the Minister of his Britannic Majesty, residing here, and the Government of the Province of New Brunswick, have furnished the Agent of the United States with every facility for the attainment of the information which it was the object of his mission to procure.

Considering the exercise of exclusive territorial jurisdiction upon the grounds in controversy, by the Government of New Brunswick, in the arrest and imprisonment of John Baker, as incompatible with the mutual understanding existing between the Governments of the United States and of Great Britain, on this subject, a demand has been addressed to the Provincial Authorities, through the Minister of Great Britain, for the release of that individual from prison, and of indemnity to him for his detention. In doing this, it has not been intended to maintain the regularity of his own proceedings, or of those with whom he was associated; to which they were not authorized by any sovereign authority of this country.

The documents appended to the report of the Agent, being original papers belonging to the files of the Department of State, a return of them is requested, when the Senate shall have no further use for them.

JOHN QUINCY ADAMS.

## FORTIFICATIONS.

The unfinished business of yesterday was then taken up—being the bill making appropriations for certain Fortifications for the year 1828; and the question being on agreeing to the amendment adopted yesterday, in committee of the whole, making an appropriation of 50,000 dollars for fortifications at the mouth of the Barataria, near New Orleans—

Mr. HARRISON said that it gave him pleasure to be able to state, that the late period at which this proposition was brought forward, was not owing to any negligence on the part of the engineers. The point now proposed for defence had been mentioned in every report of the engineers upon the defence of New Orleans, that had been made to Congress. In the report which he held in his hand, and which had been read yesterday, by the gentleman from Maryland, the fortification of the point designated as Grand Terre was recommended as of great importance. The point was that which was now presented to the Senate as the fortress of Barataria. As to any error in the reports of the engineers, he did not consider that the Military Committee were at all responsible for their correctness, as these subjects were, after having been acted upon in the other House, referred to the Finance Committee of the Senate, to decide upon the question whether the Government had the means at disposal for carrying them into effect. It was impossible that the Committee could go into an examination of the correctness of the report, as the only function of the Finance Committee was to decide upon the details. He merely made these remarks to relieve himself from any supposition that he was, from his situation in the Military Committee, to be supposed possessed of minute information on these subjects. He should move an amendment to the bill—to strike out the word Barataria, and insert "Grand Terre." He did not intend to go into an argument to show the necessity of the provision to the permanent defence of New Orleans. He would merely make one remark, in relation to an observation made by the gentleman from Georgia, in the debate of yesterday. He said that when this pass was fortified, another post would be needed at the mouth of the Lafourche. Mr. H. looked upon this as erroneous. He had examined a large map at the War Department, and found that it was so long and circuitous, that it would not probably need fortification. In some of the reports, it had been said, that this river

might require some trifling fortification; but, at any rate they would make no very important consideration.

Mr. COBB observed, that the discussion of yesterday had resulted in a beneficial manner, since more information had been elicited than the Senate had possessed previously. He had said, yesterday, that the fortification of Barataria had never been reported on before; and even the Chairman of the Military Committee had allowed that the statement was correct. It now appeared that the report of the engineers, made in 1821, did mention this work, but made a different name. It was at Grand Terre, and not at Barataria, and noticed, it was true, in the general plan—but, it would be perceived, that it was set down in the 2d class—and it, therefore, appeared to him, (Mr. C.) that the time had not arrived to begin upon it. In other parts of the country, works in the second and third classes had not been commenced upon. How this plan, so gravely and so solemnly made, could be departed from, he did not know. How the works at New Orleans, embracing the three classes, could be carried into effect, in opposition to this plan, he could not tell. If the plan was proper and judicious, he thought its advocates ought to adhere to it.

Mr. JOHNSTON, of Lou. said, that the name of Barataria was, from peculiar circumstances, notorious. Every man in the community knew where Barataria was situated. But Grand Terre was not known, and he should have difficulty in finding its exact location himself. Grand Terre merely signified high land, and was applied, generally, to almost every point of high ground. He hoped, therefore, from the want of distinctness in the position pointed out by the appellation Grand Terre, the gentleman from Ohio would withdraw his motion.

Mr. HARRISON said, that he was willing to withdraw his motion, or move to insert Grand Terre, near Barataria.

Mr. SMITH, of Md. said, that he wished it might be withdrawn: Barataria was far the best name. He presumed, that, when gentlemen examined the report yesterday, the position was not recognized, because it was spoken of under the name of Grand Terre. It seemed to him to be a matter of very little importance whether the fortification was to be of the second or the third class.

Mr. CHANDLER said that, as there seemed to be several places called Grand Terre, in Louisiana—[Mr. JOHNSON said, it was merely the general term for high land]—he thought that the appropriation ought to be omitted, until a point could be fixed upon. He did not know how it happened that this project came before Congress at so late a period; but it seemed to be less known and understood, than was desirable. He, on this ground, thought it better to delay it until those forts were completed, which had been already commenced. He would rather legislate upon the most important objects first. It appeared to him that the Government was going too largely into the system; and a little delay of those objects which were not of the first importance, would, he thought, be advisable.

Mr. JOHNSTON, of Louisiana, said, that he believed the whole opposition to this project, with the exception of that of the gentlemen from Georgia, and New Jersey, arose from want of information; and, as the subject was one of great importance to the State which he represented, he hoped the Senate would hear from him a brief explanation of the facts. The gentleman from New Jersey, had, in the first place, supposed, that this point was not noticed in the original report—that it had escaped the attention of the engineers—and, at this late period, had been found out, and presented to Congress. Mr. J. said, he recollected, many years since, that this point was mentioned in a report of the engineers, which gave not only a view of the topography of the country, but contained some information which was considered improper to publish to the world. The reason was, that it would have

SENATE.]

Fortifications.

[MARCH 4, 1828.]

been unsafe to give to foreign nations information of this kind, which they might have an opportunity of using to our prejudice. In that report, this point was laid down as one of the greatest importance in the defence of New Orleans. As to the river Lafourche, which was mentioned, yesterday, by the gentleman from Georgia, Mr. J. had examined the report on that head, and it was then stated to be a long, narrow, shallow stream, which could easily be obstructed. It was idle to think of defending with fortifications such a pass as this. Two pages of the report were devoted to the subject of Barataria; and it was said that a fort, at the mouth of the river, would defend all the right bank of the Mississippi. It was also stated, that there was a work, during the war, on this river, called the Temple; but it was not an effectual defence, because there was two inlets below it, before arriving at the mouth of the river, and which communicated with the Mississippi, and it was, therefore, considered necessary to fix on this point called Grand Terre. The same position had been mentioned in subsequent reports. It was sufficient to shew, that it attracted the notice of General Bernard, on his first visits to the country, and of other scientific individuals. But, to any gentlemen who would cast his eye over the map of Louisiana, it must be apparent, that Barataria is the best avenue of approach to New Orleans. The water was deep, and an attack could, by its navigation, be made on the city, before any obstruction could be thrown in its way; and without a fort at its mouth, the approach of an enemy could not be retarded. It was much more important to establish a fortification here, than on the Mississippi, because the river could be more easily obstructed. The gentlemen had led themselves into a mistake, as to the classes laid down in the plan of fortification. It was absurd to suppose that there was to be any preference in the erection of those different classes. New Orleans was the point to be defended, and the different fortifications might all be considered as one work. New Orleans was an important place—its defence was necessary; and it did not depend on the kind of forts by which it was to be defended; it was the point itself which gave it a rank among the first class. For instance, if we look at New York, it is a place of vast importance: but would it be questioned whether its defence should be delayed for years, because the works were of the third rate? He thought this would be an absurdity. The three forts by which the city would be defended, might be of the third class; but when taken together, they constituted a work of the first. The same reasoning would apply to many other places, and with particular force to New Orleans. It would hardly be contended, that, because the works proposed at Mobile are of the first class, in point of magnitude, that they must be completed before those at New Orleans could be commenced. The argument of the gentleman from Georgia, as to the classes, was, therefore, indefensible. The opponents of this provision had, perhaps, produced some effect on the Senate by their remarks, as to the excess of the expenditures, in certain cases, over the estimates. This had happened, it was true, in some instances. The fort at Rouse's Point was one; the Pea Patch another. But, it would be remembered, that the estimates for these works were made before the present Board of Engineers was organized; and, for the errors in these cases, they were not responsible. It was the same in the case of Fort Washington, which was, undoubtedly, situated improperly. But, so far as the Board had gone, it was a matter of astonishment that the expenditures had so remarkably coincided with the estimates. The gentleman from New Jersey had found what he considered a single error in the expenditure upon Fort Jackson. But a statement of the facts, as detailed in the report, was only necessary to explain this apparent discrepancy. The Engineers had found that, in the Southern climate,

barracks and stores were absolutely necessary, and these they were obliged to build. To these objects 50,000 dollars had been applied, and this expense was the excess of which the gentleman complained. Otherwise than this, the estimates had not been exceeded. To return to the proposed fortification at Barataria: It had been reported upon by the Board, and it could not but strike every one at a view of the map. It was known to the army in the war, and was looked upon as an important point. He repeated, that the classification of the works was highly improper, if it were to cause the larger forts only to be finished first. Several of the larger works were planned at points of minor importance; but this gave no priority to their erection, in point of time. He trusted that the amendment would be sustained.

Mr. DICKERSON said, that as to the fortification now proposed, he was opposed to it on the ground of its uselessness. It was to be situated at the mouth of a river in which there was a bar, over which vessels drawing eight feet of water could not pass, and eighty miles from New Orleans. Through an avenue of approach like this, he thought there was no danger that an enemy would attack the city. As to the proposition to alter the name of the point, *Grand Terre*, it appeared, was not designated. And if it had been put down, it was in the third class; nor was it considered of immediate importance, or it would have been earlier presented to Congress. This was evident, from the report upon the subject; and there could be no danger in allowing this point to remain until the others were completed. For proposing this delay, he thought there was ample cause. Instead of having been sent to Congress by the Secretary of War, in his estimates, it appeared to have come to the Senate by the suggestion of a member to the Secretary.

Mr. D. then alluded to the wasteful expenditure on several works of the kind; referring more particularly to the fortification at the Pea Patch. Of the appropriations to this object he gave a detail, and declared that, while the original estimate was \$258,000, the amount of the expenditure had been upwards of \$450,000. There were many other works of which such statements might justly be made. Old Point Comfort, in particular, had swallowed similar sums—upwards of one million having been expended on that position. He wished to stay this system, until information could be had as to the extent to which it was to be carried, and the effect already produced by the system. Until some more definite plan was formed, Congress ought to go no further. He could not, he knew, stop the works which were already begun. His design extended, therefore, only to any new projects. He thought, with the gentleman from Maryland, that the scale on which the system was framed was altogether too magnificent. He thought the circumstances of the country did not call for this expenditure. If we were in a state of war; if the enemy were at our door, and the right bank of the Mississippi were threatened with an attack, he should be in favor of the appropriation. But not in the present state of things; especially when the report of the engineers states, that the work contemplated is not of immediate necessity. He thought that the fortifications already erected, or in progress, at New Orleans, were sufficient for the present. One of the gentlemen who had spoken on this subject had said, that we could not do too much for the defence of New Orleans. But Mr. D. considered that to expend money uselessly would be doing by far too much. He did not assent to the idea, that, by leaving this pass undefended, the defence of all the others would be useless. If all the passages to the city but this were secured, it would render the defence of this pass far easier. It was his opinion that an enemy would never pass the

MARCH 4, 5, 1828.]

Fortifications—Deported Slaves.

[SENATE.]

bar in the river Barataria; and if a fortification were ever erected there, he considered that it would only be useful as a protection to commerce. He should content himself, without further remark, and would merely call the yeas and nays on concurring in the amendment.

The call for the yeas and nays having been sustained, Mr. BENTON said, that the course taken by the gentleman who had just taken his seat, seemed to him an unfair species of legislation. It appeared to him to be improper to draw parallels between different portions of the Union, while they were legislating for the safety of the whole. If such a manner of legislating were to be adopted, he believed it would rather be against the gentleman himself, as there had been more money expended on fortifications in the vicinity of his State, than in any other portion of the country. I, said Mr. BENTON, do not agree that any such principle ought to be acted upon as a set-off. No such principle could be followed up effectually, because works for the general defence were not to be charged upon the section in which they are erected. He did not look upon the works at New Orleans as erected for the defence of a single city, but to protect the property and interests of nearly one-third of the Union. They were for the defence of those people whose produce finds a market there, and whose city, in reality, New Orleans is. It resulted, then, that those fortifications were for the defence of the Valley of the Mississippi. So that it was a great mistake to suppose that they were for the protection of the city alone. It was for the protection of the property deposited there. He mentioned this, because it appeared that such opinions were entertained. The gentleman from New Jersey supposed that this work, at the mouth of the Barataria, would be unimportant. It is worthy of inquiry, in what does he consider the importance of a fortification to consist? It seems that he looks upon the height and thickness of the walls, and the number of the garrison, to be the only criterions; and because this fort is to be manned by 80 men in time of peace, and by 400 in time of war, he considers the defence of this point as altogether unimportant. But how are the works classed by the engineers? By the object to be defended, and the property to be protected. This, therefore, he puts among the first class; and he does right, because, if there is any *first class* of defensive works, those which protect the mouth of the Mississippi ought to be so ranked. There was no other position which combined the same considerations in favor of its entire protection. No other point was at once so important to defend, and so difficult to regain. Is it necessary, said Mr. B., at this time, to go into a historical detail, to show that strong forts have been taken by the neglect of some of the subordinate means of defence? Need we refer to Seringapatam, in India, which was reduced by an enemy following a footpath, the defence of which had been neglected? The greatest cities had been reduced by similar means. And ought we to neglect any of the practicable passes of the Mississippi? Much instruction might be gathered by a reference to the history of the late war. Was it by the Mississippi that the enemy advanced upon New Orleans? No: it was by a little channel of minor importance. Yet, New Orleans was alone protected by the bold breast of our soldiery, fighting on their native soil, for the country they loved. These minor points were not to be neglected, as, without attention to them, the most stupendous works of defence would prove futile. To this subject might be applied the saying of Lord Burleigh—that, if you take care of the pence, the pounds will take care of themselves. The great avenues, from their being the great thoroughfares, will always command attention, and be well fortified; the little ones are overlooked, and left unfortified, and through these the enemy often enters. He knew that

there was great difficulty in bringing the minds of a body of civilians to embrace all the facts necessary to decide upon operations to be carried into effect at a distance of some hundreds of miles. There were historical facts to prove that the clearest directions given to individuals, having in view operations of which the best judgment could be formed on the spot, had proved altogether useless. There had been instances in which the orders of the war minister had, at the close of a victorious campaign, been returned, unopened, by the successful General, who had, when arrived upon the scene of action, wisely trusted to his own judgment for direction; while, had he followed the orders given him, total ruin would have attended the arms of his country. Prince Eugene was a memorable instance of this. He could not conceive of any thing more difficult or delicate, than for a body of civilians to undertake to decide upon the relative importance of different fortifications in preference to the recommendations of men perfectly skilled in military science and engineering. It would not do for men, under such circumstances, to allow their own opinions entirely to predominate. We must give in, somewhat, to the opinions of men conversant with these subjects.

The point now under consideration had been recommended by the engineers; men considered proficient in the science of which they were professors. As such they must be considered, as long as they were entrusted with this important duty; and to somebody it must be entrusted. By their directions, then, we must go on in this system. We act blindfold without it. Nor is it too great a confidence to place in those selected to render the information upon which Congress is to act. He hoped that the amendment would be adopted, from a conviction of its importance; for the defences of New Orleans would not be complete without the provision contemplated by it.

The question was then taken upon the amendment, and decided in the affirmative.

On motion of Mr. SMITH, of Maryland, the bill making appropriations for the support of the Military Establishment, for the year 1828, was taken up, and an amendment, reported by the Committee on Finance, was agreed to.

Mr. WHITE moved to strike out the words "one thousand" in the 70th line of the first section, so as to make the appropriation for the expenses of Visitors at the Military Academy at West Point, \$500, instead of \$1,500.

On this motion a debate arose, in which Messrs. WHITE and HARRISON took part.

Mr. BRANCH moved to strike out the whole sum; which motion was debated by Messrs. CHAMBERS, JOHNSON, of Ken., CHANDLER, WHITE, SMITH, of Md., and MACON.

WEDNESDAY, MARCH 5, 1828.

#### CLAIMS FOR SLAVES.

On motion of Mr. SEYMOUR, the bill supplementary to an act passed March, 1827, for the adjustment of claims of persons entitled to indemnification under the first article of the Treaty of Ghent, and for the distribution of the sums paid, and to be paid by the Government of Great Britain, under the Convention entered into between the United States and his Britannic Majesty, concluded at London, on the 13th November, 1826, was taken up, and read a second time.

The bill, which was explained by Mr. BERRIEN, proposed to extend the time at which the Commission should expire, from the close of the present session of Congress, to the first of December next, and is founded on the representation of the Agents for a large number



SENATE.]

*Deported Slaves.*

[MARCH 5, 1828.]

of the claims in Georgia and Louisiana. The memorial of the Agents stated, that, after most of the claims from those States had been allowed, and seventy-five per cent. paid upon them, another class of claimants had set up claims, founded on a different description of evidence. These claimants assumed, that, having had slaves taken from the country during the war, it was to be presumed that the other points of fact were corroborative of their claims, and that the burthen of proof lay upon the other claimants, to show that these claims were not made under the provision of the Treaty. The memorial stated, that, should this novel principle be established by the decision of the Commissioners, the memorialists would need time to seek for evidence, to oppose these claims, in foreign ports; hence, an extension of the duration of the commission was asked.

Mr. TAZEWELL opposed the bill at considerable length, on the ground of its being entirely unnecessary. He thought the time allotted for the fulfilment of the duties of the commission was sufficient. Neither the claimants nor the Commissioners had stated that an extension of time was wanted. He thought, when the business could be done promptly, there was no necessity of spinning it out, that those gentlemen might enjoy their salaries from year to year, for the distribution of 1,200,000 dollars, among its just claimants. If the claimants, whose rights had not been settled, would come forward, or if the Commissioners themselves would say that the time pointed out was not sufficient, he would decide upon their statements to the best of his judgment; but while it was only on the representation of persons who had already received their share of the money, and who wished to prevent others from receiving theirs, upon which the bill was founded, he should oppose it.

Mr. CHAMBERS said, that it was within his knowledge that many of the claimants were but just beginning to come before the Commissioners, and he was prepared to believe that there were many claims that could not be settled during the term, at the close of which the commission was to expire.

Mr. BERRIEN replied, at considerable length, to the remarks of Mr. TAZEWELL. It would be an extremely delicate matter for the Commissioners, who were receiving salaries for the performance of their duties, to solicit a continuation of the term of their services. The limitation fixed upon by the act to which this was supplementary, by its very terms, contemplated the probable necessity of extending the time of service of the Commissioners, as it was made to expire during the sitting of Congress, so that, if requisite, it might be prolonged. He did not think the amount of the salary was a consideration to be placed in opposition to the dispensation of justice to the various claimants, for which the commission was instituted. He then gave a history of the various transactions in relation to this object, and contended that, if the bill were not passed, that portion of claimants, whose claims had already been allowed, and who had received 75 per cent. on their respective amounts, might be deprived of the residue, by an award in favor of others, whose claims rested on evidence of a far less conclusive character. If the applicants were allowed time, he conceived that they could repel the claims of those who put the burthen of the proof upon them. He felt confident that, when such a consideration as the necessity of delay, for the purpose of giving a fair opportunity to these individuals to defend their rights, was put in the scale, the amount of salary to the commission would not be allowed to outweigh it.

Mr. SMITH, of Maryland, then moved to lay the bill upon the table, observing that he was very desirous of getting through with the appropriation bills, knowing that the War Department was suffering great inconvenience from their delay.

Mr. TAZEWELL replied, at great length, to Mr. BERRIEN.

Mr. BERRIEN again answered Mr. TAZEWELL, and differed with him, entirely, as to the character of this bill, in its relation to the duties of the Commissioners.

Mr. TAZEWELL replied, at great length.

Mr. BERRIEN explained some of his remarks, which, he conceived, had been misapprehended by Mr. TAZEWELL.

Mr. JOHNSTON, of Louisiana, said, that the interest of the citizens of Louisiana, in the bill under consideration, was his only apology for interposing between the gentlemen who had taken a part in the discussion. The question submitted to the Senate, derived particular claims to its attention, from the adverse interests of different States, the large amount of money to be distributed, the obligation of the Government to have it done according to the legal rights of the parties, and the influence which their decision on this bill will have upon the adjudication of those rights. It imposed on Congress, he thought, the necessity of doing what was necessary to do, justice between the parties—and that was the inquiry. Mr. J. said a short history of the origin, progress, and present condition, of the claims, would enable the Senate to see what justice demanded at their hands. The British Government stipulated, in the treaty of Ghent, to restore the property which she had taken during the war, and which remained in the United States at the ratification. But, in defiance of the treaty, she carried away such slaves as she had allured to her, or captured, as remained in the United States at the period of the ratification. The slaves which had been carried away before that time, were lawful prize of war, and we had no right to demand restitution. In consequence of this violation of the treaty, the United States claimed, in behalf of her citizens, an indemnity for the slaves which she had thus deported. The British Government refused to pay, on the ground that slaves were not embraced in the meaning of the treaty, and the subject was at length referred to the Emperor of Russia, who decided that the slaves that remained in the United States, at the date of the ratification of the treaty, should be paid for; and a mixed commission was established, to ascertain the number and value of the slaves which had been carried away, and to award the amount to the claimant. The Board, organized under the mediation of the Emperor of Russia, met, fixed the value of the slaves, but disagreed upon every other point, until the Board was suspended, the British Commissioner refusing to proceed to the appointment of an umpire, in the mode provided in the treaty. The Government of the United States then represented the real state of the case to the British Government, and a treaty was finally concluded, by which the latter agreed to pay \$1,200,000 to the United States, being 75 per cent. on the amount claimed in the definitive list, in full of all claims under this article of the treaty, which sum the Government received, and undertook to pay and distribute to the claimants on the definitive list, who were legally entitled to receive it; that is, to those whose slaves and other property was in the United States at the period fixed in the treaty, and which the British Government subsequently carried away. An act of Congress was passed at the last session, to create a Board for the adjudication of the claims, and the payment of the awards. The Board met, received evidence of the capture of the slaves, their being in the limits of the United States, at the ratification of the treaty, and upon the evidence thus produced, they decided on all claims submitted to them, and ordered 75 per cent. of the amount to be paid to each claimant, who made good his proof. The great difficulty was not in proving the loss of the slaves, but the fact that they were still in the United States, at the peace, on which fact, alone, was the indemnity due. The



MARCH 5, 1828.]

Deported Slaves.

[SENATE.]

claimants of Louisiana, Georgia, Maryland, and a part of Virginia, established their right by competent proof, and had an award of the arbitrators. The other claimants—composed of all those who had, at any time during the war, lost slaves or other property, unable to find any evidence that their property was within the terms of the treaty, the slaves having, doubtless, been carried away during the year 1814, to the British Islands—thought of the expedient of creating a presumption, because they could get no proof, that all the slaves which the British army captured at any time during the war, remained in the country until the peace, and claiming to be all paid as if they had, like the other claimants, proved themselves within the treaty; although the fact is notorious, that many were carried away during the war, and a strong presumption that all were carried away before, because they had failed to prove they were here.

This pretension, started at the present session of Congress, and almost at the close of the term of the Board, has been answered by an able argument, and the case now stands suspended, for the decision of the Board. But, in this new and unexpected state of things, it will be seen that the prolongation of the Board, until next Fall, is essential, whatever may be the decision of the Board. If they decide that the presumption of the slaves being in the United States, is so clear and strong as to supercede the necessity of proof, it will, strange as our position will be, become our duty to prove the fact that they were actually deported, before the time, and that the British Government was not bound to pay for them. In fact, after proving our claims within the treaty, we shall be obliged to prove that the other claimants were not within the treaty. If the presumption should be rejected, as weak and improbable, the rejected parties may have an opportunity of looking further for evidence. The Government are under a solemn obligation to divide this money according to the legal rights of the parties, and to afford them a fair opportunity of procuring evidence. The point on which their cases rest is the point of time when the slaves were deported. If before the ratification, they are not entitled to indemnity. The fund is provided for that particular class whose property was not carried away, and which, therefore, ought to have been restored; and the Government is bound to see the distribution made among that class alone. The party who presents his claim under the treaty, must prove what he alleges: that is, that his property was in the United States at the peace, and had not become British property, by removal from our jurisdiction. Is it sufficient for a man to prove that he lost his negroes, during the war, to entitle him to dispense with all proof of the principal fact, to wit, the time when the negroes left the country? It was lawful to take them before the ratification; it was a wrong, and a violation of the rights of the parties, to take after they had bound themselves to restore. Now, sir, if it should be determined to let in this presumption, to establish the claims of all persons who lost property during the war, will it be too much to give the parties litigant before the Board, a short time to procure the evidence to rebut this presumption? It is enough to ask them to prove, by the strictest evidence, that they are within the terms of the treaty, and then to prove that the adverse party are not, without refusing them the necessary time to do what you require of them. The time demanded will afford full time to investigate the subject, and to procure evidence, whoever may want it, and ample justice will be done. No injustice can be done by the delay; it may result from the opposite course. Let those who really lost their property, under the treaty, by deportation after the peace, receive the indemnity which is their due, and let all the evidence be procured on the subject, and the strict legal rights of the

parties be finally adjusted according to the spirit and meaning of the treaty. This question about the force of this presumption is a mere interlocutory decision on what is competent evidence. It is not contended to be final. It is, at best, like all presumptions, only sufficient to throw the burthen of proof on the opposite party—all they ask is the time to find the proof, to disprove this presumption, and to destroy its effect by proving the contrary; and, surely, we cannot, with any appearance of justice, refuse the time. Dauphin Island, said Mr. J., which has been alluded to by the gentleman from Virginia, was a part of the United States, and so determined by the American Commission, and since by the Board; but that is a subject of political law, which belongs to the sovereign power to decide.

Mr. J. concluded that great injustice might be done to the bona fide claimants, under the treaty, if the Board was obliged to decide without evidence.

Mr. HAYNE remarked, that he was a member of the committee which had reported this bill, and he was convinced that the object of the Commission, which was to distribute fairly and equitably the sum paid by Great Britain for deported slaves, under the first article of the Treaty at Ghent, could not be carried into effect, without the prolongation of the term of its duties, proposed by this bill. He had supposed, when the bill came up, that it could not be effectually acted upon to-day. But it had been debated to so late an hour, that he thought it would be economy of time to decide it now.

Mr. WHITE then moved to lay the bill on the table, remarking that the Commissioners had met within a few days, and might decide the question on which the bill was predicated, before the close of the session; and should the decision be such that the bill would not be required, it might be dropped; on the other hand, if the decision should be such as to make this provision necessary, the bill could be taken up and passed.

Mr. COBB said that it was impossible to surmise when the decision of the Commissioners would be pronounced; and suggested that the bill might, by the course proposed by the Senator from Tennessee, be so delayed, as to prevent its passage this session.

Mr. MACON thought there was no reason for acting hastily on the bill, as it was probable that Congress would remain in session for two months longer at least. His friend from Georgia knew how quick a bill could be run through when a majority was in favor of it. He thought there would be no danger that the bill would not be acted upon, if it should be found necessary.

Mr. WHITE added a few words in support of his motion, which he renewed. The question being taken upon it; the Senate divided, and it was rejected, Ayes 16, Noes, 20.

Mr. HAYNE hoped the bill would now be acted upon. He thought its passage would be jeopardized by any further delay.

Mr. WHITE said, that he wished it might be understood by the claimants, that no further extension of time was to be allowed. He wished that the time might not expire during the next session of Congress, and, therefore moved, that the words "1st of December" be struck out, and "1st November" be substituted.

Mr. BERRIEN said, that, as it might be necessary to seek the evidence required, in England, the period had been fixed upon, in order to enable those who sought it, to avail themselves of the Fall packets. In this case, the intelligence would be received about the first of November; and after that period, a time would be required to enable the Commissioners to act upon the evidence obtained.

Mr. WHITE then withdrew his first motion, and substituted another, which was assented to by Mr. BERRIEN, making the term of the Commission expire on the 30th

SENATE.]

Visitors at West Point.

[MARCH 6, 1828.]

of November, instead of the 1st of December, and which was agreed to.

Some further conversation took place between Messrs. BERRIEN and TAZEWELL.

Mr. ROBBINS observed, that he had been absent during the debate upon the bill, and desired to be excused from voting, which was agreed to.

The question then occurring on engrossing the bill for a third reading, it was decided in the affirmative, (Mr. TAZEWELL having called for the yeas and nays,) by the following vote :

YEAS.—Messrs. Barnard, Barton, Bell, Benton, Berrien, Boulogny, Chambers, Chase, Cobb, Ellis, Harrison, Hayne, Hendricks, Johnston, of Louisiana, Noble, Rugles, Sanford, Seymour, Silsbee, Smith, of Maryland, Thomas, Webster, Williams.—23.

NAYS.—Messrs. Branch, Chandler, Eaton, Foot, Johnson, of Kentucky, King, Macon, Parris, Ridgely, Tazewell, White, Willey, Woodbury.—13.

THURSDAY, MARCH 6, 1828.

#### VISITERS AT WEST POINT.

The unfinished business of Tuesday was taken up, being the bill making appropriations for the support of the Military Establishment for the year 1828 ; the motion of Mr. BRANCH, to strike out the appropriation of 1,500 dollars for the expenses of Visitors to the Military Academy at West Point, being under consideration—

Mr. HARRISON made some explanations, as to the comparative expenditure of former years and the present time. He said that, formerly, very little else but the transportation of the baggage of officers was subject of charge, on account of this visitation. As civilians had latterly been chosen as the Visitors, and some of them residing at a great distance, the payment of their travelling expenses had swelled the amount to the sum at present required.

Mr. CHAMBERS remarked that the expenditures had hitherto been paid out of the contingent fund, but had now swelled to an amount sufficiently large to require a specific appropriation ; and the Secretary had very properly referred the matter to Congress.

Mr. HARRISON added, if this appropriation were refused, there could be no Visitors to the Academy, as it could not be supposed that private individuals would pay their own expenses, while on a duty to which they were called by the Government.

Mr. WHITE said that his chief objection to the appropriation was, that there was no law creating the officers to whom it was paid. He knew of no law which created such an officer as a Visitor of the West Point Academy, and he considered that, when any office or commission became sufficiently important to be provided for by a distinct item in an appropriation bill, it ought to be supported by the authority of law. The expense for this object had swelled from 200 to upwards of 2,000 dollars, and had, therefore, become an item worthy of attention. Until the law appointed the officers, explained the duties, and fixed the manner and rate of their compensation, there ought to be no specific appropriation for the purpose. If this provision was stricken out, it would not have the effect of preventing the visitation, as the matter would remain as it was before. It was in the power of the Department to send Visitors, and it might be done as before. The sum, while a small one, had been paid out of the contingent fund, and if the present motion prevailed, it would remain, as in times past, in the character of an incidental expenditure, the contingent fund being the same sum as formerly. These were the reasons why he should vote for striking out the whole sum.

Mr. NOBLE spoke at great length in opposition to the motion. It had been stated, he said, that, from the be-

ginning, the appointing and paying the Visitors to the Military Academy was an assumption of power. If it was so, Congress had to complain of itself. The power had been employed for years, and must have been within the knowledge of Congress. Why, then, if it was an assumption of power, had not Congress interposed to prevent its continuance ? It had also been said, that a system of favoritism was practised at the Academy ; and he had heard of well-born sons being preferred to others. If such was the case, he wished another resolution might be introduced, to inquire who created the system of favoritism. It would be found that members of Congress were at the bottom of it. They ought not to shield themselves. Call for the names, said Mr. N., of those who have recommended cadets, and you will find that members of Congress have had more to do with this scandal about well-born sons than any one else. It ought to be inquired into, and this imputation not allowed to go out to the People, to create a prejudice against the Administration. He spoke in high terms of the character of the Secretary of War. If this appropriation was thrown out, it would not have the effect which gentlemen supposed. It would not be as it was formerly. It would show the Secretary that this was an expenditure which Congress did not approve, because it was not in the spirit of retrenchment, of which they had heard so much. This was one of the continual and continued attempts to put down the present Administration, which he believed to be the best in the known world. If the gentleman from Tennessee complained of the amount of expense for this visitation, he could inform him that the most expensive Board of Visitors had been that over which the present Governor of Tennessee presided. That gentleman had thought it his province to give dinners, for which Mr. N. did not blame him, but only mentioned it to show who encouraged the extravagance, if such it was to be considered, of the Visitors of West Point. He should go for the whole appropriation, and regretted that the motion had been made, because it might be construed as a reflection upon the present incumbent of the War Department.

Mr. SMITH, of Maryland, said that the contingent fund of the War Department had uniformly been 10,000 dollars, and the expenses of the Visitors had been paid out of it. The sum for their expenses had of late years become so large, that the Secretary thought it had better be supplied by specific appropriation. He had asked for 3,000 dollars, but the other House had cut it down to 1,500. The Secretary had also asked for 15,000 dollars for the contingent fund. The House had reduced that sum to 10,000 dollars. If, now, this provision were denied, and the Secretary were to pay the Visitors out of the contingent fund, it would be reduced to 7,000 dollars. Whether this would be sufficient provision for the contingent expenses of the year, he did not know.

Mr. CHANDLER observed that he had at first been in favor of making and retaining 500 dollars for this purpose ; but, under the consideration that these officers were not appointed by law, he should vote for the present motion. The Secretary would be able to meet the necessities of the institution by appointing a smaller number of Visitors, and by calling in more military men.

Mr. WHITE replied to Mr. NOBLE. If a gentleman from his State was a President of the Board on a former occasion, and gave dinners there, it did not alter his view of the case. If that species of civility had been practised, and it was the desire of his brother officers, Mr. W. saw nothing to object to it. It mattered not to him whence the members of the Board came. He went on a different principle altogether. If every member came from his own State, unless the law appointed them, he should be equally against an appropriation bill which provided for their compensation.

MARCH 6, 1828.]

*Visitors at West Point.*

[SENATE.]

Mr. HARRISON differed from the gentleman from Maryland. If the motion prevailed, there would be no visits hereafter. The Secretary would properly conclude that the plan met the disapproval of Congress, and they would probably be altogether abolished. As to the supposition that the selection of Visitors was not authorized by law, it was erroneous, as the Secretary of War had the authority to appoint the Visitors, and Congress, in making the appropriation, would give it the sanction of law. This was not an incidental expense, but one that was called for yearly. If Congress disapproved of the plan, it ought to be abolished altogether; and he doubted not that would be the consequence. As to the Military Academy, although he was not convinced that its plan was the best, it was like a standing Army—a necessary evil—as it was impossible that we could cope with European skill, without scientific officers. If the Academy was an institution with which we could not safely dispense, every means ought to be taken to make it useful, and to contribute to its proper management. In this point of view the Board of Visitors was of important service; and he hoped the provision for it would not be stricken out.

Mr. KANE expressed himself a strong advocate of the Military Academy, and was impressed with a belief in the advantage of the Board of Visitors. The power to appoint them was not granted by law, but by implication; and was a part of the prerogative of the Secretary of War. He was called on, however, to vote in the dark on this motion; as he had not been informed by the Chairman of the Finance Committee, in whose statements he always put great confidence, whether the sum proposed by the bill for this purpose, might, or might not, be taken from the contingent fund. He should, under his present view of the matter, rather vote against the appropriation, and allow the Secretary of War to pay the Visitors from the contingent fund.

Mr. BENTON said, he was indifferent as to the event of the motion. He disagreed as to the effect anticipated from it by the gentleman from Ohio. He had examined the statement of the sums which had been, in past years, expended for this object, and he divided the different sums, for nine years, into three averages. That for the first three years was 274 dollars per annum; that for the second term, 338 dollars; and that for the last three years was 1956 dollars. He thought the appointment of Visitors necessary; but he thought a sum was preferable which should be a medium between the first and the second term. He should, therefore, vote for striking out, not intending, thereby, to oppose the continuance of the visits, or sufficient appropriations.

Mr. KING said, that he intended to vote against the motion, and he would give the reason. He approved the visits; thought the President had the power of appointing the Visitors, and, that while the expense was kept within proper bounds, there was no necessity for a special appropriation. The practice of sending Visitors was authorized by the custom in appointing officers to examine the Land Offices, and to examine the business of collections. He thought the sum ought to be fixed specifically, and the Secretary would act accordingly. As the question was, whether the appropriation should be struck out, and the matter left to the discretion of the Secretary, or a specific sum be fixed upon, he was against the former; but was desirous that the proper sum should be fixed by law.

Mr. McLANE rose to ask for information, as to the reasons for the increase of this expenditure, of the Chairman of the Committee on Finance. He was in favor of the examinations of the Military Academy, but was far from being satisfied that this appropriation was necessary. As far as he had received information, the appropriation was altogether too large. It was difficult to account for the augmentation of the expense which

had grown up from year to year. He wished to know why the sum for this expenditure should be greater in 1826 than it was in 1825. He thought if the contingent fund could supply this fund formerly, it could now be drawn from the same source. He would also ask the Chairman of the Committee of Finance, on what ground 15,000 dollars were asked by the Secretary of War, as a contingent fund, and 3,000 for this purpose—thus swelling the demand of the Department to 18,000 dollars. He merely rose to ask for information on these heads.

Mr. PARRIS observed, that one reason for the increase of the expense of Visitors at the Academy, arose from the fact, that it was formerly merely a school for Military practice, and none but military men were needed to be chosen as visitors. But latterly, the Academy has been also devoted to general education, requiring the examination of scientific and literary, as well as military men. These individuals had been chosen from various parts of the country, and some of them from the most distant States.

Mr. HAYNE said, that there was another fact, which seemed to him important. Last year the contingent fund of the War Department was 10,000 dollars, and out of it the expenses of the Visitors were paid. He wished to know why there must also be 1,500 dollars. If he could be told why the contingent expenses should be greater this year than last, he would vote for it, but not otherwise.

Mr. CHAMBERS made some further remarks, and read a letter of the Secretary of War, detailing the causes of the change in the system of visitation. Strong prejudices had formerly been felt against the Academy, and it was thought expedient to select the Visitors from the different States. Mr. C. said, the Secretary had not anticipated the payment of this sum out of the contingent fund, and the inevitable consequence of rejecting this appropriation would be, that no Visitors would be sent to the Academy.

Mr. HAYNE did not anticipate that the refusal of this appropriation would have the effect to abolish the visitation. It would merely restore it to its former state, as other expenses had been paid out of the contingent fund last year. He objected to voting for any appropriation, without knowing the reason; and he had heard no cause for this additional demand.

Mr. HARRISON remarked, that if this provision was stricken out, there would be no means for defraying the expense of the Board of Visitors.

Mr. SMITH, of Maryland, said, that, for a series of years, the contingent fund had been \$10,000. Why a larger sum had been asked this year he did not know. It was true, as the gentleman from South Carolina had said, that the expense of the Visitors had hitherto been paid out of the contingent fund; but the Secretary now says, that if this sum is not granted, he cannot defray it from that source.

Mr. WOODBURY said, that the question was, whether the Senate would appropriate \$11,500 instead of \$10,000, without information as to the cause of this increase of expenditure.

Mr. NOBLE made a few remarks, when the question being taken on the motion to strike out the appropriation, it was rejected.

Mr. WHITE then renewed his motion to strike out "1,000," so as to reduce the sum to \$500, and the question being taken, was decided in the negative.

Mr. COBB moved to amend the 1st section of the bill, by striking out 10,000 dollars, (the contingent fund,) and insert 8,500 dollars.

Mr. KING said, if the gentleman from Georgia would withdraw his motion, he would move to reconsider the vote on striking out the whole appropriation; having

SENATE.]

Office of Major-General.

[MARCH 7, 10, 1828.]

voted for that motion, he would remark, that he did it with the hope that a smaller sum would be fixed upon. That not having been done, he chose rather to strike out the whole, than vote for the sum of 1,500 dollars.

Mr. NOBLE opposed the motion.

Mr. CHAMBERS called for the yeas and nays, and the question being taken, the motion to reconsider was rejected.

Mr. COBB then renewed his motion, upon which some discussion occurred.

Mr. HARRISON moved to commit the bill to the Military Committee, that the Secretary of War might be called on for information.

Mr. JOHNSTON, of Louisiana, thought it ought to go back to the Committee on Finance.

Mr. SMITH, of Md., observed, that he presumed the information could be had as to the former disposal of the contingent fund; but as to any estimates of its prospective application, it was not probable any information could be obtained, as the very signification of contingent expenses was, that those expenses were unexpected, and such as could not be provided for by a specific appropriation.

After some brief remarks from Messrs. COBB and McLANE, Mr. HARRISON withdrew his motion.

FRIDAY, MARCH 7, 1828.

[The Senate was principally occupied, this day, in the discussion of a private bill.]

MONDAY, MARCH 10, 1828.

#### OFFICE OF MAJOR-GENERAL, &c.

Mr. HARRISON, from the Committee on Military Affairs, made a report on the resolution referred to that Committee, on the 29th February, authorizing an inquiry into the expediency of abolishing the office of Major-General in the United States' Army, accompanied by a resolution, that the abolition of said office was not expedient.

The report was read, on motion of Mr. HARRISON.

Mr. SMITH, of Maryland, made some remarks upon a portion of the report, relative to Brevet rank. He observed that, on this head, the inclination of the Senate, he thought, might be misconceived.

Mr. HARRISON said, that the Committee had, as far as possible, followed the directions given by the Senate, on referring the resolution. They had been instructed to inquire into the expediency of abolishing the office of Major-General, and, also, whether those next in rank should be deprived of the Brevet promotion.

Mr. CHANDLER made some remarks, which were heard indistinctly.

Mr. SMITH, of South Carolina, observed, that he did not wish to have the opinion go abroad, that the Senate felt a disposition to abolish Brevet rank. He thought such a conclusion would be formed, were the report, in its present shape, to go the public. He, therefore, moved to strike out that portion of the report which relates to the Brevet rank of officers claiming promotion.

That portion of the report was again read.

Mr. CHANDLER observed, that it appeared somewhat strange that such difficulty was found in understanding the resolution, when it was not only so perfectly plain in itself, but had been so fully explained.

Mr. HARRISON said that he believed the gentleman from Maine had never entertained the design of striking off the Brevet rank. But the Committee was called upon to give an opinion upon the whole subject. He did not know whether the gentleman from Maryland understood the matter as he did—but it certainly was contended, when the reference of the resolution was discussed, that

one Brigadier-General was sufficient in our peace establishment. The question presented to the Committee was, what would be the effect of abolishing the office of Major-General? They were of opinion that, if the office lately filled by Major-General Brown were to be abolished, a similar rank would be assumed by the Major-General by Brevet, next in rank, by force of the regulations by which the army was governed. He looked upon this result as inevitable. Therefore, the Committee considered that, in being called upon to pass upon the expediency of abolishing the office of Major-General, involved the necessity, also, to consider the effect of abolishing the rank of Brevet Major-General. The Senator from Maine did not express the objections which he had now conceived, against the report, in the Committee room, this morning, where it was read in his presence, although he had objected to the conclusion arrived at by the Committee.

Mr. SMITH, of Maryland, did not assent to the opinion, that, if the office of Major-General were abolished, we should still have two Major-Generals in our army. There was inconsistency in the very idea. He contended that, if the office was abolished, the two Brevet Major-Generals would enjoy the rank of Brigadiers, only—not Major-Generals. He did not like the idea of pulling down every thing; nor did he wish that the public should be under the impression that it was the design of the Senate to abolish Brevet rank, and, for this reason, he hoped the passage to which he had alluded, might be stricken out.

Mr. CHANDLER said, that it was true, as stated by the Chairman of the Military Committee, that he had heard the report read in the Committee room, and did not then disagree to it. But it was because he had not seen its bearings in the same light as at present. He had said, on a former occasion, that our army did very well with but one Brigadier-General: but he did not, thereby, imply that Brevet rank ought to be abolished.

Mr. BENTON said, he wished the gentleman from Maryland would consent to modify his motion, so as to allow the report to be recommitted, generally, to the Military Committee.

Mr. SMITH, of Md. acceded to the proposition of the gentleman from Missouri.

Mr. HARRISON said, that, having heard no objection to this motion, he should not oppose it. He would merely say, that the gentleman from Maryland and himself were entirely at issue. He contended that, by law, there were two Major-Generals in the line, and that, if the office held by General Brown were abolished, the first in rank of those two officers might claim the station to-morrow. He did not see how the gentleman could get rid of the fact, that there were, at this moment, two Major-Generals in the service, receiving the pay and emoluments of the station, and considered universally as such.

Mr. CHANDLER said, he would merely point out to the gentleman from Ohio the effect of his doctrine, if it should be correct. Suppose the President of the United States should appoint a civilian to the office—does he contend that Generals Gaines and Scott could take a command superior to the individual appointed?

Mr. HARRISON answered, readily, that, if a civilian were appointed to-morrow, the first in rank of those Generals would have a legal right to supersede that individual.

Mr. SMITH, of Maryland, said: And I say, promptly, if he dared to do it, and I were the Major-General appointed, I would have him put under arrest for his presumption.

The motion to recommit was then adopted.

Mr. EATON observed, that he had long considered something necessary to be done on this question; and

March 10, 1828.]

Office of Major General.—Claims of South Carolina.

[SENATE.]

since the subject, generally, was before the Committee of Military Affairs, he would submit the following resolutions :

*Resolved*, That the Secretary of War inform the Senate of the amount of money that has been paid to the officers of the Army, during the year 1827, on account of Brevet rank, and which they would not have been entitled to receive, if not from that Brevet rank.

*Resolved*, That the Committee on Military Affairs inquire into the propriety and necessity of so amending the existing law, as to restrain Brevet appointments in the line and staff of the Army, on account of ten years' service in the same grade, and to prohibit the giving a second Brevet to any officer, where a previous Brevet has been had.

*Resolved*, That the said Committee inquire if, on Court Martials, and on command upon separate detachments, Lineal and Brevet rank cannot be better ascertained, and with greater certainty defined, that thereby collisions may be prevented.

#### CLAIMS OF SOUTH CAROLINA.

On motion of Mr. HAYNE, the Senate proceeded to the consideration of the bill for the adjustment of the claims of the State of South Carolina, against the Government of the United States.

The report of the Military Committee on that subject, having been read, at the request of Mr. HAYNE,

Mr. HARRISON, (Chairman of the Committee,) briefly explained the merits of the bill. The report just read, said he, had gone so extensively into the subject, that it was hardly necessary for him to enter on it at large. The account upon which the claim of South Carolina was predicated, contained a great many items; the principle of which, having been allowed by the General Government, put the subject of interest entirely at rest; there being no question but that, on the money actually allowed, and paid to the State, interest was justly due. The cases of Virginia and Pennsylvania, who had been allowed interest by Congress for advances made by them, were somewhat different in detail, though not in principle. South Carolina had entered into these expenses for the defence of the country, without having any previous bargain with the General Government. Virginia and Pennsylvania, upon a call made upon their patriotism, borrowed money from the Banks, which they expended in the service of the country, and it was because interest had been paid by them, for the sums so borrowed, that interest was allowed them on their advances.

The case of South Carolina was nearly similar to that of those two States. She did not borrow the money, to be sure, which she advanced; but she had a fund producing an interest of 12 per cent. per annum, which, without any hesitation, she appropriated, when danger threatened. The Committee were therefore of opinion, that equal justice ought to be meted to the State of South Carolina, which had been meted to Virginia and Pennsylvania, the actual loss of interest being the same, in effect, as the actual payment of interest. In relation to another item of the account, viz: for cannon-balls furnished by the State, it was necessary, under the peculiar circumstances of the case, that the balls should be procured at all events. The General Government was unable to furnish them, and they were cast at the expense of the State. The enemy not having made the expected attack, they remained until the close of the war, and then the Government refused to receive them, because they had not been made of the proper size. Another item was for the transportation of baggage, which had been rejected, because it had been customary to allow more than eight wagons to a regiment. Without their having the means of ascertaining how many wagons were necessary, in the peculiar case of the State

of S. C., whether eight or nine, the Committee could see no reason why she should not be allowed this item as well as for the cannon-balls, since she had actually expended the money in both cases. He had seen operations where 40 wagons would hardly be sufficient for a regiment. There were some other small items, said Mr. H. and one of \$ — for blankets. With regard to this last, he would observe that the troops of the State had been called out in a very inclement season, and the State, finding that blankets were absolutely necessary, had furnished them. The Committee, however, not finding any precedent for an allowance of this kind, did not think proper to sanction it.

Mr. CHANDLER wished the State of South Carolina to receive the same justice which had been granted to other States, and no more. He was not well informed what had been allowed in other cases; but, from what he did understand, in this case it appeared that the State of S. C. had a fund vested in bank stock, which, without having been called on by the United States, she expended in her own defence. He objected to the claim for pay of the staff officers, as he believed it had never been the practice of the Government to allow pay to officers of a State to carry on its own operations. With respect to the charge made for cannon-balls, the State, he said, had the strongest motive to place herself in an attitude of defence, and was therefore perfectly right in procuring those balls. She had them on hand at the close of the war, and if they did not answer the calibre of the United States, and did that of South Carolina, she ought to have retained them for purposes of her own defence. As to wagons, he believed the rule had been to allow them in reason. If any State had been allowed as many as South Carolina charged for, he should not be disposed to object to the allowance. Whatever had been the custom, in similar cases, he was disposed to accede to, in the present one.

Mr. HAYNE entered into the merits of this bill much at large; exhibiting in a clear and strong point of view, the justice of the claim, which the State he represented in part has upon the General Government. Mr. H. showed that South Carolina was in an exposed state, and that when the enemy were hovering on the coast, and the General Government without money or arms, that she came forward without asking terms, and took the money which she had vested in bank, yielding her 12 per cent. on every dollar, and loaned it to the Federal Government. Mr. H. answered all the several inquiries and suggestions made in relation to this business; showing the conduct of his State, as at once disinterested, patriotic, and worthy of imitation.

Mr. RUGGLES said he was not satisfied to pass the bill in its present shape; though he would not object to it, if it were worded in the same manner as the bills passed for the benefit of the States of Pennsylvania, Delaware, Virginia, and New York: because, by all those States the money advanced had been actually borrowed and the interest paid by them. He thought there was a distinction between the cases of those States, and that of the State of South Carolina. The fund expended by the State of South Carolina was, in her own hands, precisely in the same situation as if remaining in her Treasury; and where a State advanced funds for her own defence, out of money actually in her Treasury, he did not believe she had any just claim for interest. The repayment of the principal, said Mr. R. had generally been considered a sufficient allowance. Whenever a State expended funds of this description, it was for the defence of her own soil; all the States had a common interest with the General Government to defend their own firesides, and therefore ought not to require interest on money so expended. Mr. R. here read, in illustration, the law passed in favor of the State of Virginia, to shew that it

SENATE.]

*Claims of South Carolina.*

[MARCH 10, 1823.]

was only on account of the money advanced by her, having been actually borrowed, and interest paid; that interest had been allowed her. It was on this very principle, said he, that the laws passed in favor of the State of Virginia, and the other States just mentioned, were so guarded that no interest was to be paid them except where they had been actually under the necessity of borrowing money and paying interest. Before he sat down, he would move to amend the bill by striking out the first and second sections.

Mr. RUGGLES was followed by Mr. CHAMBERS, in opposition to the amendment, and in support of the bill.

Mr. COBB said, before he voted, he would make one inquiry of the advocates of the bill. He understood that the State had accumulated a fund of half a million of dollars which she invested in the stock of a bank; the whole of which stock was held by herself. Now, he wished to know whether the advances made, had been made out of the capital of that bank, or out of the promissory notes issued by it.

Mr. HAYNE said, he would endeavour to answer the inquiry made by the gentleman from Georgia, though he confessed it would be with some difficulty. The State, before the war, had accumulated a fund of half a million of dollars, which, as the gentleman very correctly stated, had been invested in the stock of a bank wholly owned by herself. In that bank were deposited all the sums of money received by the State, whether for interest accruing on her stocks or for taxes; and from its vaults was drawn every dollar advanced to the United States, and every dollar disbursed for the current expenses of the State. Now, Sir, said Mr. H. the only way of answering the gentleman is to ascertain whether the expenses of the State exceeded the amount received for interests and taxes; and if such was the fact, the money was actually drawn from the capital of the bank. This was the only answer he was able to give the gentleman.

Mr. HAYNE here made a brief reply to Mr. RUGGLES. The gentlemen from Ohio, said he, had alluded to the precedent established in the case of the State of Virginia. Mr. H. contended, that the case now before the Senate depended upon the same principle as that of the State of Virginia. That State had been allowed interest, because the advance made by her had cost her interest; and it is proposed here to allow S. Carolina interest, because the advance made by her, had likewise cost her interest. The principle was precisely the same. In the one case, Virginia had actually paid interest on money borrowed; and in the other, South Carolina had lost the interest she was actually receiving. The case of South Carolina was even stronger than that of Virginia—the loss of Virginia having been only six per cent, while that of South Carolina had been twelve.

Mr. JOHNSON, of Ky. spoke briefly in support of the bill, and in opposition to the amendment. In cases of war and great national calamity where advances had been made by a State predicated upon the inability of the General Government, he was not only in favor of paying to such State the advances made, but also of paying interest on them.

Mr. M'LANE was of opinion that the case before the Senate was a very important one, and he agreed with the gentleman from Ohio, that it demanded the greatest consideration. But he disagreed with the conclusions drawn by that gentleman in regard to it. The State of South Carolina, said Mr. M'L. was entitled, on every principle of equity and justice, to receive the amount claimed by her. A distinction had been drawn between the debts due by the United States to individuals, and to States; and to individuals, interest is not allowed by the government on the amount found to be due them. What is the principle, he asked, on which interest is refused to individuals? It is one to which he could not subscribe, though

the precedent had become so strong as not now to be shaken. It is refused to individuals, said he, on the principle that the government is always prepared to pay them their just demands, and therefore, ought not to be bound to pay interest on money waiting their disposal.

But that principle did not apply to advances made by States to aid the public exigencies of the country, when the General Government was unable to provide for that particular exigency. The principle, said Mr. M'L. has already been established, that States should be allowed interest on the advances made by them for the service of the General Government. Here, then, was a strong case of that kind. Money had actually been advanced by the State of South Carolina, for the use of the General Government. Wherein, he asked, did this case differ from those of the States of Virginia, Maryland, Pennsylvania, Delaware, and New York, as argued by the Senator from Ohio? It was the duty of the United States to have performed those services, and made those advances, made and performed by those States; having neglected so to do, those States stepped forward and made the advances required; and were paid, not only the sums so advanced by them, but the interest on the money they had borrowed for that purpose. Now, Sir, we have adopted the principle, that wherever a State has paid interest on such advance made by it, the interest is part of the advance made; and it is on this principle that the State of South Carolina should be paid for the loss incurred by her, for her loss has been twelve per cent interest, while she claims but six. The fact of the State's having advanced a particular stock fund, instead of money, was no argument to his mind, why the interest should not be paid. Suppose, said Mr. M'LANE, a State holds stock on which she is receiving interest. If she borrows money, and holds her stock, it is admitted she ought to be paid; but if she sells her stock, and advances the money, interest is refused her. This was a doctrine he could not agree to. Is not the loss of the State the same, whether that loss was occasioned by interest actually paid by her, or by the deprivation of interest which she was actually receiving? If an individual, said Mr. M'L. advances Bank stock for another, will not the chancellor award him the full amount of his loss? If he sells his stock, and advances the money, is not the case the same? On every principle of equity and justice, the present claim ought to be allowed. Treat it as interest paid—treat it as interest lost—treat it as a loss either way, and he did not see how payment could be avoided. In a case of this kind, he would make complete and full indemnity, and the government never can, said he, place itself in a stronger attitude, than to say to those States, who are the first to encounter the shock of calamity, if you will voluntarily step forward for the defence of the country, you shall not be placed in a worse situation.

Mr. SMITH, of Md. followed Mr. M'LANE at length in support of the bill; when

Mr. SMITH, of S. C. rose to make a short reply to the objections made by the Senator from Ohio, one of which was that the State of South Carolina had expended the money advanced by her for her own benefit, and therefore ought not to be paid the amount she claims. I am sure, said Mr. S. in that part of the gentleman's argument, he had not attended sufficiently to the subject. By the Constitution of the United States, the General Government was bound to defend every State in the Union, not only from real, but from apparent danger. It will be recollected, said Mr. S. that when the British fleet sailed to New Orleans, it was the general opinion that Charleston was the point intended to be attacked by them; and this being the general opinion, it was absolutely necessary to put the State in some posture of defence. Then it being the duty of the General Government to defend the State,



MARCH 11, 1828.]

*Claims of South Carolina.—Hour of Meeting.*

[SENATE.]

and being unable, neglected to do so, the General Government was bound on every principle of justice to pay the interest, and pay the principal sum, expended by the State, for her own defence. How, asked he, are gentlemen to distinguish between money advanced by the State of South Carolina, and other States who have paid? Are we now to be called upon at the distance of fourteen years to tell you in what particular bills this money was paid? This was not, in his opinion, a period to give such information—the contest ended in eighteen hundred and fourteen, and the first money refunded to the State was in the year 1821. But we have been told, you have protected yourselves by the money you have expended, and therefore have no claim for interest. Sir, said he, this is an argument which ought never to be heard on this floor. While this confederacy lasts, let us protect each member of it, unless you are disposed to dissolve the Union, and let each State protect itself.

The State of South Carolina, said Mr. SMITH, had, with her own capital, established a Bank, and from that Bank, all her resources were drawn. From that Bank, she not only made the advances to the General Government upon which her present claim is predicated, but also paid her proportion of the tax for the support of the war. She never permitted a tax to be collected within her limits, through the agency of the officers of the General Government. The moment her quota of the direct tax was ascertained, she asked no questions, but ordered the amount to be paid out of her public Treasury—from that very Bank out of which she made the advances to the General Government. Is it not monstrous, then, said Mr. S. to be asked at this period, did you pay specie? Did you sell stock, or, in what manner did you expend this money? There was no principle in private life, that would, for a moment, admit of a contest like this. Is not then a contest between the General Government and a State, and between individuals, the same? Where was the possible distinction, asked Mr. S. between the cases of the States of Virginia and South Carolina? Virginia, it seems, went to a bank and borrowed money; South Carolina advanced a fund already in her own possession, by which she was deprived of interest actually accruing to her: and now, after the United States have had the benefit of this fund for eight years, we are told, because no precedent can be found in the case of Virginia, interest is to be refused to S. Carolina. The State of South Carolina has demonstrated that the advances for which she claims interest, were drawn from a fund for which she received more interest, than was paid by the State of Virginia, and for which Virginia was remunerated; the bills of the bank never having depreciated in her own State, nor in any other State of the Union. The State had always been ready to redeem those bills—they were, in fact, as current as gold and silver. The State of South Carolina, said he, can no doubt do without the sum claimed. But if the claim is founded upon those principles which regulate the intercourse of one man with another, and between an individual and the Government, she ought to be paid. She did not ask it as a favor, but demanded it as a right.

After some further debate, in which the bill was advocated by Messrs. HAYNE and SMITH of South Carolina, and opposed by Messrs. COBB, CHANDLER, and FOOT; the question was taken on the amendment of Mr. RUSSELL, and lost.

TUESDAY, MARCH 11, 1828.

On motion of Mr. EATON, the resolutions submitted by him yesterday, were taken up separately, and agreed to.

## CLAIMS OF SOUTH CAROLINA.

The unfinished business of yesterday was then taken up, being the bill to remunerate the State of South Carolina for certain disbursements during the late war.

Mr. HAYNE moved a modification of the amendment offered yesterday by Mr. CHANDLER, so as to provide for giving up to the United States the cannon balls not expended. The amendment offered by the gentleman from Maine directed the Secretary of War to make a new bargain, and he would probably fix upon the present price of the articles as the rate of purchase. The bill provided for the payment to the State of South Carolina, of the price which they cost at the time they were purchased. He understood the object of the gentleman from Maine to be, that the property might be received by the United States. The proviso which he [Mr. H.] now offered, would secure this object.

Mr. CHANDLER made some remarks, but was not understood as having assented to the modification. The question being then taken, Mr. CHANDLER'S motion to amend was rejected.

The question on the proviso offered by Mr. HAYNE was then put, and it was adopted.

The bill having been reported to the Senate, Mr. COBB observed, that he would renew the motion made yesterday by the gentleman from Ohio, to strike out the first and second sections of the bill, [providing for the payment of interest on the money applied by the State of South Carolina to the public service.]

The question on this motion being taken, it was negatived.

The bill was then ordered to be engrossed for a third reading.

## HOUR OF MEETING.

The resolution, submitted several days since, by Mr. KING, to fix the hour of meeting at 11 o'clock for the residue of the session, was taken up.

Mr. SMITH, of South Carolina, would ask what gentlemen expected to gain by this measure. Some of the Senators might feel able to increase the hours of sitting; but he thought five hours spent in debate was sufficient, and as much as was consistent with the other duties which they had to perform. He belonged to a committee which met twice a week; and even now they were often summoned to their seats from the committee room, before they had completed the business under their consideration. If gentlemen thought they did not stay late enough in the Senate Chamber, they might make the adjournment later.

Mr. KING said, that four-fifths of the business consisted of general orders, which were, by a rule of the Senate, to be acted upon before 1 o'clock—and often only from fifteen minutes to half an hour could be devoted to them. Whereas, if the Senate met at 11 o'clock, an hour and a half could be employed in considering the general orders, which comprised some bills of importance. He had no greater desire to labor beyond a reasonable time, than any other gentleman. As to the business of the committees, it was mostly over for the session. They could not originate any new business with a reasonable hope that it would be acted upon by both Houses.

Mr. JOHNSON, of Kentucky, advocated the resolution. He had rather come at an earlier hour, than spend the time in lounging about to no profit, as the morning was the best part of the day for transacting business.

Mr. SMITH, of South Carolina, said, that the Committee of Finance, to which he belonged, had two-thirds of the bills under examination that came from the other House. He came immediately after his breakfast to the committee room, and was often called into the Senate before he left it. Besides, human beings wanted a little time for eating, and a little for sleeping. He knew that the gentleman from Kentucky had been many years in Congress; he knew, also, the vigor of his mind—but some others might not be equal to him. Besides the business of the Senate Chamber, and of the committees, there were documents daily laid upon the tables of the Senators, many of which it was their duty to read. If



SENATE.]

Hour of Meeting—Revolutionary Claims.

[MARCH 11, 1838.]

the time of sitting was to be increased, some of these duties must be neglected. If the committee, and the Printer, were discharged, so that there should be no more documents, he would vote for the proposition, and meet at any time the Senate might please. The other House had shewn the inutility of changing the hour, and had, after a few days' experience, found it advisable to go back to twelve o'clock.

Mr. BENTON did not think the meetings of the Committee of Finance, twice a week, a sufficient reason for rejecting this motion. The members of the committee might be excused from serving in the Senate Chamber until 12 o'clock, and no bill would be put on its final passage previous to that hour. It seemed to be the general opinion that five hours was as long as they ought to sit. As to the length of time, he considered that it would be the same in the one case as in the other. If they met an hour earlier, they would adjourn an hour earlier. On the contrary, if they met an hour later, the adjournment would be protracted an hour. It was similar to the difference in individuals—one poured a little wine into his glass, and drank the whole, while another filled his glass to the brim, and sipped but little. There was a great portion of trifling business which must either be done in the early part of the day or be neglected. This business, although of a minor kind, was of more or less importance. They were chiefly local bills—the Old States were but little interested in them—but they were of great moment to the New States. The Government was the great landholder in those States, and the number of land bills was very great. Of the whole number of bills passed last year—say, in round numbers, 150—fifty relates to the New States. For those States, Congress, to a great extent, might be considered the local legislature, and there was, therefore, a great quantity of local business which ought to be done, which could be matured before 12 o'clock, and which would not absolutely require the presence of all the Senators.

Mr. SMITH, of South Carolina, did not see how Congress had more to do with the New than the Old States; and, for one, said Mr. S. should wish to be present when these bills are acted upon. He was not at all pleased with the idea of being shut up in a committee room—and he doubted whether any gentleman would willingly be stowed away in this manner, while the Senate was proceeding in the business, which it was his duty to examine, in order to enable them to get to their wine in good season.

The question being then taken on the resolution, it was agreed to.

#### REVOLUTIONARY CLAIMS.

The Senate then proceeded to the consideration of the bill making provision for compensation to certain Surviving Officers of the Revolution. The motion to amend, reported by the committee, to fill the blank in the bill with the sum of \$1,100,000, being before the Senate—

Mr. HARRISON addressed the Senate at great length in its support, and in reply to the observations of several gentlemen, who, during the former debates, opposed the motion.

Mr. ROBBINS, of Rhode Island, said this case seems to labor most on the point of legal obligations; if this is not established, nor to be established, I should despair of the claim being carried. In that case, indeed, I am not prepared to say it ought to be carried; for, in common with other gentlemen, I doubt if any other ground, *per se*, would warrant the appropriation. Indeed the petitioners, themselves, rest their claims on the legal obligation entirely. If that is not established, nor to be established, they make no claim upon us, for they ask nothing of the national gratitude. On this ground they are silent, and forever

will be. In this they display all the goodness of noble minds; for though it is noble to confer obligations, it is still nobler not to make any claim upon them, and nobler still never to mention them. But, let me remark, here, that however noble it is in the benefactor never to remember, it is equally noble in the party benefitted, never to forget the obligation. A few words, however, and but a few, on this question of legal obligation.

It does appear to me clearly that a special contract made with these petitioners has been violated, and to their injury, for which they have a legal title to indemnification. It is to my surprise that the fact should appear otherwise, to other minds, and such minds too—minds who command all my respect; for, if, waiving the question, whether the commutation was or was not adequate to the annuities in point of value; and, waiving, too, the question, whether the commutation was or was not assented to by the officers, in a manner to be binding upon them—if we look at the commutation act, and see what was to be given, and then at the final settlement, and see what was given, and compare the two things—not in kind, for they were different in kind—but in value—and it would seem to me impossible to say that that promise was performed, or that the non performance was not an injury, or that the injury did not constitute a legal title to indemnification.

Now what was given on that final settlement? It was a certificate certifying the amount due, and that it was payable at six per cent interest. I speak from an authenticated transcript of the form of that certificate. On what was this bottomed? On the credit of the country. What was its value? It was twenty per cent, on its nominal amount, and no more—it would command this in the market, and no more.

Now, by the commutation act, what was to be given? It was *securities*, at five per cent. interest, to be bottomed, as I say, and will attempt to show, on particular funds, pledged to pay the accruing interest annually, and ultimately to redeem the principal. What were such securities, and so guaranteed, worth? They were worth eighty-three per cent, on the nominal amount, and would command this in money here or elsewhere. What then was the difference in value between what they did receive, and what they were to receive? It was sixty-three per cent, on the nominal amount, or sixty-three dollars on every hundred.

That these five per cent. securities, thus guaranteed, were not delivered, I would here remark, was not the fault of the Government; for it was owing to their utter inability to deliver them. Congress had no particular funds and could command none, though they made every possible effort to acquire them from the States, for this purpose. But this neither varies the fact of the breach of the contract, nor impairs the right of indemnification for that breach. I would here further remark, that it is this circumstance, that these securities were to be guaranteed by particular funds, that distinguishes these petitioners from other creditors; makes their case a peculiar one; a case that cannot make a precedent which other creditors can claim the benefit of; nor which can embarrass the Government as being such a precedent. They complain that they have not had what they were to have, but something different in kind, and less in value, much less. The other creditors were to have certificates of credit, upon the credit of the country; these they did have; and if the depression of that credit has depressed the value of those certificates in the market, and a loss has been occasioned to the holders by that depression, it is a loss which gives no legal title to indemnity; it is a *damnum*, but a *damnum*, as the law has it, *absque injuria*; it is a loss in consequence of the want of credit in the debtor, which does not make a legal ground of claim against the debtor. But in this case it is a loss in consequence of the non ful-

MARCH 11, 1828.]

Revolutionary Claims.

[SENATE.]

ance of the debtor, the not delivering what was to be delivered, which does constitute a legal demand against the debtor.

I am aware that the value of this whole statement depends upon the evidence that these securities were to be guaranteed by particular funds. But this evidence is so irresistible in my view of it, that it forces conviction of the fact upon my mind; and, I trust, when considered and weighed, it will have a like effect with others. In the first place it was so understood by the army; for they say, in their resolution, transmitted to Congress by their Commander in Chief: "We expect Congress to provide adequate funds for satisfying the life annuities, or such commutation as may be substituted therefor." Congress then knew if commutation was adopted, it was to be guaranteed by particular funds, in the understanding of the army; and Congress, it is said, did not originate the proposition of a commutation. They but acceded to the proposition. It must, then, be presumed that they acceded to it in the sense in which it was made. To presume the contrary would be derogatory to the dignity of that body, and the idea must be rejected; and, besides, the thing proves itself. Congress intended an equivalent to the half pay, in a gross sum. They must then intend this either in money, or in something equivalent to money—otherwise, they did not intend an equivalent. Now, nothing but *securities*, guaranteed by particular funds, were equivalent to money. Certificates of credit, merely, were not equivalent to money; so far from it, that they were eighty per cent, below the par of money. If Congress, then by *securities*, meant nothing but certificates of credit, instead of meaning an equivalent, they meant only the fifth part of an equivalent; and, it is remarkable, that these securities were to be at five per cent, while all certificates of credit were at six per cent. Then, if Congress meant these securities to be placed on a common footing with certificates of credit, instead of meaning an equivalent in money, they did not mean even an equivalent in certificates, but something less, by about sixteen per cent. So, while securities would be but one fifth of an equivalent, these securities would be but five sixths of that fifth. The certificates would be but the shade, not the substance, of an equivalent, and these securities would be but the shadow of that shade.

I have stated, that while these securities were at five per cent, all certificates of credit were at six. How can this be accounted for, if these securities were to be but certificates of credit? You must suppose either that Congress deemed the army creditors less meritorious than other classes—than all other classes, and therefore were to be put on a less favorable footing; or, that, being at a less interest, were to be put on a more solid footing. And who will say that Congress deemed the army creditors less meritorious than the others in the face of all their resolutions, which thicken upon us in every page of their journals, expressive of the contrary, and entirely of the contrary?

After the half pay act, but before the commutation act had passed, the army was re-organized, leaving a number of supernumeraries, who retired from the service, but who still were entitled to the half pay. Now, the commutation act gives the securities of five per cent. to the officer then in the regular army, but certificates of credit at six per cent, to these supernumeraries. Then Congress meant to make a distinction between the supernumeraries retired from service, and the officers then in service, and to remain in service; and, if Congress meant the securities at five per cent, to be merely certificates of credit—meant that distinction to be in favor of the supernumeraries, and to the amount of sixteen per cent. then the army, who were depended on to bring the war to a successful termination, and on whom the salvation of the country depended—who were to endure the toils and privations of war; to confront danger and death, in all the horrid forms of war; were to be

postponed to the supernumeraries, who were retired from the service, and were in safety at their own homes. Yes, Sir, your warrior, who was to live in the tented field, and to jeopardize his life on that field—who was to mingle in the battle, and see it rage around him—who was to see his companions fall by his side, himself equally exposed to fall—to see that battlefield strewn with carnage and death; to see the fate of his family involved in his own; the desolation of his wife and the orphanage of his children—yes, Sir, this warrior was to be postponed to the supernumerary retired from the service; sleeping quietly of nights in his own bed; living at ease in the bosom of his own family, enjoying his own fire-side, and all the comforts of civil life, and knowing nothing of the conflict but what he saw in the Gazette. Yes, this supernumerary was to receive sixteen per cent. more than this warrior, if these securities at five per cent, were to be certificates of credit merely, and were to be guaranteed by particular funds. Who can believe it?

If these securities, at five per cent, not guaranteed by particular funds, were to be delivered—I ask, why, in the name of wonder, were they not delivered? Now no one such security was ever delivered; but, on the dissolution of the army, what was delivered was merely a certificate, certifying that so much was due, and that it was payable at six per cent. Why, I ask again? It could only be because Congress were sensible that securities at five per cent not guaranteed by particular funds, were not the securities intended to be delivered and expected to be received, and therefore, they did the only thing which, in their circumstances, they could do—they delivered certificates of credit upon the credit of the country at six per cent. precisely as they did to all other creditors. If any other possible reason can be assigned for not delivering five per cent. securities, let it be done—I am not able to conceive any.

Such is the evidence that satisfies my mind, that these securities were to be guaranteed by particular funds; others will judge of their force for themselves. If it establishes this point, the consequence seems to me to be necessary that a contract made with these petitioners has been violated and to their wrong, for which they are entitled, legally entitled, to indemnification. If this point is established it will warrant this appropriation; and if not this, some appropriation, commensurate to the wrong, and sufficient for the indemnification. But if it be not established, the petitioners ask nothing at your hands. For they prefer no claims upon the national gratitude; on this subject, as I said before, they are silent, and will be forever. They will retire from your Halls in silence; in silence live as they may, and die as they hope in peace. It never will be in their hearts, still less on their lips, that they have any unrewarded merits, with their country; that their country has been unmindful of their merits or ungrateful to their deserts. They will retire; and still they can look round on their prosperous country; rejoicing, though not participating in its prosperity; and rejoicing the more when they contrast the splendor of that prosperity with the gloom of that period (they recollect it well, in it they bore their part,) the gloom of that period when her destinies were suspended on the chances of a doubtful conflict—when the mighty odds against her made these chances seem desperate, and planted despair at times in every bosom; when her own distress made her forgetful of the distresses of her armies, and her armies to forget every thing in her danger; when her sun was shrouded in clouds and tempests, and her whole horizon was darkened with the horror of the impending and the raging storm; when no resource seemed to be left her but her own unconquerable mind.

Yes, sir, rejoicing the more from that contrast. They will retire; for they can bear, and will without a murmur, the load of remaining life; decrepitude, pain, penury, and that sharpest of all pangs to the pride of the human heart, dependence, for the boon of life itself, on the alms of chari-

SENATE.]

*Revolutionary Claims.*

[MARCH 11, 1828.]

ty. And in the last hour, when death, the friend of the wretched, shall come to their relief; when the kindly grave is opening to receive them to its bosom, and to hush their inquietudes to repose; when this earthly scene is closing upon them forever, they will die rejoicing in that national happiness to which they have contributed, but of which they have not been deemed entitled to be made the partakers.

Mr. CHANDLER said, he rose merely to state the reason why he should vote against filling the blank with this or any other sum. He considered the contract entered into with these officers, by the Government, as entirely fulfilled. If, after the vote was taken, a bill should be presented to the Senate, making a proper provision for both officers and soldiers, he should probably give it his support.

The question being then put, a division was called for, and 12 only rising in favor of the motion, it was rejected.

Mr. HAYNE said, that after the eloquent and elaborate arguments, which had been urged on both sides of this question, he should not take up the time of the Senate, in the vain attempt of influencing their decision; he rose merely to make a motion to fill the blank with the sum of \$800,000; and he should ask the indulgence of the Senate, whilst he explained, as briefly as he could, his own views in relation to the bill, and noticed one or two topics which had been introduced into the debate. It seems to be admitted, said Mr. H., by all the gentlemen who have spoken, that the merit of the petitioners is of the highest order, and that their claims are entitled to the utmost favor. Indeed, the objections to this bill seem not to rest so much on the provisions which it makes, as on the omission of certain other provisions, which gentlemen suppose ought, likewise, to be made. They seem to oppose this bill, not so much because it extends relief to the surviving officers of the Revolution, but because it does not also provide for the officers who resigned at various periods during the war; many of whom, it is contended, like the venerable Senator from Maryland (Mr. SMITH) rendered important services to their country; because it does not provide for the soldiers as well as the officers of the regular army; because it does not also provide for the whole body of the militia, who served at every period during the war; and lastly, because it does not propose to compensate all who suffered from the depreciation of the currency, or who participated in any way in the sufferings and sacrifices of the Revolution. Now, sir, my views in this respect, are simply these: In private life, I consider it no reason why we should not relieve the sufferings within our reach, that we cannot embrace all the objects of kindness within the limits even of our own country; nor can I perceive why a man should fail to pay one of his just debts, because he is not at the same moment able to discharge them all. So, in the administration of public affairs, I do not consider it a valid objection to any measure, just and proper in itself, that it does not enable us to do all the good we could, nor provide at once a remedy for all the evils of the State. It appears to me, therefore, that these objections urged against the bill constitute arguments in its favor; nor if gentlemen do really believe that it is the duty of the Government to provide for all of the private soldiers, who served in any way or for any length of time, during the Revolution, then surely it must be proper to provide for the officers, and if, as they contend, all the officers who served for a year, a month, or a day, are entitled to relief, surely those who continued in service to the end of the war are still more strongly and justly entitled. In this point of view, the only question would be, where we should begin. Now it is admitted to be impracticable, at this time, to make provision for all of these various classes of persons; neither the condition of the country nor the state of the treasury would admit of it. Where then

ought we to begin? Supposing the views of the gentleman on the other side to be correct; surely with the first class of claimants; the highest in rank; the first in the order of merit, and in the magnitude and importance of their services; with those of whom it was said by Washington himself, "that their blood was the price of our independence;" THE SURVIVING OFFICERS OF THE ARMY OF THE REVOLUTION, whose reduced numbers puts it in our power to relieve them, whose poverty is a standing reproach to their country, and whose age and infirmities present an irresistible appeal to our liberality.

Gentlemen have indulged themselves, Mr. President, in comparisons to the disadvantage of the officers and soldiers of the Army of the Revolution. Their conduct in the Southern States, especially in South Carolina, has been alluded to in terms calculated, I fear, though certainly not intended, to depreciate the value of their services. On such a subject, sir, I can, of course, have no personal knowledge, but having been brought up among those who took an active and humble part in the Southern war, I think I cannot possibly be mistaken, when I say that the services of the army, in that part of the Union, were of inestimable value, and that the conduct of the officers and men, throughout the whole contest, was eminently meritorious; and I do know that there exists in the State which I have the honor, in part, to represent but one unanimous sentiment of mingled admiration and gratitude towards those gallant men, who came from other quarters of the Union, "to pour out their blood like water," in aiding us in the great struggle for the preservation of our liberties. Gen. GREENE has always been most justly considered as "the restorer of the South." It was by his campaigns in South Carolina, that he acquired the reputation of being "the second to Washington," in the War of Independence. The names, sir, of MORGAN, DE KALB, SMALLWOOD, MOUTRIE, (for he too was a regular officer,) GUNN, HOWARD, WASHINGTON, LEE, and WILLIAMS, and a host of others, all of the regular army, are still "freshly remembered." Their names are as "household words," in the mouths of our children; their memories are enshrined in our hearts. To shew, sir, that I am not mistaken in the sentiments of my native State, in this respect, I will read to the Senate the Resolutions unanimously adopted by both branches of our Legislature, on the occasion of the death of the venerable Col. HOWARD. Resolutions not less honorable to those by whom they were adopted, than to the cherished memory of the patriot and hero who was the subject of them.

[Mr. HAYNE then read the following preamble and resolutions of the South Carolina Legislature, adopted January 25, 1828:

"It becomes a grateful People to cherish and perpetuate the memory of the brave and good; to remember with gratitude their services; and to profit by their bright examples. The heroic band of the Revolution who fought that we might enjoy peace, and conquered that we might inherit freedom, deserve the highest place in the grateful affections of a free People. Amongst the master spirits who battled for independence, we remember with veneration the late patriotic and venerable Col. JOHN EAGER HOWARD. His illustrious name is to be found in the history of his country's sufferings, and the annals of his country's triumph. In the day of peril and of doubt, when the result was hid in clouds—when the rocking of the battlements was heard from Bunker's Hill to the plains of Savannah—when danger was every where—and when death mingled in the conflict of the warrior, Howard still claved to the fortunes of the struggling Republic. Of all the characters whom the days of trial brought forth, few are equal, none more extraordinary. He was his country's common friend—and his country owes him

MARCH 11, 1828.]

*Revolutionary Claims.*

[SENATE.]

"one common unextinguishable debt of gratitude. South Carolina, with whose history his name is identified, is proud to acknowledge the obligation.

"In the chivalrous and hazardous operations of Gen. Greene, in South Carolina, Col. Howard was one of his most efficient officers. On a certain occasion, that experienced General declared, that Howard merited a monument of gold no less than Roman or Grecian heroes. At the battle of the Cowpens, says Lee, he seized the critical moment, and turned the fortune of the day. At Eutaw, and at Camden, he led the intrepid Maryland line to battle and to glory. But, in the course of human mortality, it has pleased the Almighty to remove him from among the few remaining associates of his youth:

"Resolved, therefore, That it was with feelings of profound sorrow and regret that South Carolina received the melancholy intelligence of the death of Col. JOHN EAGER HOWARD, of Maryland.

"Resolved, That the State of South Carolina can never forget the distinguished services of the deceased.

"Resolved, That the Governor be requested to transmit a copy of these proceedings to the Governor of Maryland, and to the family of the late Col. HOWARD."

In speaking of the conduct of the officers of the Army, during the Revolution, gentlemen have fallen into some mistakes which I find myself called upon to correct. It is a mistake, sir, to suppose that Fort Moultrie was defended without the aid of regular troops; or, that the battle of the Cowpens was fought entirely by militia: And it is a still greater mistake to suppose that General Lincoln surrendered Charleston without a blow. Sir, I cannot, at this late hour of the day, detain the Senate by passing through the brilliant events of the Southern campaigns, but I must be permitted to say a few words in vindication of General Lincoln. With respect to the defence of Charleston, I fearlessly assert, that it was one of the most gallant, persevering, and skilful defences made during the war—hardly surpassed by any to be found in the records of modern warfare; and that, whatever may have been the prudence of undertaking it, the manner in which it was conducted conferred great honor on all concerned. So far from Charleston having been surrendered "almost without firing a gun," a resistance, nearly hopeless from the beginning, was protracted from the 1st of April to the 12th of May, notwithstanding the immense superiority of the enemy, in the number and character of their troops, in the possession of the whole harbor, and the complete investment of the place by land and water. It is stated, sir, by the respectable historian before me, [Marshall, in his *Life of Washington*,] that Charleston was "obstinately defended;" and that the city was not surrendered until the situation of the garrison had become perfectly "desperate." The besiegers, we are told, had completed their third parallel, advanced their works in front of that parallel, pushed a double sap to the inside of the abatis, and approached within twenty yards of the American works. The garrison, consisting of about 2000 regulars and militia, fatigued and worn out with constant duty, was too weak to man the lines, nearly three miles in extent; "their shot was nearly expended, and their provisions of bread and meat, with the exception of a few cows, entirely consumed." In this situation, when General De Portail, a skilful engineer, had declared, what, indeed, was by that time manifest to every one, that the place could no longer be defended, and that the assaults, for which preparations were then making, could not possibly be resisted: then, and not until then, was the capitulation signed. Nor could the enemy boast of a bloodless victory. The British loss was 265 men killed and wounded: a loss about equal to our own.

In endeavoring, Mr. President, to do justice to the conduct of the regular Army, let it not be supposed I would do injustice to the militia: Sir, I would not if I could; and, thank God, I could not if I would detract from their exalted merits in the same contest. They did all that irregular troops could do. They achieved much—and they suffered more. MARION, "the Old Fox" of the South, and SUMTER, its "Game Cock," (names won by their skill and valor from a reluctant enemy,) and PICKENS too, sir, whose valor led him to perform heroic deeds, which his modesty almost blushed to acknowledge, and SHELBY, and CAMPBELL, and many others whom I could name—all, all justly entitled themselves to the lasting gratitude of their countrymen. They kept up the spirit of resistance among the People, at a time when the State was overrun by the enemy. They kept hope alive, and cherished that sacred fire which, on the arrival of Greene with his army, blazed out into a fierce and consuming flame, which drew back, and finally destroyed the enemies of our country. But, sir, if these gallant men were now here, and they were called upon to explain the different parts performed by the militia and the regulars, in the memorable Campaign of 1781, they would tell you (or I have read the history of the Revolution in vain) that without the Army of Gen. Greene, the victory could not have been achieved: that the regular Army, being constantly in the field, served as a rallying point for the militia, and afforded them the means of acting with effect against the common enemy. If those men were now here to decide the question now before this House, to determine whether the surviving officers of the Army, who served to the end of the war, are not peculiarly entitled to an honorable provision for their old age—my life upon it, sir, they would be found, like the venerable Senator from Maryland, the warmest advocates of this bill. But, sir, I beg pardon for having dwelt so long on this topic. I have been led away by the desire to do justice to those whose merits have not, I think, been sufficiently appreciated by the gentlemen on the other side. These gentlemen further tell us, they can discover no difference between the claims of the officers and of the soldiers of the Revolution: Nay, one Senator insists, that the merit of the soldiers was the greater. Sir, this was certainly not the opinion of Gen. Washington, when he recommended the case of his officers to the special consideration of Congress. It most assuredly was not the opinion of that Congress which held out to these officers the promise of half pay for life, whilst no such provision was made for the soldiers. I am not at all disposed to undervalue the services, or depreciate the character, of the private soldiers of the regular Army; but I have always supposed it to be universally admitted, that they do not stand exactly on a footing with their officers. There is, doubtless, great merit in the faithful performance of the duties, even of a private soldier. But an army, without skilful and experienced commanders, would be a body without a head. The rank and file of an army constitute, it is true, the great moral machine by which Empires may be overthrown, and Republics may be saved: but the officers are the living principle which puts that machine into harmonious and successful operation. It is on this ground you establish ranks, graduate pay, and organize the whole machinery of an army; and in no other way can your troops be brought to cope in the field, with the veterans of Europe. Without entering into a comparison of the respective merits of these officers and the soldiers, (a comparison somewhat invidious, and certainly not called for by the occasion,) there are, as far as relates to this question, one or two points of discrimination to which I would now advert. The half pay for life, the benefits of which have certainly not been realized, was promised to the officers,

SENATE.]

*Revolutionary Claims.*

[March 11, 1838.]

and, therefore all the claims, whether they be considered as founded on contract, on strict justice, or on liberality, which arise out of that stipulation, belong exclusively to them. A provision, too, has already been made for the soldiers, full, liberal, and exactly suited to their condition. I mean, sir, the pension law, by which every soldier, whose situation requires pecuniary assistance, is entitled to eight dollars a month, equal to full pay for life. Now, sir, besides that the provision made for the officers, by that law, is much less liberal in its amount, it is expressly on the ground, that it is not appropriate to the condition, the feelings, and the character of these officers, that the distinction rests between them and the soldiers. It is surely needless for me to remind such an assembly as this, that the habits and sentiments which are cherished and properly belong to men moving in one sphere of action, differ very materially from those which belong to a different sphere: in short, that a private soldier, of the regular army, may, without doing violence to his feelings, accept of your bounty on terms which would, in many cases, be deemed disreputable to the officer, or which might at least require a sacrifice of feeling which he would be unwilling to make. Sir, the officers, whose case is now before the Senate, though most of them are "poor and destitute," are too proud to become your pensioners. It is an honorable pride, and God forbid that we should condemn it: But, if they are to be condemned, let him "who is without this sin amongst us, cast the first stone."

But though, from these views of the subject, I have satisfied my own mind that adequate provision ought to be made for the petitioners, yet I am not satisfied to put that provision on the ground assumed in the report of the Committee—the ground of contract. The gentlemen have told us that in the commutation of the half pay for life for five years full pay, and the proceedings under it, the legal rights of the petitioners have been violated; that they have in fact been divested of their property without their consent, express or implied, and that therefore they have a legal claim to redress. The amount of \$1, 100, 000, with which the Committee moved to fill the blank in this bill, was the result of a calculation founded on that view of the subject; and therefore not being able to bring my mind to acquiesce in the reasoning of the Committee, I felt myself reluctantly constrained to vote against the proposition. It appears to my mind too clear to admit of doubt that if the principles contended for by the gentlemen be correct, then, not only the 230 survivors, whose case is now before you, are entitled to redress, but the legal representatives of the 2, 400 officers, who were alive at the time the commutation was effected, stand precisely in the same situation, and you are bound to provide for them in the same manner you may provide for the survivors, and that you are bound, according to a calculation I have made on the subject, to appropriate upwards of eleven millions of dollars to satisfy these claims. Now, Sir, I will not say that if we are convinced of the legal right of the petitioners we ought to refuse them justice, because on the same principle you must at some future and no distant period, do equal justice, and at a much greater expense, to others standing in the same predicament; but I will say, that believing the consequence of adopting the reasoning of the Committee to be, that it must inevitably draw out of the Treasury a sum ten times as great as that now proposed to be appropriated, it becomes us to be extremely careful in sanctioning that reasoning. I shall not trouble the Senate with the reasons which have compelled me to withhold my assent from the positions laid down by the Committee. It is sufficient, at this time, to say that, not being convinced, I have been unable to go along with my friends to the conclusion, that the petitioners have a legal right to the money proposed to be granted by this bill. But I shall not there-

fore abandon their cause. Because I do not admit that the officers of the Revolution have a legal claim on the country, founded on contract, I do not therefore admit that they have no claim which we can recognize. Sir, they have a claim on our justice and liberality which I am ready to acknowledge and willing to satisfy.

We have provided by the Pension Law for certain classes of claimants, and I am willing, by an extension, or rather a modification, of the principle of that law, to extend relief to another class. Instead of giving to these petitioners half pay, or even full pay, for the few remaining years they have to live, I can see no objection to paying them a fair equivalent in hand. The sum of \$800,000 will give an average to each of these officers of a little more than \$3,000, which will supply their present necessities, and give comfort to their old age. This, which is the only form in which the petitioners will consent to receive your bounty, will, while it will be acceptable to them, probably cost you less than any other provision that could be made. But, sir, we have been told, that if we cannot grant the petitioners relief on the ground of contract, we cannot grant it at all, because it is on this ground only they have put their claims. In this respect, sir, I differ from honorable gentlemen. I cannot consent to apply technical rules to a case like the present. I will look into the merits of the claim, and apply the best remedy in my power to the evil. The petitioners do, indeed, tell us that they came here not as "applicants for charity," but seeking the satisfaction of a just claim: But, sir, they also inform us that they are the scattered remnant of the officers of the Revolution—"that most of them are poor and destitute"—that they present their claim "to the justice and gratitude of their country." They state that, "in consequence of the conduct of the Government, many of them are almost dependent on charity"—that they are laboring "under the bodily infirmities incident to age, and are also destitute of the means of a decent and comfortable support;" and presenting themselves before you—"submit their whole case, under these circumstances, to your consideration." It was, Mr. President, in contemplation of a scene like this, that Washington declared, in the face of the world, "that if the officers of his army were to grow old in poverty, wretchedness, and contempt, then would he realize a tale which would embitter every moment of his future days." Sir, gratitude is due to Heaven that the Father of his country had not his days thus embittered, but if he had lived to this hour, and these petitioners are to be sent away from your doors, he would have lived to realize that tale, which would have embittered every remaining moment of his life, and have left him no peace but in the grave.

This, then, Mr. President, is the whole case of the petitioners. Here are a few of the leaders of the Revolution, a gallant remnant of a ruined band lingering on the verge of the grave. They are the men to whom, under Heaven, you are chiefly indebted for the liberties you enjoy, and the unnumbered blessings which flow from that source. They come to the representatives of the People of the United States, in the evening of their days, and in the Winter of their fortunes, and say: "you made with us, at the close of the Revolution, a hard bargain (and hard indeed it was, when, as has been shewn by the committee, a captain received only \$480, in lieu of half pay for life,) to which our poverty and not our will consented. We have submitted to the terms of that contract, unjust and unequal as it was, while health and strength were left us to provide for our wants. But now, when worn down by age and infirmities, and hovering over the borders of the grave, we come to you, the guardians not only of the money but of the character of the country, and submit our case to your consideration." Sir, they disdain, it is

MARCH 11, 12, 1828.]

*Revolutionary Claims.—Barracks at New Orleans.*

[SENATE.]

true, to present themselves in the attitude of mere applicants for charity. They will not consent to exhibit to the world, in their persons, the humiliating, the degrading spectacle of the venerable Fathers of the Revolution, hobbling on their crutches, to cast themselves at the feet of their children, with the *date obolum Bellisario* on their lips. They merely make known their situation, and leave the rest to you. They show you, by the most incontestible proofs, that the hard bargain (which you were constrained to make with them by the condition of the country, at the close of the Revolution, and by which they surrendered to you a comfortable provision which the laws had secured to them for life,) has, in consequence of their having continued to live to this time, operated with peculiar, with cruel severity upon them: That you now retain in your treasury a sum vastly greater than that which it is proposed to grant, which was saved to the country by that bargain, and which was taken out of the pockets of these very men. Now, sir, what answer can you make to such an appeal as this? Can any man doubt that to refuse these petitioners redress will be to subject the Republic, in all after times, to the charge of ingratitude? To know, Mr. President, what answer we ought to give to these petitioners, we have only to inquire what is due to the petitioners? What is due to the country? What is due to ourselves as the representatives of a high-minded and magnanimous People? My feelings and my judgment tell me that we must make such a provision for these venerable men, as will relieve their present wants, and smooth their path to the tomb. Less than this, we cannot do consistently with the just claims of the petitioners, and the reasonable expectations of the public; and for my own part, however others may act on this occasion, I cannot consent to thrust these aged and venerable Fathers of the Revolution rudely from our doors, to pass the few brief moments that may remain to them on earth in poverty and wretchedness—in bitter reflections on the cruelty of their fate, and spend perhaps their latest breath in calling down imprecations, (O! no, sir, that is impossible)—invoking the blessing of Heaven, on an ungrateful country.

Mr. SMITH, of S. C. said, that the bill was now presented to him in a new aspect, and as the hour was too late for further discussion, he would move an adjournment.

WEDNESDAY, MARCH 12, 1828.

## BARRACKS AT NEW ORLEANS.

On motion of Mr. HARRISON, the bill providing for the purchase of a site, for the erection of barracks thereon, at New Orleans, was taken up.

Mr. HARRISON explained the object of the bill, and read several letters of the Quartermaster General upon the subject. It was proposed to build barracks for four companies.

Mr. PARRIS asked the Chairman of the Military Committee whether it was necessary to keep so large a force as four companies at New Orleans.

Mr. HARRISON said, that two companies were generally stationed there, but the number was now four. But, let the number be what it might, the expediency of building barracks for at least four companies, could not be doubted. The situation of New Orleans seemed to call for a large military force. There were vast numbers of foreigners continually in the city; great numbers of Islanders, among whom were a lawless banditti, sailors and negroes, resided in, or resorted to, the city, and endangered the property of its inhabitants—while a greater quantity of property deposited by other individuals than citizens, than in any other place in the Union, was always jeopardized, unless secured by some adequate means.

Mr. JOHNSTON, of Louisiana, said, that the amount of force was always according to the exigency of the time, and four companies might generally be required at New Orleans. Eight companies were considered by the Commander-in-Chief as necessary to be stationed at that post. Four only were quartered in the city, and the four others across the lake, in a more healthy position. He thought it needless for Congress to interfere in the details of measures taken by the Department. If the War Department stationed the troops as it judged best, it was not requisite for Congress to interfere. There was no force on the coast, for three or four hundred miles, and these troops were always ready to be detailed to any quarter where they might be needed. It was a central position, and intelligence of any emergency would immediately reach New Orleans. It was, also, the most exposed situation in the country. There were always about 4,000 sailors in the harbor, and generally three hundred square rigged vessels. Besides these, there was always a great number of Kentucky boats at the wharves, and thousands of pirates and renegades from the islands resorted there. It was within a short time that the papers were filled with accounts of attempts to fire the city, and not only the whole police was called to act, but a military guard was considered necessary in every square. They had already seen an attempt, at a former period, at an insurrection by the numerous black population. All these considerations, with that of the safety of public property, made it necessary to station four companies at New Orleans. The Government would lose nothing by the erection of the barracks, as the ground on which the former buildings stood, sold for double the amount which the proposed buildings would cost.

Mr. CHANDLER said, that the United States but a short time since disposed of the old barracks at New Orleans, as was understood, because the place was too unhealthy for a military station. Now it appeared, that four companies were necessary to protect the city against sailors, pirates, Kentuckians, and negroes. He did not know why this protection was not as necessary then, as now; and he wished to be informed why, if they were sold then, they should be built again.

Mr. HARRISON said, the gentleman was mistaken, as it never was in the contemplation of Government to withdraw the troops from New Orleans. The barracks were sold on other considerations. He believed no gentleman would wish to have troops stationed in the centre of a city. When those buildings were erected, New Orleans was under a despotic Government, and they were placed there, not to defend, but to control it. When the city became a part of this free country, it was no longer proper that they should remain. As to the size of the buildings, he did not hesitate to say, that, if any barracks were necessary, they ought to be large enough for four companies. The city was a resort of pirates and vagabonds, and was generally filled with strangers, and for the protection of the large amount of property deposited there, a competent force ought to be maintained.

Mr. PARRIS disagreed with the gentleman from Ohio, as to the necessity of keeping troops in the city to defend it from internal insurrection. If this was to be the duty of our troops, the army was not sufficiently numerous. He was willing to vote for fortifications to defend the coast and the harbors. He had supported the appropriation for the works at Barataria. But he did not think the army ought to be detailed to carry into effect municipal regulations. If so, the same kind of service might be claimed by the other cities. It was also worthy consideration that the troops, carried from the Northern parts of the country, found the climate fatal. He was willing to vote for fortifications, in which barracks would necessarily be erected, and where the troops



SENATE.

*Barracks at New Orleans.—Revolutionary Officers.*

MARCH 12, 1828.

ought to be kept; but was unwilling to make provision to defend Louisiana from evils from which she ought to protect herself.

Mr. BENTON said, that our army consisted of 6,000 men, who must be stationed somewhere. Wherever they were posted they must be sheltered, and he thought the unhealthiness of the climate at New Orleans was an additional argument in favor of this bill. Experience had shewn that the erection of barracks was economy, when compared to the expense of hiring buildings. The latter had been practised at St. Louis, and had been found to be very expensive, as well as inconvenient. It was well known that troops ought to be kept at a distance, instead of being mixed up with the population of a town. Barracks had been erected at St. Louis, and the same provision was now asked for at New Orleans. It was not for the Senate now to inquire whether the troops were properly stationed—that duty belonged to the President of the United States; and if he chose to station four companies at New Orleans, Congress could not do less than provide barracks to shelter them. He considered it settled as a part of the policy of the country, that troops should be stationed at New Orleans. On the withdrawal of the troops, several years since, the Government was petitioned not to leave the city destitute of defence; and the reasons given were then satisfactory to his mind that a considerable permanent force was required at that point. It was the duty of the Government to provide for the protection of all parts of the country, and this was acknowledged to be one of the most defenceless, and the most exposed to contingencies which might call for the presence of military force. There was no proposition before the Senate either to increase or diminish the number of troops stationed at New Orleans; but to erect suitable buildings for those already posted there. He was in favor of the appropriation, as necessary for the safety of the city, and as a matter of permanent economy.

Mr. JOHNSTON, of Louisiana, remarked, that, whether this bill passed or not, it would not affect the disposition of the United States' troops. They had been stationed there for the last twelve years. If the bill was rejected, the officers and soldiers would be kept, as they now were, in different parts of the city, very inconveniently dispersed from each other. Besides, if this appropriation was refused, the soldiers would be exposed to the yellow fever, by being quartered in the city. The gentleman from Maine had fallen into a great error, in supposing that it was the intention of Government to withdraw the troops when the barracks were sold. The sale was made at the application of the citizens—as the barracks occupied a part of the city which was convenient for business; while, higher up the river, vessels could not come in on account of the immense batteries which defended the land from the Mississippi. It was supposed that the sale would produce a sufficient sum to build barracks in some other part of the city, less valuable for commercial purposes. There was another consideration in favor of erecting barracks capable of quartering four companies at least. In case of actual service, they would not be more than sufficient to serve as a hospital for the sick. He had seen a hospital in New Orleans, containing 800 sick, chiefly Kentucky and Tennessee militia. Another error which the gentleman from Maine [Mr. PARRIS] had fallen into, was the supposition that the troops might be stationed in the forts. The forts were at a distance, and had no communication with the city; hence the soldiers, intended for the defence and security of the city, would be of no service there. He could not doubt that the various considerations in favor of this bill would ensure a favorable decision upon it.

Mr. HARRISON moved to fill the blank with 87,968 dollars; which was agreed to, and the bill passed to be engrossed.

## REVOLUTIONARY OFFICERS.

The Senate then resumed the consideration of the bill, providing for certain surviving officers of the Revolutionary Army; the motion made yesterday by Mr. HAYNE, of S. C. to fill the blank with \$800,000, pending.

Mr. BELL said, that the surviving officers of the revolutionary army claimed the performance of a promise of half pay for life—made to them by a resolution of Congress of October 21, 1780. They contended that this promise was performed only in part by the commutation of five years full pay, which was subsequently given them as an equivalent for their half pay for life; and they now ask a second commutation to make up the alleged deficiency in the first. The committee to whom this subject was referred, has made a report in conformity to the views of the petitioners. This report alleges that the commutation of five years full pay given to these officers as an equivalent for their half pay, was not an adequate compensation for it; and that there is now due to them a sum equal to two years full pay. This bill makes provision for the payment of that sum. If the view which the committee has taken of this subject be correct, the claim of these officers is just, and ought to be paid. But I cannot yield my assent to the correctness of the facts on which the committee have founded their opinions, or to the justness of the conclusions which they have drawn from those facts. It is the object of the few remarks which I am about to make, to state the reasons which have brought me to a result on this question, directly the reverse of that to which the committee have arrived. The officers admit, that in consequence of an application from them, Congress in 1783 offered them five years full pay as a commutation for their half pay for life—that they accepted this offer, received the obligations of the Government for it; and that those obligations have been since paid. But they contend that the acceptance and payment of this commutation did not discharge the Government from its promise, because, as they allege, they did not voluntarily accept this commutation, and that it was not an equivalent for their half pay for life. A sufficient attention to the facts will show that both these assertions of the officers which have been adopted by the committee are unfounded. The direct evidence of a voluntary acceptance of the commutation by the officers, is of the most conclusive character. The officers solicited a commutation for their half pay. When five years full pay was offered them as a commutation, they accepted it. This direct evidence of a voluntary acceptance, (and no evidence could be more conclusive,) is corroborated by indirect evidence deserving much consideration. The application to Congress for a commutation, and the nature and extent of the commutation offered, was undoubtedly known to every officer in the army. It was a subject of great interest to all, and must have been a subject of general conversation among them. It is impossible to believe, that, if any considerable number of the officers were dissatisfied with the commutation offered, they would not have remonstrated against it; and placed on the records of Congress some evidence of their belief that injustice was done them, as a foundation for a future application for redress. There is no evidence, or even a traditionary rumor, that any of the officers were dissatisfied with the commutation given them. It seems to have been at the time so entirely satisfactory that not a single murmur of dissatisfaction was heard. For the next twenty-seven years, no complaint was heard from any one of this body of more than two thousand officers, who had accepted this commutation, that it was not a fair equivalent for their half pay, or that their acceptance of it was not voluntary. On what known principle of human action are we to account for this long silence, and the delay of these officers in asserting their claims if they had believed them to be well founded? I can find no satisfactory



MARCH 12, 1828.

*Revolutionary Officers.*

SENATF.

reason consistent with the justice of their claims. During all this time, this Government was administered by their warmest friends, by their compatriots in the revolutionary struggle; by men whom they well knew would readily listen to their complaints, and promptly redress their injuries. These circumstances establish the fact, that the acceptance of the commutation of five years full pay as an equivalent for the half pay for life, was not only voluntary but satisfactory, beyond any reasonable doubt. It has been said that the acceptance of this commutation by the officers, could not be regarded as a free and voluntary act, because Congress required only the assent of a majority of the several State lines of the army. And it seems to be inferred that Congress intended by this means to compel the younger officers to accept as a commutation for their half pay, what was not in value an equivalent for it. This is a very weighty charge against a body of men whom we have been accustomed to revere as amongst the wisest and best men that ever conducted the great interests of our country. The charge, if well founded, must consign their names to infamy. But it is not well founded. They are not justly liable to this imputation. Their motives, in relation to this offer of a commutation for half pay to the revolutionary officers, were fair, and their conduct just and honorable. The unworthy suspicions to which I have referred, must have arisen from a misapprehension of the motives which induced Congress to require the assent of the officers to the acceptance of the commutation offered by majorities of their respective lines. The circumstances disclose satisfactorily what these motives were. The officers had solicited a commutation or payment of a gross sum in exchange for the half pay for life, which had been promised them. Congress was willing to yield to their solicitations, but it was found difficult to effect this object, without exposing the one party or the other to injustice. The value of the half pay of no two of these officers was the same; and it was impracticable to apportion the commutation to each individual case. The officers as well as Congress, were satisfied that a commutation could be effected only by fixing upon an average value of the half pay of all the officers. This would secure the officers, as a body, against injustice, but it would not secure the Government; because if Congress offered this average value as a commutation, without an assurance that a considerable portion of the officers would accept it, it might happen that only the old officers, or those whose constitutions were broken by diseases or wounds, would accept it. These persons would have received a commutation far beyond what, in justice, they were entitled to. To guard against this injustice to the public, Congress said to the officers, we will give you five years full pay, a fair average value of your half pay for life, if so considerable a portion of you will consent to accept it as will afford a reasonable assurance that no considerable injustice will result to the public from our offer. This was the sole motive which induced Congress to annex to their offer the condition that the officers should decide upon the acceptance of the commutation, by majorities in their respective lines. The condition on which the offer was made, was just and reasonable. Its object was to guard against injustice, and not to do injustice. No possible injustice could result to the officers from this condition. It impaired none of the rights of the minority who should not see fit to accept the commutation. It was not compulsory, nor did it impose either forfeiture or penalty upon those who should reject the offer. Their promise of half pay for life remained equally obligatory upon the Government as before; and Congress remained bound to provide, and undoubtedly would have provided for its payment. All the evidence we have on this subject, leads to the conclusion that the officers accepted the commutation, not because they were compelled to accept it, but

because they believed it to be an advantage to them. This is evident from the admitted fact that they readily and generally, if not unanimously, accepted it. The committee tell us that majorities in the lines of nine States accepted the commutation. How large those majorities were, does not appear; that they included all, or nearly all, the officers, is fairly presumable from the consideration that all did actually accept the commutation; and that there is no evidence that any objections were made to its acceptance. The officers of the four remaining States never acted by lines on the question of the acceptance of the commutation. They acted individually on this question, and every one of them, the young as well as the old, with the knowledge that they were at liberty, each one for himself, to accept or reject the commutation, did accept it. Can evidence of a voluntary acceptance of the commutation, more conclusive than this, be offered? It is believed to be impossible. Yet, in the face of all this evidence of the voluntary acceptance of the commutation of five years full pay, in exchange for half pay for life, by at least more than three-fourths, if not all these officers, this bill provides a second commutation for all the revolutionary officers, without discrimination. I should be glad to know of the advocates of this bill, on what principle it is that those officers who solicited the commutation for their half pay, who voluntarily and individually, each man acting for himself, accepted it, believing it to be a fair equivalent for that half pay, is now to receive a second commutation. It certainly cannot be on the ground either of legal or equitable obligation, of which we have heard so much said. It has been said that although circumstances induced the officers to receive this commutation voluntarily, yet if it was not an equivalent for the half pay yielded up in exchange for it, the Government remains under an equitable obligation to give them an additional commutation to make good the deficiency.

The advocates of the bill have attempted to prove that the commutation of five years full pay was not equivalent in value to the half pay for life which was surrendered in exchange for it. Their arguments on this point are entirely founded upon a mistaken assumption of facts. They assume it as a fact that the average age of the revolutionary officers, at the termination of the war, did not exceed thirty years. Most of these officers had been in the service from the commencement of the war. The field officers generally, and many of the subalterns, were over thirty years of age at the commencement of the war. They had obtained a character and standing in the community by having taken an active part in stirring up the People to a resistance of the unjust claims of Great Britain for several years previous to the war. Such men as had thus acquired the public confidence were generally the men who received commissions in the army. None others in times like those could have induced citizens to fly to the standard of their country, from patriotic motives to enlist under them. I can speak from personal knowledge of the field officers of the New Hampshire line, many of whom I knew subsequently to the war, of whom there were none under forty, and several of them were over fifty years of age, at the close of the war. The advocates of the bill assume it as an unquestionable fact, that the probable duration of life at thirty years of age is fourteen years. Now it is very obvious, that no general rule of this kind can be correct, as applicable to all countries. The probable duration of life at any given age must in all countries depend upon the salubrity of the climate, the habits of the people, the state of society, and many other circumstances. These will not be found to be alike in any two countries. The calculation that the average duration of life at thirty years of age is fourteen years is not derived from actual observation of the duration of life in the United States; but in England, a

SENATE.

*Revolutionary Officers.*

MARCH 12, 1828.

country not more salubrious than many parts of the United States, but believed to have a more salubrious climate than the United States, having regard to an average of its extensive territory, the annuity tables found in Price and other English writers, were taken from actual observation of the duration of human life in that country, and are constructed as a guide to those who are interested in life annuities in that country, in which there is a vast amount of property so invested. They are, no doubt, pretty correct generally, as to the probable duration of life, as to those persons who have been employed in the ordinary pursuits of civil life, and have been exposed only to the common causes of disease, or of injury to the constitution. The advocates of this bill profess to adopt the calculations of Dr. Price of the value of annuities for life, as the foundation of their calculation of the value of the half pay for life promised to the revolutionary officers. There can be no objection to this authority, so far as it is applicable to our country, and to the circumstances of this case. The work of Price was published before the revolutionary war, and was as well known to Alexander Hamilton, the advocate of the revolutionary officers, to the members of Congress, and to many of these officers, as it is now to us. There is no doubt that it was the standard by which the value of the half pay of these officers was calculated, making allowance for all those circumstances which applied to this particular case. The advocates of the bill proceed to assume another essential fact, in direct opposition, not only to probability, but to evidence furnished by themselves. They contend that the probable duration of the lives of these officers was as great as that of an equal number of persons of the same age in England who had been engaged in the ordinary pursuits of civil life. This will appear to be utterly improbable when we recollect that the officers had seen seven years service in an army which had endured more hardship, privation, and suffering, than is usual to a situation always unfavorable to health, and that the constitutions of many of them were broken by the effects of wounds and diseases. But the advocates of the bill have furnished us with evidence on this point, which must put this question at rest for ever. They inform us that at the close of the revolutionary war there were more than two thousand four hundred officers in the army entitled to half pay, and that the whole number of these officers now living is only two hundred and thirty. Now it appears from the North Hampton tables given by Dr. Price, to which the advocates of the bill refer us as the ground of all their calculations on this subject, that of four thousand three hundred and eighty five persons living at the age of thirty, nine hundred and twelve lived to the age of seventy-four years, which would have been the average age of the revolutionary officers, according to the calculations of the committee, had they lived to the present time. Upon making a calculation upon these data it will be found that, if the officers had at the close of the war an equal chance of duration of life, with an equal number of persons in England of the age of thirty, who had been previously engaged in the ordinary pursuits of civil life, we should have found more than five hundred, instead of two hundred and thirty of them now alive. I take the facts furnished by the advocates of the bill, and apply them to the rules which they give us, as entitled to our fullest confidence, and the result to which they bring us, is directly the reverse of that to which the committee arrive.

The committee have fallen into an error in giving us from Dr. Price's tables the present value of the half pay for life of these officers, on the supposition that their average age did not exceed thirty years. They have told us that the present value of an annuity, or half pay for life, of a person at the age of thirty years, according to the North Hampton tables given us by Dr. Price, is a sum

equal to fourteen times the amount of one annual payment of such annuity. The committee have certainly misapprehended Dr. Price—he gives no such rule. The North Hampton table upon which he relies, and makes his calculations, gives the present value of an annuity for life, for a person of the age of thirty years, as only equal to a sum amounting to about eleven and seven-tenths the amount of one annual payment of such annuity. This rule, applied to the value of the half pay for life of these officers, would give as its equivalent, five years and a small fraction over nine months full pay, and no more. I cannot be mistaken in this fact, since I have this table now before me. Here is then another source of error into which the advocates of this bill have fallen, which, when corrected, strikes off at once five-eighths of the claim of these officers. I will for a moment advert to one other source of error of considerable magnitude, into which those whose opinions I am combatting, have fallen. The tables of observations of the duration of life, from which they have calculated the value of the half pay of these officers, includes both sexes. Now it is a well established fact, that the average duration of the lives of females is greater than that of males. From records of life annuities kept in Holland, for one hundred and twenty-five years, it appears that of an equal number of male and females, the average duration of the lives of the females was more than two years longer than that of the males. Observations which have been made in England, Scotland, France, Germany, and the United States, gave a similar result. The causes of the greater duration of life in females than males is very obvious. They are less exposed to hardships, and to those causes which produce accidental death than males. Few of them die from diseases induced by an intemperate use of ardent spirits, whilst one out of fifteen or twenty males, upon the lowest calculation, died prematurely from this cause. When the facts and circumstances to which I have adverted, are duly considered, it seems to me impossible to come to any other conclusion than that the commutation of five years full pay was a full equivalent for the half pay for life, which was promised to the revolutionary officers. I have examined this question deliberately, and certainly without a wish to come to a result unfavorable to the claims of these officers—for whom I have always entertained a high degree of respect and veneration; but the facts and circumstances which I have stated, have irresistibly brought me to that result. It has been truly said that the revolutionary officers suffered heavy losses from the depreciation of the currency and certificates in which their wages and claims were paid. This constitutes an equitable claim upon the Government, but it cannot with propriety be provided for by this bill, in its present shape. Besides, this is a claim in every respect similar to that of the surviving revolutionary soldiers, and I cannot consent to make a provision for the claim of the officer, and treat with neglect a similar claim of the soldier, who fought by his side—who endured even greater hardships and privations, and was influenced to exertion, in the cause of his country, by the same patriotic spirit. Should this bill be so modified as to make a reasonable provision for the just claims of both, it shall then receive my support.

Mr. WOODBURY said, that the relation in which he stood to the honorable objects of this bill, would justify him in a few remarks upon the objections offered against it. But so long had the debate been protracted he should have refrained from those remarks entirely, had not the speech of his colleague this morning convinced him, that some of the opposers of the measure acted under a total misapprehension as to a few of the material facts. The principles, which should govern the measure, might well be presumed alike familiar to all; but the particular facts of the case surely ought to be bet-

MARCH 12, 1828.

*Revolutionary Officers.*

SENATE.

unknown to those, whose particular duty it had been to make a critical examination of them.

The gentleman from North Carolina, (Mr. MACON) had urged much, as an objection to the passage of this bill, that the Committee themselves disagreed concerning the grounds on which its merits rested. While in truth, the only real difference among them had been, that one member dwelt more strongly, on one reason, and another more strongly on another reason for its adoption.

But very far was it from the intention of himself or his able friend from Georgia, (Mr. BARRIN,) in advocating the claim on strict common law principles, to admit that it could not be supported also on principles the most liberal and equitable; while it was equally far, as he believed, from the views of the other members of the Committee, (Mr. VAN BUREN and Mr. HARRISON,) who had so eloquently pressed the mere equity of the claim, to admit that it was not also well based on strict common law principles. On the contrary, if a radical difference had existed between them, it would still leave the measure as free from objection on that account as was left the opposition to it. For one gentleman formerly, (Mr. MACON) and indeed, another to day, (Mr. BELL,) had insisted on the statute of limitations in bar of the claim, while the Senator from Virginia, (Mr. TYLEN,) properly and gallantly said he should scorn to take advantage of that statute. Again, the last gentleman had insisted, that the commutation act was legally binding and compulsory on the minority as well as majority; while my colleague to day frankly acknowledges, that it was binding on nobody who did not individually and freely assent to its provisions. The difference between the opponents of the bill is therefore essential, while that between its friends is merely nominal.

Another mistake in fact has been urged from one or two quarters against the bill, namely that a suit at law could not be sustained on the claim, and hence, it ought not to find favor. But does any claim ever come here, on which such a suit could be sustained? The chief reason that induces every private claimant to present his petition to Congress, is that he could not obtain redress in the courts of law; and if no claimant was to be listened to here, who could not succeed at law, we might sweep off, at one blow, our whole docket of private bills. Again, it has been asked, why did not these petitioners go to the Departments to have their claims audited and allowed, if they are valid? I reply, as before, if nobody is to be relieved here, who cannot get relief at one of the Departments, at once rub the sponge over all private applications; because the very reason for their appearance here, is that by omissions in the existing laws, or doubts of the accounting officers, redress cannot be obtained at any of the Departments. If objections like these are to avail aught against the petition now under consideration, let them avail against all petitioners, and in the words of the gentleman from North Carolina, let all be directed to "eat out of one spoon." Why did we not say to the merchants in A. D. 1816, whose bonds were remitted, go to your action at law, or go to one of the Departments? Why not say the same to the purchasers of public lands so liberally relieved a few years ago?

Gentlemen have erred in other respects as to the facts. None of the Committee have averred, as some seem to have supposed, that an action at law or bill in equity, could in truth be maintained on the present claim, if the United States were liable to such proceedings in behalf of their creditors. But they have averred, and it is again repeated, that these petitioners are seeking a right; and that is a right both on common law and on chancery principles. But if on only one, whether it be a right on strict common law principles, or on chancery principles, it is equally a right, and the claim is equally a legal claim. The forum, in which it becomes a right, does not alter its legality.

Hence, if every gentleman would agree with him from Virginia, [Mr. TYLEN,] that the statute of limitations should be scorned, and that the pretended payment made to these petitioners, was "mere wind, mere trash," I aver, that in any forum, before any court or jury in Christendom, this right, as between individuals, could now be unanswerably established. Let the issue be formed, and the cause tried to-morrow, and no three or five judges—no twelve "good men and true," as jurors, could say, that the wages of toil and blood, the solemn promises for sacrifices and sufferings to secure the liberties of America, had ever been discharged by only "wind and trash."

Little does it become us now, when these veterans seek a right, to talk to them of "thanks," "benedictions," and "praises," or to send them as paupers to the crumbs of the pension law.

Without dwelling a moment on considerations before urged in the argument in favor of the legality of this claim, let me ask, what has been the reply to the position of the Committee, that on strict legal principles the promise for half pay for life has never been fulfilled? Has any one shown that the half pay in the form of half pay, has ever been paid? No pretence for it. Has any one shown that the half pay has ever been technically released? No pretence for it. Has any one shown that this promise for half pay was made to the soldiers, or militia or civilians, whose cases are so often repeated as connected with the present claim? I believe not; and though they fought and counselled as men should in defence of their hearths, and altars and liberties, the promise for half pay to the officers of the army of the Revolution is the only point now under consideration. How has that promise then been fulfilled? In no way except by the act of commutation. But it could not be fulfilled by that act, unless all things were transacted in conformity to the provisions of that act. Yet none can deny, that in conformity to these provisions, the commutation must have been accepted by majorities in each of the lines. Such is the express, unequivocal language of the act. Whereas all must admit, it now appears never to have been accepted by even majorities in over nine lines of the army. Again, to conform to the act, the acceptance must have been in six months, when no acceptance by a single line appears to have taken place till sometime after six months. Every body feels and knows likewise, that the payment, to be in conformity to the act, was to have been money, or at least securities equivalent to money; when in truth it was neither; and even under the most favorable view, if the certificates were kept till the funding, fell short of what was due from one-fifth to one-third. So the certificates, or the payment, should have been made in September, 1783; but were not in fact made until some time in January, 1784, when worth much less. But break through the forms of measures, and every lawyer, every constitutional statesman, must admit, that, on strict legal principles, there should not only have been a conformity to the commutation act, but, in the act itself, to make it binding, there should have been a regard to private vested rights.

It is not necessary at this day, whatever may have been the theories or opinions prevalent half a century ago, to repeat illustrations and arguments, showing that a majority in any one line of the army could not legally bind the minority as to the commutation. The most uninformed day laborer knows, that no two of his fellow laborers have a right to vote away or change the wages previously agreed to be paid him—much less could they do it, or could nine out of thirteen lines do it, not only for themselves, but for the other lines, on the ground as contended by the Senator from North Carolina, that in the confederation it was a political compact, that the votes of nine States bound the whole. The present was not

a question to be voted on in Congress by delegates, but was a question of private, vested civil rights, and to be settled not by the articles of confederation, but by the ordinary rules of jurisprudence and law.

My colleague admits, unlike the other objectors, that the minority were not bound, unless they gave, in some way, a full and free consent; and then, like the others, he refers to sundry circumstances, from which he deduces that consent.

Here again, most of the gentlemen who oppose the bill, have, in the zeal of debate, seized upon circumstances, altogether insufficient in my view, to support their deductions, and, in some cases, circumstances entirely misapprehended; else how could they assert, and argue from the assertions, that in this transaction, "every step taken, was at the earnest solicitation of the officers;" that "all the officers asked" for the commutation; that "the whole proceedings began," and advanced to the end, with their full approbation?

So far from all this, a little closer attention to documents would have convinced them that the original petition to Congress, in which, among many other things, the subject of commutation is named, was not gotten up by the whole army, but only by five lines on the Hudson river. The rest of the army, a large majority of it, had neither part nor lot in the petition.

In the next place, even that small number of officers did not ask for a commutation to please themselves, much less to speculate with, as intimated by one gentleman. Nor did the project at all originate with them; but the States to which they belonged had objected to the form of the half-pay, as in some degree odious, and the officers from those States being always willing to make any reasonable sacrifice in the cause of freedom, expressed their consent, if Congress pleased, to take a gross sum or a certain number of years full pay, instead of half-pay for life. This appears explicitly in both their petition and in the commutation act. [Mr. W. here read that part of the petition, 8 vol. Journal, page 227, and from the resolve of A. D. 1780.] After stating the objections of their States, they add, "To prevent, therefore, any altercation and distinctions which may tend to injure that harmony which we ardently desire may reign throughout the country, we are willing to commute," &c.

Again, it will be seen that the splendid and numerous Committee whom one gentleman dwelt on as sent with this petition, and under full power to act on the amount of the commutation, and who probably agreed to all adopted afterwards by Congress, never existed. Those persons he names were merely the signers to the petition. The real humble Committee of only three, who in fact went with the petition, may be seen in 4th Gordon, p. 353. This, like many other mistakes, has doubtless happened from inadvertence; but helps to make an unfavorable impression against this claim. This Committee also were not empowered to agree on any sum in commutation, but only to the form of the commutation,—either the form of a gross sum, or a certain number of years full pay. And so far from the precise sum inserted in the commutation act having been fixed by them, either with, or without authority, they doubtless were many hundred miles distant when Congress settled the question, as many months elapsed between the petition and the decision. Neither did the Committee of Congress agree with them on the sum inserted, as has been inferred; because the report was in blank and a different and a larger sum was moved by one of the Committee. Even he, (Mr. HAMILTON) though richly entitled to the encomiums received, was not, as again and again asserted, the Chairman of the Committee, nor did he, or the rest of the Committee, agree to the commutation in its present form. They not only proposed a larger sum,

but proposed an election to one class of officers to take that sum, or retain their half pay. With an election to all of them the sum was doubtless large enough; but without an election was greatly unequal, and unjust to the younger officers.

Indeed what is decisive on this point, that the Committee of officers neither had, nor exercised the power to agree upon this amount of commutation, Congress itself did not in the end adopt that sum absolutely as agreed to; but provided that this sum should be binding only in the event, that a majority of each line afterwards approved of it. Such a majority never did approve of it; all, nay not half, had asked for any commutation whatever; none had asked for this precise sum, but for a fair equivalent, and the foundation of these broad and sweeping conclusions against the officers seems built on sand.

Whither do these loose conjectures lead us? Do gentlemen forget the character of these petitioners? Men to whom integrity and honor is dearer than life! And do they believe, that had nothing been transacted, but what they themselves desired and individually approved, you would now see in your Halls a single one of their venerable heads, asking relief as a right? It is an imputation on their characters, and I, for one, should deem it a burning disgrace to advocate their cause a moment on this ground, if the whole proceedings of Congress, in respect to them, had received their free and full sanction at the time. What they did after the commutation act passed, is, on principles of common sense, and on an appeal to the facts of history, decisive to my mind, that they did not, rather than that they did, in any way, give such a sanction, at any subsequent period.

When the vote was taken in the nine lines, I have the resolve of Congress before me to show, that almost every officer was probably absent on furlough, on account of the news of peace. All idea, therefore, of general assent by that vote, is thus rebutted. It is matter of history, likewise, that the army was disbanded in September or October, 1783, without the return of many of these officers, and that not a single certificate for commutation was made out and delivered to any of them till the next year. That the certificates were then sent to the agents or Governors in their different States, and delivered to them, not taking a receipt in full, as in case of certificates for monthly wages, but merely a receipt for certificates.

The officers thereafter, as accident or necessity moved them, and without any conference together, took these certificates—they took them, as all that Congress had provided for them; but not as a free assent, that the certificates were a fair and full discharge of their half pay; if we allow them to have possessed the smallest particle of that common sense on which the gentleman from Virginia is so eager to bottom some of his deductions. It was, on its face, defective in amount nearly one-third; and if not so, was, when delivered, only worth in money about two-tenths, its nominal amount; and is it decorous or true to suppose such certificates were freely and voluntarily taken in full discharge of half pay for life? We impeach not the motives of the old Congress. The course pursued by it, was not dictated by the wishes but the wants of Congress. It is no imputation on the honesty and honor of that Congress to do as it did, more than it is on any insolvent debtor not to pay beyond what he is able. But the imputation is on us, if, when able, we neglect to remunerate those who suffered by our former wants. Whatever may have been the just amount due as commutation, Congress and the officers both, then expected that the commutation would forthwith be paid in money or amply secured. It is idle to talk or pretend otherwise. Half pay on the one hand, or its substitute, was wanted for daily bread. On the other hand, Congress passed a resolve calling for immediate requisitions on the States to meet the claims of

MARCH 12, 1838.

Revolutionary Officers.

SENATE.

the army, or adequately to secure them. (See 8 Jour. 113.) Under the same commutation act, Congress actually raised specie and paid it to the foreign officers. But they could not have done this under the same law, unless with a conviction that the law required it. Whether the commutation then ought to have been five or seven years, it never was fairly performed or paid; and the depreciation which ensued, or the loss in funding, ought, at all events, to be remunerated. On these points, however, I shall not dwell, as they have before been exhausted. But in relation to the nominal amount of the commutation, whether sufficient or not, I must be permitted to add a few remarks, in consequence of the round and frequent assertions, especially to day, that the Committee had made unfounded assumptions, and mistaken important facts. This inquiry in two views of the case, is very important, as it may show the hardships, whether accidental or not, of the original commutation, and may furnish some safe data as to the extent of relief. The gentleman from Virginia, (Mr. TYLER,) thought five years full pay was enough, because the average duration of human life on "common law and common sense" principles was only seven years. And my colleague to-day supposes that it was enough, because fourteen years has been assumed by the Committee as the duration of life in these petitioners in A. D. 1783, and was altogether too high for this country, if not for Europe. If the first position were true, that seven years was "the ultima thule" of the probability of life, what follows? Not that full pay five years is merely enough, but that the old Congress, which he praises for sagacity and wisdom, and who had a sacred regard to economy, gave to the officers double what they were entitled to. Because, half pay for seven years was not worth *in presenti*, in a gross sum, over two and a half full years pay. Any gentleman can calculate for himself.

The Senator from Virginia seemed to insist also, that seven years was an inflexible period for all ages, whether in youth, manhood, or decrepitude; while his own experience as to his collegiate or academic classes, or as to his fellows in legislative bodies, would convince him not only that the chance of his life was greater at different ages, but that neither seven, nor even fourteen years had swept away one half, and much less the whole of any body of persons with whom he has associated. Had he looked into any system of insurance on lives, the error would at once have confronted him; and I have now in my hand the premiums asked by the company in Massachusetts, under the direction of the science of Mr. Bowditch, and where they differ nearly one half in amount at certain periods of life fifteen years apart, and where this difference is made merely on account of age, all other circumstances being equal.

The annuity tables, when formed with care, are entitled to full confidence, and furnish sufficient certainty for monied calculations of the utmost importance in common life. They do not rest on conjectures, but on long and patient observation and on records. (See 35 Quart. Rev. 4 page.)

I have a table before me, where of ten thousand persons born on a given day, so far from all being swept away in seven years, or even in fourteen, (the time supposed by the other gentleman,) over one half of the number are alive after thirty years. Again, of those alive at thirty years of age, instead of all disappearing in seven or fourteen years, one half of them are alive after thirty two years. The table is formed in a healthy country, and of that character will I show our own to be, notwithstanding the argument to the contrary to-day.

The hypothesis of the Committee, that the average age of the officers in A. D. 1783, did not exceed thirty, was not assumed hastily, as intimated: it was not adopted without full inquiry, and has had the sanction of two able Committees of the other House. Taking that then as a fact sufficiently well established for this purpose, the Com-

mittee have not said, as my colleague, through mistake supposes, that the officers would live only fourteen years. They merely mention fourteen years as the shortest term; but their whole calculations and arguments he would see, had he examined them with his usual care, are grounded on the position, that they were likely to live from 32 to 34 years. The committee, in coming to that result, do not say they adopt implicitly the tables of Dr. Price, or do they even refer to him at all in their report. But two former Committees in the other House have taken his tables as their basis, and making proper allowances, have come to the same conclusion with ourselves. We have resorted not only to him, but especially to Milne on annuities, which is now before me, and from which I have before read. I will take the liberty again to read, and from his calculations to repeat, that the data given by the Committee are correct. [Mr. WOODBURY here read from Milne's tables.] These tables of course differ some years as do those of Dr. Price, according as they are made in different latitudes; in large towns or the country, and within the last 60 years or before, on account of the introduction of vaccination, the improvements in education, and numerous other causes which reading and observation will suggest. A slight difference, when kept as to the different sexes, prevails likewise in all of these—[2 Milne Apx. 765.]

But take the healthiest places in Europe, where these tables have been formed during the last half century, and the probable duration of life at 30 years of age is such, that an annuity for it, would not differ beyond a small fraction from 14 years purchase. The tables at Carlisle are of this character. Not as many gentlemen, with a slight attention to the subject have supposed, that a person of that age would live only 14 years; but probably live about 34 years; and hence his annuity for that time be worth now in a gross sum 14 times its amount. Can my colleague seriously contend, that the committee have erred in supposing the healthiness of this country not equal to that of Europe, where the great mass of the people are well known not to be so well fed, sheltered or clothed? Or that Republican institutions are less favorable to long life than Monarchies? Or can he seriously contend, that these officers at thirty years of age were less likely to live long, than persons who had been in civil life? In reply, should I conjecture merely without any examination of this point, the conclusion would be rather more obvious and natural, that persons, hardened by exposure and severe exertion, would afterwards live longer than persons in ordinary life.

But without any claim on my part to unusual accuracy or deep science in these subjects, the Committee have not rested their inferences on mere conjecture: they have not, I believe, adopted a basis "utterly improbable;" nor are they persons whose habits have led them in their official duties to "assume essential facts," without evidence. The invalid pension roll of the United States in A. D. 1825, consisted of 3,690, and exhibited only fifty-eight deaths. In A. D. 1826, of 3,805, and exhibited only forty-eight deaths. This averages about 1 in 70, and is among a class of persons, not it is believed less than 30 years old on an average; and of whom all have seen service and experienced bodily injuries. Yet it shows greater health than the healthiest tables, in either Price or Milne in Europe. Again, of the Revolutionary soldiers on the continental list, who are placed on the pension list, more than 12,000 survive, after the lapse of 44 years since the peace. Thus, instead of the whole having been swept away in 7, or even 14 years, this large number remains after more than six times 7 years. Even of these, aged and decrepid as they are, only about one in 32 dies annually, which is a less mortality than the average British standard half a century ago, of one in 28 of her whole population. Again, the gentleman who last addressed the Senate, [Mr. BELL,]

contends that if this country were as healthy as England, and the officers as healthy as common citizens of their age, 500, instead of 230 should now be alive. This is another illustration of the mistakes, attending doubtless on haste and partial examination, and not on any personal prejudice or censurable motives. The officers in A. D. 1783, are, to be sure, supposed to have been, on an average, 30 years of age; and it may be, that if all were in truth no more than 30 years old at that time, between 400 and 500 would or should now survive. Indeed, more than 230 may be alive at this time, though no more have been ascertained. But the gentleman forgets that a considerable number of them were in fact over 30; not a few 40, 50, and 60, and overlooks entirely, that the mortality in 44 years, among those 40 years old and upwards, would be nearly double more than the gain in life as to the numerous officers who were less than 30 years old.

In this great lapse of time, more than nineteen twentieths of those only 40 years old, and the whole, save one or two of those over 40, would have passed the allotted age of man, and be altogether swept from existence; while only about three fourths of those exactly 30 years old would have died, and nearly as many of those 21 or 25 years old would have died as those 30 years old. Hence the average ages, though a correct enough guide as to life in valuing half pay, only too unfavorable to these individual petitioners, is manifestly erroneous in ascertaining how many survive, when 44, instead of 34 years has elapsed; and when not a proportion, but all of those over a certain age, have probably perished.

To return to the comparative healthiness of all our population in this country, where tables for bills of mortality have been kept: the number of deaths is manifestly much fewer than in the same population in England. A paper by Doct. Barton, in the 3d vol. Philo. Trans. 42d page, demonstrates that in Philadelphia the deaths were often only 1 in 45; and in Salem, Mass., 1 in 47; while in this city, I have the data before me, showing, that for the last six years they have averaged not 1 in 49. In the State of New York computations have been made with some degree of accuracy, that the deaths do not average over 1 in 72; and I know many towns in New Hampshire, where they have been for many years less than 1 in 80.

It is to be remembered also that this estimate includes both young and old as well as middle aged—and is of course disadvantageous to the middle aged. The Committee, therefore, have not taken as a standard either the London or North Hampton tables, whether of this period or of an ancient period—once, the deaths, 1 in 28 to 1 in 40; and in 1810, not more than 1 in 52. But they have taken the modes of computation approved by Price and Milne, and taken those tables in Milne, which come nearest to the supposed mortality in this country, for the last half century; and thus have arrived, as the two Committees before them have done, to the conclusion, and I trust a just one, that these officers ought to have received 14 years purchase, or 7 years full pay, instead of only five years. Whether the commutation was defective by mistake or design is wholly immaterial to the argument, if it was only defective; because, if defective, we have reaped the benefit; and these survivors being the sufferers—sufferers from our needs and their patriotism—they should in our present prosperous condition be honorably remunerated. It is not a violation of economy to pay honest debts or restore to a poor creditor, what was once withheld from him; neither is this course exposed to any of the exceptions taken by the venerable Senator from North Carolina, (Mr. MACON,) against prodigality, large salaries and monarchical usages. As one of the Committee, I dislike them no less than he does. But at the same time, to me, it seems always frugal and republican to do justice; and instead of endangering the payment of the public debt by such a measure, we are, in my view of the sub-

ject, attempting honorably to discharge a sacred portion of what ought to be the public debt—and to strengthen the confidence of all public creditors, that however inequitably they may be treated under state necessities in great national embarrassment, they shall, when our ability permits, be in some degree indemnified.

I would show the world, as the member from South Carolina, (Mr. SMITH,) observed yesterday, when discussing the bill for interest to the State he represents, I would show them, that a virtuous democratic republic can act, as a virtuous private citizen would act, and mete out the same justice to its creditors, which one honorable man would mete out to another. On this basis then, let me enquire what man, who is a man, who dares hold his head erect in decent society, would not when rich, restore to his creditor what was reserved or withheld when the debtor was poor? Other gentlemen, who vote differently, doubtless think differently on the facts, but, with my views as to the facts of this case, we can with no better grace refuse to grant this relief, than any honest individual could hesitate in his prosperity to make up to his suffering creditor the uttermost farthing that had been virtually withheld from him in the hour of need. I had intended to notice some other objections adduced against the bill, but the length of the debate, and the lateness of the hour, forbid the attempt.

The petitioners will now be left by me in the hands of this honorable body. My duty towards them on this motion has been fulfilled—and quickly as the curtain of life must close around them, I hope our justice and gratitude may yet cheer their aged hearts, before their departure to a better world.

Mr. MACON offered some brief remarks in opposition to the bill.

Mr. SMITH, of S. C. followed at some length, in reply to Mr. WOODBURY.

Mr. VAN BUREN made some brief observations, and expressed a desire that the question might be taken at once. The vote being then taken on the motion of Mr. HAYNE, to fill the blank with 800,000 dollars, was decided in the negative, as follows:

YEAS.—Messrs. Barnard, Berrien, Bouligny, Eaton, Harrison, Hayne, Johnson, of Ky. Johnston, of Lou. Knight, McLane, Marks, Parris, Robbins, Sanford, Silsbee, Smith, of Md. Van Buren, Webster, Woodbury.—19.

NAYS.—Messrs. Barton, Bateman, Bell, Benton, Branch, Chandler, Chase, Cobb, Dickerson, Ellis, Foot, Hendricks, King, McKinley, Macon, Noble, Ridgely, Rowan, Ruggles, Seymour, Smith, of S. C. Tazewell, Thomas, White, Willey, Williams.—26.

Mr. COBB then moved the indefinite postponement of the bill, which occasioned some conversation, in which Messrs. COBB, SMITH, of Md. HARRISON, NOBLE, and WOODBURY, took part, and the question being then taken, was decided in the negative by the following vote:

YEAS.—Messrs. Barton, Bateman, Benton, Branch, Chandler, Chase, Cobb, Ellis, Foot, Hendricks, King, McKinley, Macon, Noble, Ridgely, Rowan, Ruggles, Smith, of South Carolina, Tazewell, Thomas, Willey, Williams.—22.

NAYS.—Messrs. Barnard, Bell, Berrien, Bouligny, Dickerson, Eaton, Harrison, Hayne, Johnson, of Kentucky, Johnston, of Louisiana, Knight, McLane, Marks, Parris, Robbins, Sanford, Seymour, Silsbee, Smith, of Md., Van Buren, Webster, White, Woodbury.—23.

Mr. SMITH, of Maryland, then moved to fill the blank with \$500,000.

The question being taken on filling the blank with 500,000 dollars, was decided in the negative, by the following vote:

YEAS.—Messrs. Barnard, Berrien, Bouligny, Eaton, Harrison, Hayne, Johnson, of Kentucky, Johnston, of Louisiana, Knight, McLane, Marks, Parris, Robbins,



MARCH 13, 14, 17, 1828.]

*Medical Department of the Navy.—Prevention of Desertion.*

[SENATE.]

Sanford, Seymour, Silsbee, Smith, of Maryland, Van Buren, Webster, Woodbury—20.

NAYS.—Messrs. Barton, Bateman, Bell, Benton, Branch, Chandler, Chase, Cobb, Dickerson, Ellis, Foot, Hendricks, King, McKinley, Macon, Noble, Ridgely, Rowan, Ruggles, Smith, of S. C. Tazewell, Thomas, White, Willey, Williams—25.

On motion of Mr. EATON, the bill was then ordered to lie on the table.

THURSDAY, MARCH 13, 1828.

Considerable business was transacted this day, but the debate was not of sufficient importance to be reported.

FRIDAY, MARCH 14, 1828.

#### MEDICAL DEPARTMENT OF THE NAVY.

On motion of Mr. HAYNE, the bill for the better organization of the Medical Department of the Navy was taken up.

Mr. HAYNE said it would be recollected that, when the bill to increase the pay of the Lieutenants of the Navy was under discussion, an honorable Senator from Georgia had moved to include, in the provisions of the bill, the Surgeons of the Navy. He had then remarked, that the Medical Department had been already under the consideration of the Committee, and was to be made the subject of a distinct measure. He believed the service required a separate organization of this department. The subject was considered maturely last year, and it was then deemed absolutely necessary, for the interest of the country, to re-organize the Medical branch of the Naval service. Mr. H. then went into an explanation of the bill as to its operation upon the Navy, in encouraging scientific men to enter the service; and spoke in high terms of its beneficial effects in bringing into that department individuals who would otherwise refuse to enter it from the scantiness of the emoluments.

Messrs. CHANDLER and MACON opposed the bill; which was defended by Mr. HARRISON; when it passed to be engrossed.

On motion of Mr. SMITH, of Maryland, it was ordered that when the Senate adjourn, it adjourn to Monday next.

The bill to authorize the President of the United States to lease certain lots therein mentioned, (connected with the lead mines in Illinois,) was taken up, and after having been amended so as to fix the penalty of the Superintendent, in case of non-performance of his duty, at 20,000 dollars, the blank, relating to his salary having been filled with 1,500 dollars, and a proviso having been added to exclude any allowance for Clerk hire, the bill was, on motion of Mr. BENTON, ordered to be laid on the table.

MONDAY, MARCH 17, 1828.

#### PREVENTION OF DESERTION.

On motion of Mr. HARRISON, the bill to prevent desertion in the Army, and for other purposes, was taken up—an amendment reported by the Committee on Military Affairs, as a substitute for the original bill, being under consideration.

Mr. HARRISON explained the objects of the bill. The increase which it would effect in the pay of non-commissioned officers and privates, was absolutely necessary, as had been demonstrated by the great number of desertions which had taken place in the Army for several years. The additional pay of the soldiers was graduated in such a manner, as to prove an inducement for

them to remain in the service; and it was found, by far the greater number of those who deserted, were among the newly enlisted. This additional pay was also to remain in the hands of the Government, until the expiration of the terms for which they enlisted, as a pledge for their good conduct. The bill for which this was a substitute, was thought liable to objection on account of the increase of expenditure which it would require. But no such objection could be found with this, as the additional expenditure would not require a sum equal to that lost yearly by desertions. The average loss by the present habit of desertion, was upwards of 62,000 dollars. The increase of pay provided for by this bill is 57,000 dollars. Thus, if the object in view should have been effected, 5,000 dollars would be saved. There were two instances within the knowledge of the committee, of individuals who had enlisted five times within 1825 and '6, in order to obtain the bounty money. By the arrangement now proposed, the soldier would have, at the end of his term of enlistment, a considerable sum of money. This was considered a great inducement to honest respectable young men to join the army, and would have a tendency to elevate the condition of the privates. As to the non-commissioned officers, he had, on a former occasion, endeavored to show that they were worse paid in our army, than in any of the armies of European nations, from whom we borrowed our military system. In the French service there was an intermediate officer between the commissioned and non-commissioned officers, known as an adjutant sub-officer, who did the duty of our first sergeant, and who were respectively paid. Indeed all the non-commissioned officers were far better paid than ours. Comparing the pay of our officers to those in the English service, it was much in favor of the English. Besides, sergeants could be promoted: and in the Peninsular war, that great warrior, Lord Wellington, had two officers in each company, called *cor-sergeants*, who were well paid, and the office was considered so desirable, that it was much sought after. It was true, the present bill proposed no such arrangement; but it was thought that, by increasing the pay, respectable men would be willing to enter the army. The fifth section of the bill proposed a new principle in our army; and the reasons for it, he would briefly state. Several of our subordinate posts were situated at a great distance from the commanding officer. The consequence was, that, often, when a soldier had been guilty of some trivial offence, he was necessarily kept in prison for a long period of time, until a Court Martial could be convened, or he could be sent to a distance to be tried. It was, therefore, thought advisable to allow, on such occasions, the commander of the post to assemble Courts Martial for the trial of offences committed in the garrison. This was highly recommended by the Inspectors of the army, in their examinations last year. There was another novelty in the bill, which arose from a similar necessity. Where a sufficient number of commissioned officers were not stationed at a post to constitute a Court Martial, it was proposed to call in a non-commissioned officer to complete the number. He believed this was common in the French service. There could be no danger in adopting the system, and it would obviate many difficulties. Many non-commissioned officers were men of character and intelligence, and when their pay should have been increased, a higher grade of men would be willing to take the office, and the rank would be placed on a better footing. Besides, when they found a principle adopted in monarchical Governments, that would allow the advancement of the non-commissioned officers, they could safely rely upon its having been adopted for the benefit of the service.

The amendment reported by the committee was then agreed to.



SENATE.]

Prevention of Desertion.

[MARCH 17, 1828.]

Mr. HAYNE said, that he was far from being satisfied with that provision which proposed to admit the non-commissioned officers to sit upon Courts Martial. It struck him as being a bad plan. There was an evident distinction between commissioned and non-commissioned officers, and which could not be safely broken down. The latter mingled with the soldiers, and imbibed prejudices which would make it difficult for them to render impartial judgment, at least in the opinion of those upon whose trials they would sit. He would, if in order, move to strike out that part of the bill.

The CHAIR remarked, that the amendment had been agreed to in Committee of the Whole. When the bill was reported to the Senate, the gentleman would have an opportunity of making his motion.

Mr. HAYNE said, that he would move, at a proper time, to strike out, if he did not see reasons why this provision should be made.

Mr. HARRISON then moved to fill the first blank in the bill, with the sum of \$ 10, (the monthly pay of the first-sergeants.)

Mr. CHANDLER said, that, for many years, Congress had gone on increasing the expense of the army, by beginning with the pay of the lower officers, and bringing it up so near to the next higher grade, that it soon became necessary to raise that also. He thought raising the pay of the first sergeants from 10 to 15 dollars was too great a change. He moved to fill the blank with 13 dollars.

Mr. HARRISON observed, that the committee had not been unanimous on this subject. But, as the bill proposed to prevent desertion, it was thought proper to raise the pay so far as to induce respectable men to take the office. He had never had an opportunity of conversing with a Captain of the Army, who did not admit that the effect of the measure would be most beneficial. Only a few days since, a gentleman, whose name he thought it proper to mention—Capt. Taylor, of Old Point Comfort—informed that he had paid 150 dollars, from his own pocket, to induce a first sergeant under him to remain in the service, so very valuable were his services.

The remaining blanks in the bill were then filled, as stated below, and the following bill was reported to the Senate :

*"Sec. 1. And be it enacted, &c.* That the monthly pay of the non-commissioned officers, musicians, and artificers of the army, shall be regulated and fixed as follows, to wit: To each sergeant-major, quartermaster-sergeant, chief musician, and first sergeant of a company, — dollars; to all other sergeants, thirteen dollars; to each corporal, ten dollars; to each musician, eight dollars; to each artificer ten dollars.

*"Sec. 2. And be it further enacted,* That, in addition to the monthly pay of each private soldier who may be hereafter enlisted, he shall be entitled to receive, during the first two years of his first enlistment, 50 cents; during the third year of said enlistment, one dollar; and if he re-enlist for the term of five years, one dollar fifty cents: *Provided,* That the additional monthly pay herein provided for, be retained until the expiration of the term of each enlistment, when, upon being entitled to an honorable discharge, the sum so retained shall be paid to the soldier, or, if he die in service, to his legal representatives.

*"Sec. 3. And be it further enacted,* That the first term of enlistment of each effective able-bodied citizen of the United States, shall be limited to three years, and all subsequent re-enlistments to five years.

*"Sec. 4. And be it further enacted,* That the twelfth section of the act, entitled "An Act fixing the Military Peace Establishment of the United States," passed the 14th of March, 1802, be, and the same is hereby, repealed.

*"Sec. 5. And be it further enacted,* That the 66th article of war shall be, and the same is hereby, so amended, that the commanding officers of such garrisons, forts, barracks, or other places that may be designated by the President of the United States, may assemble Courts Martial, to consist of three members, (inclusive of the President,) and decide upon their sentences.

*"Sec. 6. And be it further enacted,* That a sergeant-major, a quartermaster sergeant, or the first sergeant of a company, may sit as a member of a regimental or garrison court martial: *Provided,* That the requisite number of commissioned officers are not present and for duty at the post where the court martial shall be ordered to convene."

Mr. HAYNE then moved to amend the bill by striking out the 6th section.

Mr. HARRISON opposed the motion, and asked the gentleman from South Carolina, whether it would not be better, when the requisite number of commissioned officers were not within reach, to constitute a court consisting of two commissioned and one non-commissioned officer, than that a soldier should lay in prison for a long period of time, until a court could be convened, or that it should be necessary to transport him two or three hundred miles to be tried?

Mr. SMITH, of Md., suggested a modification of the section, to confine the number of non-commissioned officers allowed to sit upon courts martial, to one.

Mr. HAYNE said, that a garrison court martial required only three officers, and wherever there was a company, there would be a sufficient number of commissioned officers. But, aside from any convenience which might be the result of the measure, he considered that its effects would be demoralizing, and lead to much evil. He thought any step which should break down the distinction between commissioned and non-commissioned officers, as of a dangerous tendency. There always had been a distinction, and it was necessary that there should be. They were taken from different classes of society, and were men of different habits and manners. There was another objection which he thought insuperable. The commission of the commissioned officer was his property, and it gave him an independence which the non-commissioned officer could not possess. The latter was the creature of his superior officers, liable to be discharged by them, and depending much upon them. It was impossible that he could possess the feelings and independence to enable him to be an impartial judge; and, said Mr. H. I repeat again, that they mix too much with the soldiers, to perform their duty in a satisfactory manner. They would be very liable to have prejudices, which would, more or less, operate upon their judgments, and would give great dissatisfaction to the soldiers. Mr. H. said, he recollected being in a garrison where there was a first sergeant, who was as good an officer in his grade as he ever knew; and he was exactly in this position—about one-half of the soldiers were his friends, and the other half his enemies. Under such circumstances, the soldiers would not be satisfied by decisions given by such an individual, although they would be willing to be tried by their superiors, who could have no private feelings towards them.

Mr. CHANDLER thought the arguments of the gentleman from South Carolina reasonable. He had rather that the section should be struck out; but, if it was retained, he hoped that it would be modified according to the suggestion of the gentleman from Maryland.

Mr. HARRISON then offered the following proviso to the 6th section:

*"Provided,* That there shall not be more than one non-commissioned officer on any Garrison or Regimental Court Martial."

MARCH 17, 1828.]

Internal Improvement.

[SENATE.]

Mr. SMITH, of Maryland, said, that the remarks of the gentleman from South Carolina were mainly correct; but there were cases in which the difficulties would render the admission of non-commissioned officers absolutely necessary. For instance, at a post where there were two officers and a subaltern, if a Captain ordered a Court Martial, the soldier to be tried must remain in prison until an officer could be sent for to a distant part of the country. This would create great discontent, and lead to desertion.

Mr. HAYNE repeated, that, wherever a company was stationed there would be three officers, unless they had been reduced; in which case, a delay of a short time would take place. He hoped the section would be stricken out.

Mr. HARRISON said, there were many posts which were held by less than full companies, and where three officers were not required. He never knew a Captain who did not treat a faithful first sergeant with as much respect as he did an ensign; and indeed, his services were much more important; and there were instances where a summary decision was necessary, which could not be had unless this measure were adopted.

After some further conversation between Messrs. SMITH, of Md., HAYNE, and HARRISON,

Mr. CHANDLER moved to strike out the words "first sergeant."

Mr. BENTON made a few remarks in opposition to the 6th section.

The question was then put on the motion of Mr. CHANDLER; which was agreed to.

The motion of Mr. HAYNE, to strike out the section, as amended, was agreed to.

The bill, as amended, was then ordered to be engrossed for a third reading.

#### INTERNAL IMPROVEMENT.

The general Orders of the Day were then taken up, and the Senate considered the bill to grant certain relinquished and unappropriated lands to the State of Alabama, for the purpose of improving the navigation of the Tennessee, Coosa, Cahawba, and Black Warrior Rivers.

Mr. McKINLEY said, that this bill had been presented by him, in anticipation of a memorial of the Legislature of Alabama, which had since been received, and in accordance with which the committee had reported some amendments. It was scarcely necessary for him to urge upon the Senate, the importance of the proposed improvements; and he had hoped, ere this, to have been able to lay before the Senate the Report of the Engineer Department, upon the surveys which had been made last year. But the ill health of the person whose duty it was to draw up the Report, had prevented him from performing it. He would merely state, that the population, above the Large Muscle Shoals, on the Tennessee River, had no advantage of the navigation of the river, except during a short period in each year, when the waters were uncommonly high. The plan of improvement was practicable, and promised most beneficial results. The large shoal was ten miles long; and the river, at that point, spreads itself from one mile to two miles in width, obstructed by islands and rocks. The shore was a high bluff, and two or three streams emptied into the Tennessee, which would be sufficient feeders for the projected canal. The plan was, to throw a wall along the bluff, thereby forming a navigable canal. The expense for improving this passage, must necessarily be great. There were other points of less importance, and which would cost, comparatively, but small sums. A single glance at the map, must convince any one of the great importance of this plan to West Tennessee, Mississippi, and Alabama. He hoped that the same kind of appropriation of lands would be made, as, during the last session, was made, for canals in Illinois and Indiana. He

knew that there had been much controversy upon the powers of Congress to make improvements in the interior; and that the doctrine was held by some, that, although they had the power to improve the seaboard, by widening channels, erecting breakwaters, and clearing out harbors, they could not go into the inland sections of the country and perform the same offices, by improving rivers, making roads and canals, &c. It appeared that the hostilities on this question, arose out of the contest for State Rights. It was a question chiefly raised by the Old States. But it was one in which the various sections of the country were not equally interested. It would be observed, that the very condition upon which the New States were admitted into the Union, was, that they should have no sovereignty over the lands. The lands were owned by the United States; we, of the New States, have no authority over them; and I should suppose that those who are the strictest in their construction of the Constitution, would find no difficulty in granting the public domain for purposes like those pointed out in the bill. It was an every day practice for the United States to prosecute individuals for trespasses on the lands owned by the General Government—nor by these proceedings was it pretended that the sovereignty of the States was invaded. There seemed, therefore, no objection to the application of these lands to improving the country in which they lie. In the State of Alabama, the United States now held between twenty-eight and twenty-nine millions of acres, the Indian title to which had not yet been extinguished. On the South side of the River Tennessee, in the vicinity of Muscle Shoals, there was an immense tract of public lands, comprising nearly the whole of the county of Jackson. There were also large tracts on the North side of the river, occupied chiefly by the Indians. There could be no doubt that it was for the interest of the United States, that the access to and from those lands should be improved. It would open them to new and increased settlements, and from the extent and importance of the improvement proposed, it would stand among the first works of a national character.

Mr. BRANCH briefly opposed the bill, and wished more information as to the expenditure which would be required.

Mr. McKINLEY, in reply, observed, that the work would require a large appropriation. As to the value of the lands, it was quite uncertain; but it had been supposed that half a million of dollars would complete the object. Four hundred thousand acres of land was the amount fixed upon, as it was not supposed that the lands would bring a greater price hereafter, than they had already brought. Appropriations of the same amount had been made last year for the canal in Illinois, and also for that in Indiana.

Mr. CHANDLER said, he hoped the gentleman would not press this measure at the present time; but wait until the report, to which he alluded, should have been laid before the Senate. They ought not to act in the dark upon a bill so important. The report might be had before Congress rose, and it was quite necessary, as it was not possible to tell, without it, whether the plan would cost more or less than the sum proposed. The gentleman could hardly expect that the Senate would make an appropriation of 500,000 dollars, without some information upon the subject. He wished to act with his eyes open; and must, under present circumstances, vote against the bill.

Mr. KING said, that if he had any idea that the gentleman from Maine would vote for the bill under any circumstances, or with any information, he should not be unwilling to delay it until the report should have been brought in for his advantage. But, as the gentleman had uniformly voted against similar measures—and

SENATE.]

*Internal Improvement.*

[MARCH 17, 1838.]

as every man, who knew the geography of the country, must be struck with the necessity of the works proposed, and the vast benefit which must arise from their completion, he really could not indulge the gentleman in consenting to postpone the consideration of the bill. He was very desirous that the estimates should be had; but the illness of the individual to whom the duty of making them up was entrusted, had prevented their completion. He had been told, by General Bernard, that he would give him a statement of the gross amount, but the minute estimates must yet, for some days, be delayed. That gentleman stated, that the importance of the projected improvement was immense. It might, perhaps, be considered a circumstance in favor of the appropriation, that Alabama had never received one foot of land for the construction of roads and canals, or for any other improvement. On the other hand she had appropriated large sums of money, from her own resources, for such objects. This work, in which she now asks for assistance, was one which did not alone promise benefit to her own citizens, but was a project of great national importance; and he hoped Congress would feel disposed to extend the same liberality to Alabama, as had been extended to other States. He hoped, if his friend from Maine could not bring himself to vote on the bill, under any circumstances, he would not obstruct its passage, but allow others to vote upon it.

Mr. CHANDLER said, it was true that he did not know as he should vote for the bill under any circumstances. But he thought the Senate ought to possess more information upon the subject than they now possessed, before they attempted to decide upon the appropriation.

Mr. NOBLE was understood to say, that it was not customary to pass bills of this description without having the estimates to go upon. But, as to the constitutional power, he did not know how it was that the Constitution read differently in Maine and Alabama. How was it that they had a perfect right to make a military road in Maine, and no shadow of power to make a canal in Alabama? He would ask what clause in the Constitution authorized the construction of a military road? There was no such clause. But, then, it was done under the power of regulating the army. It was easy enough to construe the Constitution when this road was to be constructed. When Kennebeck, or Kennebunk, or whatever it might be called, was interested, the leaves of the Constitution, in which the gentleman from Maine's scruples were to be found, were frozen together by his Northern predilections. It has been argued that the benefits of improvement had not been equally bestowed. The gentleman from North Carolina complained that his State had received nothing. But, said Mr. N., we cannot give them any thing if they will not ask it—although I believe there is a bill now before the Senate for an outlet, or an inlet, I do not recollect which, in that State. He was for it. He would vote for assistance wherever it was wanted. He was friendly to the wishes of Alabama; and would as soon vote for the canal they stand in need of as for the military road in Maine. He wished the gentleman from Maine would get up in his place, and enlighten him as to the difference of the Constitution in one State and in another. For his own part, he considered its operation uniform. He did not wish to have the Constitution always brought in, until it should at last be eaten up with talking, and be considered of little importance from everlasting recurrence to it. He believed that some of those whose consciences were so tender, might be sincere; but his principle was, to extend equal benefits to all parts of the country. He did not wish to be told, whenever appropriations were proposed, that there was no State but Maine in which the Constitution operated, and that its particular province

was somewhere about Kennebeck or Kennebunk. He wanted to extend the benefits of the Constitution to all the different sections of the country. If not, abolish it at once, and get rid of this eternal dispute upon it.

Mr. BRANCH made some remarks.

Mr. M'KINLEY then handed to the Secretary a rough estimate, received from the Chief Engineer, of the expenses of the improvement contemplated by the bill; which was read.

Mr. COBB said, that he should deem it his duty to vote against this bill, as he did for those making appropriations for the Illinois and Indiana Canals. The doctrine which he held, had been formerly expressed in this House, against appropriations by the General Government for the purposes of Internal Improvement. They were, he knew, unfashionable doctrines. But these considerations he now discarded; and put his opposition to the bill upon a different ground altogether. He objected to it because it was a direct violation of the compact entered into at the admission of Alabama into the Union. The grant of the Territory to the United States, was not an unconditional grant. What was the object of this bill? It was an unconditional grant to the State of Alabama of a quantity of land, for the peculiar benefit of that State. By the articles of cession between Georgia and the United States, it was agreed that those lands should remain as a common fund for the benefit of the United States, Georgia included; and it was added, in that instrument, that they should "be faithfully disposed of for no other purposes." The question then presented by this bill, was, does it violate the articles of cession? We are about to dispose of this land. How? Are we applying it to the common use of the United States, Georgia included; and for no other purpose? No. I say it is to be disposed for the benefit of Alabama, and for no other part of the country whatever. He knew that it would be said, that it was for the benefit of the United States, because it would increase the price of the public lands, and promote their settlement; and that Georgia would share in these advantages. That this was a fallacious method of reasoning, and similar to that which was always resorted to, when the violation of any compact was contemplated. He wished the gentleman who had introduced this bill to take up the articles of cession, and satisfy himself relative to the compact between Georgia and the General Government.

Mr. M'KINLEY said he could not see what the compact between Georgia had to do with a grant of land for the purposes of Internal Improvement. He thought differently from the gentleman from Georgia, as to this grant being solely for the benefit of the State of Alabama. He understood that it was for the benefit of the whole United States, and for all its citizens who had any trade in the waters of the Western States. Do we understand, said Mr. McK., that works which are for national purposes, are for the benefit of any particular State? If the line was drawn, he wished to know where it would begin, and, if drawn at all, it ought to extend to the exclusion of all parts of the country. If they were not to make any appropriations for the improvement of natural obstructions to intercourse, let it extend also to the sea-board. It was, indeed, a strange doctrine, that allowed the improvement of harbors and rivers on the coast, yet denied the right to apply the same measures to the interior. Were the Western States to be looked upon as half sisters only of this Union? They were certainly restricted in their rights. The old States enjoyed full sovereignty over the territory within their limits. We are crippled in our sovereignty; and are we to be excluded from any grant of land to improve our waters? If the gentleman from Georgia had compared the compact with the Constitution, he would have found that such a provision as he alluded to would have

March 17, 18, 1828.]

*Settlement of Private Land Claims.*

[SENATE.]

been in violation of the Constitution, which was in full force when those articles of cession were drawn up. He wondered why the gentleman had not, on the passage of former bills of this kind, thought them violations of the compact between Virginia and the United States.

Mr. COBB here observed that he had thought so, and he had mentioned his opinions.

Mr. McKINLEY resumed. He wished to know why the donations of land for universities, for a seat of Government, and for schools, were not equally violations of the compact as this appropriation, which was allowed to be for a national object. He hoped the People of the West were not to be considered less the brothers of the Union than those on the sea-coast; and that the same measure of justice would be awarded to all the different sections of the country.

Mr. COBB said that, if the gentleman from Alabama had noticed his former remarks, he would have observed that he declared having now the same objections to this bill as he had last year to those for canals in Illinois and Indiana. He had then offered the same opposition to those bills; and he thought still, that they were as much violations of the compact with Virginia, as this bill would be of that with Georgia. He desired that, when the gentleman declared that the compact was not valid, he would demonstrate the truth of his assertion. I heartily wish that it could be proved so, that Georgia might have back the territory which she disposed of to the United States. Then, if Alabama and Mississippi were restored to us, we should indeed be a grand State, and have some weight in the Union. He would ask the gentleman by what rule he considered this a national object. A national object! when we grant land to the State of Alabama, a single State, for certain purposes in which she alone is interested! The gentleman says it will benefit a number of States; but he certainly had forgotten that the bill provided for the collection of a toll by the State of Alabama. This is my understanding of the bill. If I am in error, the gentleman can inform me.

Mr. McKINLEY said, the gentleman was in error—the bill only proposed that no toll should be collected upon the property of the United States.

Mr. COBB resumed. What did such an exemption signify, but that a toll should be collected on the citizens of the States, from which the Government should be free? This clause could have no other meaning. The only question that I put to the Senate is: Does not this violate the compact? He admitted that the articles of cession had never been treated with much regard. He knew, also, that the United States had violated them on all occasions. The State Governments alone had regarded them. He only asked whether these public lands, which were to be given to the State of Alabama, would by this act be retained as a common fund for the benefit of the United States, Georgia included? If it was, then his objection to the bill was unfounded. If it was not, he was borne out in his opposition.

Mr. McKINLEY observed, that the United States was the great land-holder of the West. If any other landholder wished to enhance the value of his lands, he would find it expedient to improve the roads and canals through his domain. If this principle was admitted, then the position follows that the United States would be benefited by the improvement of the navigation of the streams that border on the Public Lands, Georgia would, in common with the other States, derive benefit from such a disposal of the Territory ceded by her to the United States, and hence the articles would be adhered to. The objection applied to every other new State, as well as to Alabama; and he trusted her claims to the same benefits as had been extended to other States, would not be denied to Alabama.

Mr. RUGGLES spoke in favor of the bill. He considered the improvements proposed by it as interesting to

the whole Union, and compared it to fortifications, which might be erected for the defence of some particular city; but also contributed to the protection of the whole country.

Several amendments were then adopted.

Mr. McKINLEY moved to amend, by inserting a provision for exempting all persons in the service of the United States, and the citizens of all other States in the Union, from tolls, unless authorized by an act of Congress; which was agreed to.

Mr. KING moved to fill two blanks in the bill, so as to enjoin upon the State of Alabama to commence the prosecution of the works within two years, and to complete it within ten years. Agreed to.

The bill having been reported to the Senate, was briefly advocated by Mr. BENTON, and opposed by Mr. COBB; when the question being taken on engrossing, it was decided in the affirmative, by the following vote:

YEAS.—Messrs. Barton, Bateman, Benton, Boulogny, Chase, Eaton, Harrison, Johnson of Ky. Johnston, of Lou. Kane, King, Knight, McKinley, Marks, Noble, Robbins, Rowan, Ruggles, Smith, of Md. Webster, White, Williams.—22.

NAYS.—Messrs. Berrien, Branch, Chandler, Cobb, Dickerson, Macon, Parriss Seymour, Smith, of S. C. Tazewell, Tyler, Willey, Woodbury.—13.

TUESDAY, MARCH 18, 1828.

## SETTLEMENT OF PRIVATE LAND CLAIMS.

On motion of Mr. SMITH, of S. C., the bill to provide for the final settlement of private land claims in the several States and Territories was taken up, and, having been read,

Mr. SMITH, of S. C., moved that the bill be read by sections, which was agreed to, and the first section was amended, on motion of Mr. S.

Mr. MACON objected to the provision in the 5th section, which provided for the sitting of Commissioners in the City of Washington. He thought it would be very inconvenient.

Mr. SMITH, of S. C. said, that the Committee took into consideration that many of the States were unhealthy. In Washington there would be security to health, and the reports, for many years, of committees on these various claims, would be at hand. The great object of the committee was to settle, finally, these claims. If any better plan than that proposed, could be fixed upon, he should acquiesce in it.

Mr. MACON made no motion, and the reading progressed.

Mr. CHANDLER remarked, that, in the 11th section there was established a right of appeal to the Supreme Court, by individuals. But there was no such provision in favor of the United States.

Mr. SMITH, of S. C., observed, that he would acquiesce in any amendment which the gentleman from Maine would offer.

Mr. BARTON moved to amend, by inserting the words "United States or;" so that the United States, or any claimant, may have the right of appeal, &c.; which was agreed to.

Mr. SMITH, of S. C., moved to fill the blank (salaries of the Commissioners,) with 3,000 dollars. Agreed to.

The blanks for the salary of the Law Agent and Secretary were then filled with 2,000 and 1,500 dollars. The blank for the salary of the Clerk was filled with \$1,200.

Mr. KING said, he thought the bill had not been sufficiently examined; there appeared to be many inaccuracies. There was one in the 17th section, in which claimants were allowed to settle on lands not located. It certainly was not intended that they might locate on any part of the Public Lands. He wished explanation.

SENATE.]

*Settlement of Private Land Claims.*

[MARCH 18, 1838.]

Mr. BARTON said, there were a number of tracts of land called concessions, which were pointed out by this part of the bill.

Mr. KING said, he was not satisfied; there were no boundaries fixed, no tracts specified.

Mr. BERRIEN said, it might happen that the United States would have disposed of some of the lands which would be decided by this tribunal as by right the property of the claimants. It was considered just, that, in such cases, other lands should be awarded to the claimants, in lieu of those of which they had been divested.

Mr. KING said, that they were permitted to locate wherever they pleased. The provision was too loose.

Mr. BERRIEN replied, that when, by the judgment of this tribunal, it should be found that an individual has a claim to land under the Spanish Government, the bill provided that he should take an equivalent portion of land. The manner in which it should be done would be settled by the Senate.

Mr. BENTON said, that an amendment might be made to render the provision more explicit. It was clear that, if a party made his title good before this tribunal, he ought to be enabled to enjoy the benefit of such a claim.

Mr. HAYNE said, that, if the gentlemen who were interested in the bill were satisfied with its provisions, he had no objection to it. But there was a class of claims to which he thought it would be injurious. They had been favorably decided upon already by a Board of Commissioners; and it was unnecessary that they should be gone over again. He offered an amendment to the close of the bill, providing that the claims of citizens of the United States to lands in the State of Louisiana, under titles from the British Government in West Florida, which had not been regranted by the Spanish Government, are confirmed, with a proviso that they do not conflict with the laws of the United States.

Mr. KANE said, that the cases alluded to by the amendment were very numerous, and had been frequently examined, but not satisfactorily settled. The policy of the Government had dictated the division of these claims into two classes, of large and small. On some of the large ones, Commissioners had also reported favorably. But, if the British claims were to be taken up and decided upon favorably, because Commissioners have reported in their favor, the same decision must be extended to all claims under the same circumstances. There was no reason for deciding favorably upon these claims, and turning others over to the tribunal established by this bill. He had heard no argument that would induce him to deal differently with the British claims than with all the others. He thought the whole ought to be referred to the Commissioners.

Mr. HAYNE read a report of a Committee of the Senate, in the case of Elihu Hall Bay, and others, which he observed was a better argument than he could make. By this report, it appeared that the claims were established by the most convincing testimony, yet it was proposed to send them back to a similar tribunal to that by which they had formerly been decided. He held in his hand an act of Congress of 1812, by which a similar confirmation was made of titles, under the same circumstances, and the amendment which he now offered, was in the very words of that act. The lands settled by that act, were situated exactly as those were, the title to which the amendment proposed to confirm. They were separated from them only by a line, and why should not the same decision be made in this as in the other cases? The gentleman from Illinois had said that these cases were very numerous. Mr. H. said he was acquainted with but few claims of this kind; and he did not think the whole amounted to over 70,000 acres. He did not wish to interfere in the general provisions of the bill. He was wil-

ling to vote for any measure for the settlement of such of these claims, which still required examination. But, he wished that it might be so framed, as not to interfere with third persons; and that those claims which had already been settled, might not be sent back to undergo a second investigation.

Mr. CHANDLER observed, that the claims alluded to by the amendment, had been decided on by a Board of Commissioners. But this bill provided for an appeal to the Supreme Court, and he should have more confidence in the decision of that Court, than on that of any Board of Commissioners. He was, therefore, against the amendment, and desirous that all the claims should be tried alike.

Mr. JOHNSTON, of Louisiana, said, that the amendment appeared to him inexpedient and improper. If Congress attempted to decide on any of the claims on which Commissioners had reported favorably, that decision must extend to the whole number of cases so situated. If they adopted the report of a Board of Commissioners in one case, they were bound to adopt all the reports made by them. They had been formerly before Congress—and if the report upon them was now to be taken up, it ought to be sent to the Land Committee. He understood that, in Florida, these claims had been rejected; but that they had been allowed in Louisiana. It was questionable which of these decisions ought to be adopted by Congress. In the bill, it was provided that all the papers should be transferred to the Board of Commissioners, so that there will be no necessity for any provision for obtaining evidence, or to draw a line between this or any other class of claimants. It was his opinion, that, if the report of the Commissioners on the British claims, was to be confirmed by the Senate, it ought to be done by a distinct resolution, upon which it would be the duty of the Committee on Public Lands to report. If it was introduced into this bill, it ought to go the whole length, and include all claims similarly decided upon.

Mr. SMITH of S. C. supported the amendment. Several small bills, he observed, had been wound off of this general one. A few days since, a bill was passed, to settle land claims in Mississippi—and this morning, the gentleman from Louisiana had introduced a bill for the adjustment of the three largest claims on the whole list. He should suppose, under such circumstances, this proposition would not be opposed. The gentleman from Illinois has said, that these British grants need to be examined again. He was of a different opinion. They were mostly similar to those included in the bill framed for the settlement of claims in Mississippi, and their amount, as well as number, were much less than the gentleman seemed to suppose. Individuals in Louisiana, who were entitled to those grants, had been obliged to obtain evidence in support of their claims; and now they would be obliged, unless this amendment were adopted, to go back, and prove their claims anew. Great injury might be inflicted by such a course. The claimants might be kept out of their lands twenty-four years longer—and, if they are now entitled to them, they were entitled to them at the time of the treaty. A gentleman of the other House had made the declaration that all the claims in Louisiana might be paid with the sums that had been expended in endeavoring to recover them. He would appeal to the Senate whether this was a correct course to incorporate those claims which had been established, with those of a doubtful nature. He thought these cases as worthy of a separate decision as those which had been included in the bill for the settlement of Mississippi claims, or as those to be provided for by the bill introduced by the gentleman from Louisiana, involving a sum of three millions. He believed that those very claims had been reported against by Mr. Gallatin, in the strongest manner. Yet they were to have the benefit of a separate bill. He knew of no

MARCH 18, 19, 1828.]

Delaware Breakwater.

[SENATE.]

objection to the adoption of the amendment offered by his colleague, and he trusted it would be agreed to.

Mr. KANE said, that he was of the Committee who framed a bill, on a former occasion, in favor of these claims. He recollected it well; he had examined the claims thoroughly, and he came, after considerable trouble, to the conclusion, that they were just. But, he was not willing that a peculiar class of claims should be allowed the preference; because the object of this bill is to settle every class. Admitting, for the sake of argument, that this class was settled, because a Board of Commissioners had reported favorably upon it, if you add this provision to the bill, there are other cases equally strong; and if the whole are confirmed by the Senate, the object of the bill is destroyed. The greatest part of the claims had been reported upon, and it would be as reasonable to provide for the confirmation of all those reports as of one. Congress had settled the principle that it can not enter into the merits of those claims, as it is contrary to its spirit. Congress had decided that these questions were too interesting and too difficult to be hastily or carelessly settled—and he knew no question of law half so difficult as that which these claims presented. Then the question was, not whether these claims were valid or not; but whether you will give them the preference of others, and exempt them from a tribunal charged with the whole subject. It would be partial legislation to confirm the report of the Commissioners on the British grants, and turn over the Spanish claims to this tribunal. It would be recollected that there were certain conditions in the terms of the British grants, and that in many cases, those conditions were not complied with. How far this point had been examined by the Commissioners was worthy of investigation. He wished that no amendment might be adopted of the kind proposed, as he considered it destructive of the principle of the bill. Congress could not settle all the claims, but they could empower Commissioners to do so, and their examinations ought to extend to those of every class.

Mr. BERRIEN said, that the distinction attempted by the amendment, ought not to be made. Neither should the mode of legislation, which it would establish, be encouraged. The amendment conflicted with the principle on which the bill was founded; and the circumstances under which it was brought forward, gave it little claim to attention. A general bill to settle the claims of individuals, who held lands under other titles than those derived from the United States, had been reported at an early period, and was a short time since taken up, and made the order of the day for Monday. The Senate were called to the consideration of a plan for the establishment of a tribunal, for the settlement of all these claims, when they are asked to take up a report, in favor of a certain class of these claimants; and to decide in their favor. The subjects were disconnected, and conflicted with each other. The purpose of the gentleman from South Carolina conflicts with the principle of the bill. Why was it, that a bill was proposed? Because the decisions formerly made have not been satisfactory. Because the individuals hitherto appointed, have not possessed the legal knowledge necessary for the decision of questions of so delicate a nature. It was the object of the bill to establish a form which should relieve Congress from the responsibility of examining and deciding upon these difficult questions of law and right. The Senate was now called upon, by the amendment offered by the gentleman from South Carolina, to go into the merits of a set of claims, which he, for one, was prepared to say were not satisfactorily established. If they decided in favor of the report of the Commissioners, then they must extend their exemption to all other claims favorably reported upon. But it must be remembered that the tribunal to which these claims are to be referred, is of a dif-

ferent character from those which have hitherto examined and reported on them. It should also be recollected, that the Land Committee of Florida had formerly decided against the validity of titles founded on British grants. What, then, are we asked to do? The bill is to dispose of the whole of these land grants; yet, we are asked to affirm in favor of a peculiar class, which, although they have been reported on favorably by a Board of Commissioners, had been previously rejected by the Land Commissioners of Florida. These claims, then, were not so satisfactorily settled, as had been assumed. The cases would be more satisfactorily decided by the tribunal which was to be established. If they decided in favor of a claim, the individual would have the benefit of it. Hitherto, the examination of these cases had been fruitless—they went again to Congress, and only the larger claims were taken up. Thus, these claims stood on the footing of other claims which had been reported on; and to what hardships were they subjected, under which the larger claims did not suffer? The evidence in these cases were filed away in the archives of the country, would be brought forward, and would be taken as *prima facie* testimony in their favor. It was true that, if it was not considered sufficient, the claims might be rejected—and it was to be hoped they would. The meaning of the bill was this: It institutes a court to do that, which Congress, by its formation and character, is unfitted to do. It constitutes a tribunal comprising the knowledge and skill necessary to lead to correct decisions; and possessing the power to give the benefit of those decisions to those in whose favor they are made. Congress would be exempted by this measure, from all further applications, because the bill provides that negligence on the part of claimants for a certain period, shall constitute a bar to them, or their heirs, from claiming thereafter. Instead of doing this, the Senate was now called upon to make this decision itself, upon a class of cases, on which conflicting decisions have been made by different tribunals. Were they ready to declare in favor of the report of the Commissioners against the Land Commissioners of Florida? [from the report of whom he read the concluding passage.] He thought when these claims were so doubtfully sustained by one class of Commissioners against another, it would be better to allow them to go, with other cases of a similar nature, to a competent tribunal, by which they might be investigated and finally settled.

Mr. SMITH, of South Carolina, said a few words in reply to Mr. BERRIEN.

WEDNESDAY, MARCH 19, 1828.

#### DELAWARE BREAKWATER.

On motion of Mr. MARKS, the bill making appropriations for the construction of a Breakwater at the mouth of the Delaware Bay, was taken up, and the question being on engrossing the bill for a third reading—

Mr. FOOT rose and said:

So far as protection to our commerce against the dangers of the sea will be afforded by the construction of a Breakwater in the Delaware Bay—so far the bill will receive my cordial support.

The numerous petitions presented on this subject, among which, the Senator from Delaware has kindly informed me, are several from my own State, ask nothing more. Not being much of a military character myself, (said Mr. F.) I feel little solicitude or ambition to rival Roman glory, in the language of the Senator from Maryland, (Mr. SMITH,) and still less do I wish to see the People of these United States carried away by the fascinations of military pomp or renown, and certainly nothing can be further from the views of our merchants and ship owners, who have merely asked us to construct a Breakwater, which will afford their vessels a temporary

SENATE.]

*Delaware Breakwater.*

[MARCH, 19, 1828.]

retreat and security against the storms which are frequent on our coast, than the erection of a work which, at the lowest estimate, will cost 2,300,000 dollars, and create a necessity for the erection of fortifications, involving, perhaps, an expense of several millions more. They have heard enough of Rip Raps and Pea Patches—they have not asked for a harbor for the Navy, nor for more fortifications!

Sir, it does appear to me that those who are most zealously engaged in the splendid scheme of fortifying the whole extent of our coast, might be satisfied, at least for the present, with the plans already adopted for the protection of our harbors against an enemy—involving, by estimate, an expense of nearly thirty millions of dollars in fortifications, and requiring for their defence an army of about 70,000 men when completed.

By adverting to the report of the Engineers, it appears to be their direct opinion that the partial Breakwater, proposed by them, will afford equal protection to our merchant vessels, at the expense of about 220,000 dollars, as will be afforded by the artificial harbor; and they recommend this, if the expense of the other is considered too great or unnecessary.

And now, sir, let me ask the Senate, if it can be necessary or expedient to construct artificial harbors for the Navy? How many harbors have already been fortified, and, as has been supposed, rendered impregnable, for the security of the Navy? And are we about to erect harbors in the open sea, and fortify them, to which our ships of war are to retreat from an enemy? Give them plenty of sea room and an equal force, and they have shown, both their friends and enemies, they want no place of retreat.

But, sir, this great and unnecessary expense is not my only objection to this artificial harbor—the form itself is to my mind very objectionable. Every person who has had experience of the effect of current or eddies, formed by obstructions of water, either natural or artificial, must, I think, be satisfied that the proposed harbor will very soon fill with the sediment, which is always deposited by contra currents or eddies, formed by obstructions of water, either natural or artificial. Look at the bars at the mouths of rivers—look at the harbors on the Lake shores—look at the wharves and piers in many of our harbors, and you may see the effects. And, sir, it is my decided opinion that in the course of a very few years the artificial harbor will not afford the protection which the partial Breakwater proposed, or even one of less dimensions will furnish—for this will not be exposed to the same deposit of sediment, or alluvion, from counter currents.

But, sir, I presume we shall unite in extending every facility and protection to our coasting trade, which its importance demands, at a reasonable expense.

The Senator from South Carolina, in opposing to this bill, has used one argument which deserves notice. I understood him to say: "Our commerce is nearly annihilated—we have lost the trade with the British colonies, and can never regain it:" and, therefore, he inferred the Breakwater was unnecessary. If, sir, this be the fact—if our foreign trade is decreasing, our domestic trade will of necessity increase—and with the increase of our coasting trade, the erection of a Breakwater for its protection, becomes vastly more important—for it is only in the coasting trade that the cotton, rice, and tobacco growers and the coasting traders have any immediate interest in the proposed Breakwater.

But if the Senator will examine the report of the Secretary, and compare the two last with preceding years, the number of tons of shipping and the amount of imports from the West Indies, I think he will come to a different conclusion. It is true our vessels are excluded from the British ports in the West Indies; and it is equal-

ly true that their vessels are excluded from all our ports, coming from the interdicted ports. So far, restriction meets restriction; and so far, I presume, we shall be ready to go with every nation which chooses this course, fearless of loss on our side; while we offer a free trade to every nation on terms of perfect reciprocity. And, sir, if the Senator had been in these same British ports, and witnessed the heavy exactions and humiliating impositions on our trade, and had been compelled to pay for shots fired at his own ship, and knew that we never had been permitted to land our salted provisions or any manufactured articles in her ports; and had not been permitted to take away her more valuable productions, sugar and coffee, he would, I think, cordially unite with me in saying to Great Britain: We ask no favors: we are perfectly satisfied with our present condition: for since the ratification of our treaty with Sweden, and the convention between Sweden and Great Britain, by which Swedish vessels and their cargoes are admitted in the British ports, subject to no higher duties than British vessels, our trade with those colonies, through the island of St. Bartholomew, will be better than it has ever been. We have the long carrying trade, and she is welcome to divide the short with the Swedish drogers, since we are relieved from the heavy charges in her ports.

And since the opening of the French islands and the new free ports in the English islands, by a late order in Council, our trade to the West Indies will be better, and furnish a better market for our produce, particularly provisions, than we have enjoyed since the general peace in Europe, unless the whiskey trade should induce a heavy tax on molasses; for the island of Cuba alone, receives more of our provisions than all Europe. And from Cuba and the French islands, most of the molasses is imported.

I hope some of the friends of the bill will so amend it as not to confine the President to the report of the Engineers, in the construction of the great artificial harbor, when I shall cheerfully vote in its favor—but cannot vote for a harbor for the Navy, or for more fortifications.

Mr. MARKS observed, that as to the shape the bill assumed, he believed it to be immaterial so that the object be accomplished, and whether it be left to the President of the United States or the Secretary of the Treasury to adopt the plan and direct the superintendence, was a matter of indifference. The solicitude felt by the friends of the measure is, that this great improvement should be accomplished in a manner sufficient for the protection of the commerce of the city of Philadelphia and the other ports on the Delaware river.

In the course of the debate on this bill, a variety of objections have been urged against it, and not the least of which is the great expense the Government would be subjected to in erecting a Breakwater at a place so exposed as the mouth of the Delaware Bay.

He was aware that the magnitude of the sum required for the erection of the contemplated Breakwater, may deter some gentlemen from voting for the bill; he did not however, consider the sum to be advanced, as a donation from the Government, although it would be a large expenditure on its part. There would, in the end, be a saving to the country, by the security afforded to the commerce—more ample arguments in favor of the bill could not be formed, than the statements furnished by the Philadelphia Chamber of Commerce; these statements contain the number of shipwrecks, loss, and disasters, within the Bay of Delaware, as well as in its neighbourhood, by vessels being driven into or out thereof by storm or by ice, and which would have been prevented, had there existed a place of shelter at its entrance.

Would any member of the Senate examine this statement and look back at the numerous wrecks which had occurred in the last ten years, they would be satisfied that the loss to the revenue within that period, was more in



MARCH 19, 1828.]

*Delaware Breakwater.*

[SENATE.]

amount than would have completed a harbor that would have afforded complete protection to all the vessels navigating that great outlet to the ocean. We have it from official record, and facts derived from an actual registry, that between the first of January 1824, and the first of December 1825, no less than fifty-one vessels have suffered shipwreck, and all the property on board entirely lost, within ten miles of the contemplated Breakwater. The annual coasting trade to and from ports within the limits of the United States, carried on at Philadelphia by the packets which run regularly only, all of which pass in and out of Delaware Bay, taken for 1827, amounted to twenty-seven millions of dollars. This trade was increasing and it would increase.

But it is not the vessels which are engaged in the coasting trade as well as to all parts of the world, that are to be protected by the proposed harbor. Of the advantages which the Navy would derive from the larger of the proposed works, by one of our Navy officers, who was one of the Board of Engineers that examined the different sites and reported on the practicability and usefulness of the larger and the smaller Breakwaters, and as a better argument than any I can offer, I beg leave to read the letter of Com. Bainbridge to the Secretary of the Navy, on that subject.

Here Mr. M. read the following :

["The small Breakwater, or partial harbor, would not, in the opinion of the Board, afford any protection or shelter to the vessels of the Navy. There is not sufficient depth of water, even for the class of Sloops of War. It could not, therefore, become a place of resort for our vessels either in peace or war.

The large Breakwater in contemplation, may, in many views, be considered as offering important advantages to the vessels of the Navy, cruising along or approaching the coast; if cruising near the Capes of the Delaware, on the appearance of an easterly storm, vessels could, and would no doubt, avail themselves of such a harbor, to ride out the storm in safety, instead of contending with it on the ocean, where great damages, possibly a total loss, might occur. Without such a harbor to bear up for, where they might find protection against the storm, and shelter against the ice, they would continue at sea, and contend with its furies, in preference to contending with the dangers of ice. Hence, it is evident, that in time of peace, the large Breakwater would be of benefit to the vessels of our Navy.

In a state of war, these advantages would be greatly increased; a vessel of our Navy falling in with a superior force, might be saved by retreating to such a harbor, where protection against the enemy, and the wind and ice, would be found. For want of such a harbor, a vessel might be captured or stranded, in an effort to avoid a superior force.

Greatly more important will these advantages appear, when considered in reference to a squadron or fleet of our vessels—such a squadron cruising between New York and the Chesapeake, where an enemy's squadron might also be cruising. Suppose a storm to arise before the two squadrons could meet: ours could find shelter from the storm, while that of the enemy would be completely exposed to it; and when the storm should subside, our squadron would proceed in search of the enemy, who being most probably in a crippled state, would be easily found and easily vanquished.

Again, suppose an enemy's squadron to be cruising between New York and the Chesapeake, and that we have a squadron lying at New York, and another in Hampton Roads, each singly inferior, but when united, equal, or superior to the enemy—a junction becomes important, to enable us to contend with the enemy, and in order to effect it one of these squadrons sails for the port where the other may be riding; on its passage thither, it falls in with

the enemy, and is pursued by them, but has time to arrive at the Great Breakwater, which it enters and is saved by the protection that work affords."]

As to the practicability of completing an artificial harbor, and the usefulness of such a harbor, after it is completed, we can only judge of it by comparing it with works of a similar nature, in other parts of the world. The Board of Engineers who made the survey and took the soundings of the bay, entertain no doubt as to the practicability of completing the work. The late Secretary of the Navy, William Jones, who perhaps understands nautical science as well as any man in the United States, and who himself had visited most of the improved harbors in Europe, and when comparing the situation of Cape Henlopen with that of Plymouth sound, entertains no doubt of the complete success that would attend the undertaking, and the astonishing effect it would produce on the commerce of the City of Philadelphia. William Strickland, who has as much practical information in civil Engineering as any man in the country, and who in a late tour through Europe, had visited many of the improved harbors, that gentleman in his report, compares the bay of Delaware to that of Kingston harbor near Dublin. The Breakwater and harbor of Kingston, he thinks well adapted to the circumstances of the Delaware bay. The situations are very similar, the same difficulties are to be combated in both cases, as the storms which drive into the bay of Dublin are full as violent as those which are known in the Delaware, and a work that has been practically tested in the one case, may be safely resorted to in the other.

An opinion appears to be entertained that the deposits of sand within the walls of the Breakwater would soon fill up the harbor, so as to prevent vessels from approaching its shelter. He apprehended little was to be feared of deposits being made by the flux and reflux of the pure sea water. If such a circumstance was to be apprehended, he thought it would not have escaped the notice of the Engineers who made the examination; indeed it had not escaped the notice of Mr. Strickland, and Mr. Jones, neither of whom entertained any apprehension. On that score, the latter gentleman says, that this evil is not to be apprehended in the case of a complete harbor being made near the pitch of the Capes, as the tides both ebb and flood, run with rapidity parallel to the shore, over the bed of the proposed harbor, which it will sweep clean; but he might say, we have had practical experience on this subject. Some ten or twelve years since, the Legislature of Pennsylvania appropriated 25 or 30,000 dollars to erect piers in the river Delaware, at Chester, for the protection of vessels when the river is obstructed by ice. These piers have stood to the present day, although erected ten or twelve years since. He had never seen them, but had correct information that they run out directly from the main shore, so that they meet the tide in full array, which was not proposed in the plan of the Breakwater, which would be opposed obliquely to the current. He had been informed that no collection of sand had taken place about the piers at Chester, and small as they were, several valuable vessels had been saved from destruction by the shelter they afforded.

He would call the attention of the Senate to the inconsiderable appropriations heretofore made for the protection of the commerce of the city of Philadelphia, when compared with those so liberally extended to her sister States. By a document from the Treasury Department, a statement is made of the nett amount of revenue derived from imports, and tonnage, received by the Treasury from several of the principal ports and bays of the United States; reckoning from the first of January 1790, to the last of December 1825, and the amount of expenditures paid from the Treasury for Forts, Light Houses, Beacons, and other public works, erected to aid commerce, or for the

SENATE.]

*Delaware Breakwater.*

[MARCH 19, 1828.]

purposes of defence within these bays. By this statement we find the revenue from the Bay of

		<i>Expenditure,</i>
Delaware	\$ 80,313,721 06	\$ 835,483 38
Chesapeake bay,	56,963,669 33	3,253,611 69
Harbor of N. York,	144,055,315 08	4,185,481 88
Boston,	64,517,667 72	916,937 16

Mr. President, the average of the annual revenue collected at the port of Philadelphia, amounts to four millions of dollars, and when it is considered, that the one half of the revenue for a single year, would afford full protection to the shipping interest on which these duties are levied, that the same protection would extend its benefits to the coasting trade of the States generally, he did believe the Senate would see the propriety of passing the bill.

There is no line of coast so extensive, and so much navigated as that between the Capes of Virginia and New York, without a harbour to afford shelter to vessels from storms; already millions have been lost, as well as many lives, for want of such a protection as the Breakwater would afford.

Mr. KANE said he had waited under the expectation that some gentleman who had this measure at heart, would move to amend the bill in one particular; gentlemen had so far succeeded in convincing him of the importance of this work, as to have obtained his vote for a large appropriation; but this bill required him to go further and adopt a particular plan, which was the most expensive of any which had been submitted. Two plans had been adverted to, and principally relied on; the one submitted by the Board of Engineers, and the other by Mr. STRICKLAND; the plan of the latter, according to his estimate, would cost less than the one adopted by that bill, by more than a million of dollars. Now, said Mr. K. if I am required to decide upon the excellence of either of these plans, from the weight of character employed in recommending them, I should hesitate to decide upon the relative merits of the Board of Engineers, and of that accomplished Architect and finished Engineer, Mr. Strickland of Philadelphia. I will therefore, said Mr. K. move to strike out of the first section of the bill, so much thereof as confines the Secretary of the Treasury to the particular plan of the Engineers,

Mr. WOODBURY was disposed to believe, that the President would fix either upon the plan proposed by Mr. Strickland or by that recommended by the Board of Engineers. For his part, he thought it would be impolitic to make a temporary Breakwater, because, in that case, though the expense would be considerably less than either of the other plans suggested, yet the benefit to be derived would not correspond even with that, small as it was. He was unwilling to put the responsibility of the selection on the President.

Mr. M'LANE said, so far as he felt an interest in this matter, he was in favor of adopting the amendment of the gentleman from Illinois, (Mr. KANE.) He had no doubt himself, that the President would choose one of the largest plans, as from what little knowledge he (Mr. M'LANE) had of the subject, he was convinced that a partial Breakwater would scarcely afford protection to the craft, or certainly not more than that. The bill went on a more liberal principle—its object was to protect, not only the coasting trade, but the whole commerce of the country, in which the gentleman from Connecticut, (Mr. FOOT,) was more interested than he was. While he was up, he would make one remark in answer to the gentleman on the subject of the enormous cost; the gentleman had said, that after this project was completed, it would take millions for fortifications to defend it. Sir, (said Mr. M'L.) it is very easy to talk of millions, and such a sound might have an imposing effect on the minds of Senators; but if we

bring the gentleman down to the accuracy of absolute calculation, he would then find the error of such an enormous computation. Besides, in time of peace the fortifications spoken of would not be required. The cost estimated for the great Fort Delaware, did not exceed \$600,000, and the Breakwater would not need one half as large a sum as the Delaware. The gentleman seems to think that the present system when completed would need some 60 or 70,000 troops for its defence. If the gentleman, however, had attended to the report of the Engineers, he would have seen, that in time of peace 4,000 only would be necessary, and that even in time of war, it would not require for a full complement, more than 19,000. The fort at the Breakwater could not cost at the outside more than 300,000 dollars.

Mr. FOOT said the gentleman from Delaware might have supposed that he spoke largely with respect to the expense which this system of fortifications would require, but if he would take into consideration the number of militia, &c. necessary to be employed, he would not be found far wrong. By looking at the report of the Engineers of the 7th July, 1821, it appears that the number of troops necessary for the defence of the existing works—under

pay,	67,000	} 120,000
Within call,	53,000	
With the projected works,		60,000

Expenses for defending these points during a campaign of six months, with the existing works, \$16,750,000; with the projected works, \$5,658,000.

So far as this Breakwater could be rendered useful to commerce, it would receive his most hearty support; but he was averse to creating harbors in the ocean, which would require such immense sums to defend them, after made. Such a harbor as would afford a temporary shelter during storms was all that was required, and as far as that was contemplated, this bill should have his support.

Mr. BENTON expressed himself unfriendly to the amendment proposed by the gentleman from Illinois, (Mr. KANE,) because, by its adoption, the plan to be pursued would be undefined, and consequently, the most expensive might be chosen, nay, the expense increased. To his mind, therefore, it rendered the measure more objectionable even than the original bill. Six years ago, he had voted for an appropriation of something less than 30,000 dollars, for this implied object, and he would say that he then did it with pleasure, because he conceived that some improvement was necessary; but it appeared that a Breakwater of so small dimensions was given up, and a bill is now reported of the same modest and unassuming title, that it was years ago; but when he got into the provisions of the bill, it turned out to be of a different character—one going to "create an harbor." This, Mr. President, (said Mr. B.) would be fixing a new era in our legislation, which we might turn to in after years with regret. It would be no less than a meagre attempt to do what nature had not done; it was asking us to try and create for a city, those natural advantages which God or nature had not given, under the hope that they would make up for the decayed state of her commerce. To the city of Philadelphia he had no hostile feelings; on the other hand, he would say, that she was entitled to great credit, and had his sympathy; but that would not furnish the ground on which to come into this Hall, and ask to have natural defects supplied by artificial means, and vainly look to have her harbor made equal to that of New York, whose great advantages as a maritime city were the work of the Deity. He was aware that this great mart had swallowed up nearly the whole commerce of Philadelphia, which she was enabled to do, by her natural advantages—her proximity to the sea, &c. and he regretted for her sake that it was so; but then it was one of those vicissitudes in the history of cities and nations that could not be reached by legislative

MARCH 19, 20, 1828.]

Private Land Titles.—Fixing a Day for Adjournment.

[SENATE.]

interference. He understood that, in her decaying commerce, the enterprise and public spirit of her citizens were displayed, in endeavoring to sustain her by manufactures; and Congress had passed laws in aid of such establishments, and now we are asked to wall her up on two sides—first on manufactures, and then on commerce, and gentlemen tell us, by way of inducement, that she has paid so much into the revenue of the country—that, in his opinion, was no argument; it was not Philadelphia that paid it; it was paid every where throughout the Union; the citizens of Missouri paid their part.

If we once commence this system of creating, (said Mr. B.) where will it end? Would not similar projects be asked for, along the whole coast, and if we attempt to take the work out of the hands of nature, and create an artificial harbor in the sea for Philadelphia, would it be reasonable to refuse like attempts to others when asked? Gentlemen, in their zeal for the passage of this bill, had cited cases in Europe, he believed Plymouth in England, and Cherbourg in France; but these he conceived were merely intended for annoyances to the enemy, and here there could be no analogy between the two countries, we had no enemies on our border, our policy was pacific. In the construction of this project, no idea could be formed of the vast expense likely to be incurred; it was not like building on *terra firma*, but was a work carried on in the open sea, besides which the military appropriation necessary to be kept up to defend it when made, would be an additional source of cost. He was opposed to the whole plan of creating artificial harbors, and if we commenced now, he thought it would be the germ or sprout from which a system would arise that would extend itself throughout the country.

Mr. SMITH, of Md., said that we had already commenced, and had finished some harbors rendered necessary for protection of our shipping, where nature had not been propitious; and instanced Buffalo, Presqu' ile, and others. The gentleman asks, said Mr. S., where this system is to end: in reply, he could tell him where there was no longer a necessity for these artificial aids. Mr. S. descanted upon the utility of this measure to an extended coast, where the shipping interest of so large a portion of the Union was vitally interested.

Mr. WOODBURY said, that, as to the words artificial harbor, if they were offensive to the gentleman from Missouri, he should have no objections to striking them out, and inserting "breakwater" in their place. Any thing that breaks the water, said Mr. W., is an artificial harbor. The terms in this case are synonymous; and all that was intended, was to erect a breakwater. Whether its form be that of a harbor or not, is immaterial. As to doing what God or Nature had not done, it appeared to be of little force against the project. The same thing was done in every work, for safety or convenience, where Nature offers obstructions. It would apply to the erection of light houses, the excavation of canals, and the construction of roads. So it might be said, that the appropriation for the removal of snags and sawyers from the Mississippi, were doing what God or Nature had not done. It was so in relation to the bill for the improvement of the Muscle Shoals. Indeed, it would apply to every appropriation for improvement. So far as the supposition went, that this is the commencement of a plan, he would refer to an act passed during the administration of Mr. Jefferson, for the construction of a pier in the harbor of Bridgewater, in Connecticut. This was a breakwater, constructed twenty years ago, and the construction of such works had been continued ever since. One had been made in New York, another in New Hampshire—and had proved of great utility. In 1823 a bill passed for the removal of obstructions from the harbor of Boston—in 1827, for the removing snags and sawyers from the Ohio, for deepening the channel of Pascagoula

river, for improving the navigation of Appalachicola. Nor was the system confined to the seaboard, but had extended into the interior. Oswego, Buffalo, and Saco river, in Maine, might be mentioned, with many others—and a proposition to improve the Pass au Heron was now before Congress. All these were works which God, or Nature, had not done. These works were, therefore, not now to be commenced. Similar appropriations had been made whenever the improvement was practicable, or the Government were able to apply the money to such purposes. He did not consider that there was any charm in the term "artificial harbor," and was willing that it should be struck out. He would again repeat, that it was not probable the President would chuse the partial breakwater; but that the plan of Mr. Strickland would be fixed upon, which was nearly a million under that which the committee had selected.

Mr. CHANDLER wished to know if there was no point at which they should be able to stop in this system. He objected to the amendment. It left the whole question out of the discretion of Congress. He did not think the information upon the subject so full as it ought to be. But, when the work was once began, they must go on, cost what it might.

Mr. WOODBURY offered a modification of the amendment, which, having been accepted by Mr. KANE, the amendment was agreed to—and the question being taken on engrossing the bill, was decided in the affirmative, by the following vote:

YEAS—Messrs. Barnard, Barton, Bateman, Bell, Bouligny, Dickerson, Eston, Foot, Harrison, Hendricks, Johnston, of Louisiana, Kane, Knight, M'Lane, Marks, Noble, Parris, Robbins, Ruggles, Silsbee, Smith, of Maryland, Webster, Willey, Woodbury.—24.

NAYS—Messrs. Benton, Berrien, Branch, Chandler, Cobb, Hayne, Johnson, of Kentucky, King, M'Kinley, Macon, Rowan, Seymour, Smith, of S. C. Tazewell, Thomas, Tyler, White.—17.

#### PRIVATE LAND TITLES.

The unfinished business of yesterday was taken up, being the bill to provide for the trial of private land claims in the several States and Territories.

Mr. KING observed, that he should to-morrow report, from the Committee on Public Lands, a bill for the relief of Elihu Hall Bay, and others, and, as the claims of these individuals were those contemplated by the amendment proposed by the Senator from South Carolina, [Mr. HAYNE,] he would suggest to the gentleman the propriety of withdrawing his amendment.

Mr. HAYNE observing that he had no desire to obstruct the progress of the bill, withdrew the amendment submitted by him yesterday.

Mr. JOHNSTON, of Louisiana, then moved to add to the fourth section, the words "except the States of "Mississippi and Louisiana," so as to exempt those States from the operation of the bill.

Mr. BARTON moved to amend the amendment by adding the words "and Missouri," extending the same exemption to that State.

Messrs. JOHNSTON, of Louisiana, and BARTON, severally supported their amendments.

Messrs. BERRIEN and SMITH, of S. C. opposed the adoption of these amendments at considerable length; and Mr. JOHNSTON, of Louisiana, rejoined.

THURSDAY, MARCH 20, 1828.

#### FIXING A DAY FOR ADJOURNMENT.

Mr. BRANCH moved to take up the resolution submitted sometime since by Mr. JOHNSON, of Ky., fixing a time for adjourning *sine die*.

Mr. NOBLE hoped the motion would not prevail. There was a great mass of business which had not yet

SENATE.]

*Fixing a Day for Adjournment.*

[MARCH 20, 1828.]

been acted upon. He believed the Ocratock improvement had not yet been considered; neither had he got his road in Indiana yet. He therefore hoped they should remain in session until these matters were settled.

Mr. JOHNSON, of Kentucky, thought a time ought to be fixed upon when Congress should adjourn, as business was always despatched much more promptly when it was to be done within a given period. It would be better for the nation if a day were fixed upon.

Mr. BRANCH supported his motion by a few remarks.

Mr. HARRISON said that he was opposed to fixing the time of adjournment. He wished to have it in his power, during this session, to vote in favor of a plan of improvement for the gentleman's State, (North Carolina,) and to show him that he was desirous to extend the benefits of internal or external improvement to every part of the Union where it was needed. He saw no landmark, by which they should be guided, in fixing on a period for adjourning. It was unnecessary, as it would be inexpedient, to appoint a day, and be obliged, when it arrived, to remove it to a more distant period. He saw nothing to go by but a large docket, daily increasing, which, he thought, should, in one way or another, be disposed of.

Mr. DICKERSON said he was anxious to adjourn and go home; but he was also desirous that Congress should despatch the business which the People expects from them. He thought a motion of this kind ought to originate in the other House. The Senate could transact, in a very short time, business which would require a long discussion in the other House, where most of it was originated. If the Senate passed the resolution, it would go to the other House, where it would lie on the table, and delay acting upon it as long as they saw fit: whereas, if it came from the other House to the Senate, they could, if they pleased, concur in it at once. He expressed surprise that this body should be anxious to pass this resolution in advance, without knowing what business would come before them, or how soon it could be despatched. The House of Representatives had, at this moment, a bill before them, in which a great portion of the country was deeply interested. He stood here to pass that bill, should it come from the other House; and, on this ground, he hoped the resolution would be rejected. He recollected, in 1823, when the Tariff Bill was under discussion, there were a number of gentlemen in the Senate who were very anxious to get away—a similar resolution had been passed; and the bill was lost because there was not time to act upon it. At that time, the yeas and nays were taken, to show who was, and who was not, in favour of spending the People's money. We have, said Mr. D., no previous question in this body; and, although they have, in the other House, they seldom make use of it, but go on regularly, making a speech a day, upon the bill before them. The Senate must wait their motion. Until that important measure was so far progressed in as to show a prospect of a decision upon it, he should not be in favor of fixing upon a time for adjournment. He came from a part of the country which was deeply interested in that measure; and he was free to say, that this was his motive in opposing this motion until there was some prospect of its either being passed or rejected. When that time came, he should be willing to talk of adjourning: for he was always ready to go home when the business did not require their stay.

Mr. BRANCH replied to Messrs. DICKERSON and HARRISON.

Mr. NOBLE said, that he was perfectly willing that the channel desired by the People of North Carolina should be cut, and that they should be set afloat. And if they would wait patiently, as far as depended on Indiana, they should have their wishes. He thought they had better go on harmoniously to do the business before the Senate, and let the resolution lay quietly on the table.

Mr. HARRISON observed, in reply to some remarks from Mr. BRANCH, that he had never imagined that this session of Congress would pass away without some provision for the object which seemed to be desired by North Carolina. He was not informed upon the project in view; but, if it was a reasonable one, he should do all in his power to advance it. He was not only willing, but desirous, to show that his feelings were not of a sectional kind; and he knew it was the wish of his constituents, that all such objects, where they were very remotely interested, or where they were not interested at all, should be advanced, and carried into effect.

Mr. BRANCH, in a short explanation, expressed full confidence in the liberality of the Senator from Ohio.

Mr. JOHNSON, of Kentucky, objected to the plan of fixing the time of adjournment by the passage or rejection of the tariff. The effect of fixing upon a day would be that of doing ten-times the business that would otherwise be done. He hoped the tariff this year would not be similar to that proposed last session by the gentleman from New Jersey. I stood by that gentleman, said Mr. J., at the time the tariff of 1824 was adopted, and I voted for it. But he voted against that produced last year, and nailed it, like base money, to the counter. He was against it, because it would have a partial operation; and luckily, the 3d of March did come, and laid it on the table. That bill was like a two-edged sword: for it cut two ways; and he thanked God when its progress was stopped by the arrival of the 3d of March. They had never seen the time when the business of the Senate was all disposed of, and they never should see that time, unless they would determine to close their labors at a certain period. The docket had been referred to, and he could assure the Senate that it would be always heavy until some limit was put to the time allowed for acting upon it. He would, if he had his own way, give to the members of Congress a round sum for their services, instead of a "*per diem*:" for members would not labor under the latter as the interests of the country required. He meant no reflections upon any one; but it was *human nature*.

Mr. SMITH, of Maryland, was understood to express a wish that the resolution might lie upon the table; and to say that he considered it too early to fix upon a day for adjournment until the Senate had a further insight into the business before them.

Mr. WEBSTER observed, that far the greater number of bills acted upon by Congress originated in the other House. And when he was a member of that body, it appeared to him, from the great number of bills originating there, that, as a general rule, the motion to fix a time for adjourning had better begin there. He agreed in the suggestion of the gentleman from Kentucky, so far, that if, at an early period of the session, a day could be fixed, it would have a good effect; but he thought no good would result from adopting a resolution to fix upon a day, at so late a period. He believed that, two years since, one hundred private bills were lost in the Senate, because the day was fixed upon for an adjournment. Congress would not sit another day, and many honest men were disappointed and inconvenienced by the circumstance. He entirely agreed with the gentleman from Maryland, that it was too early now to pass any resolution on this head.

Mr. BENTON considered that gentlemen had no right, on this question, to consult their own private feelings. They remained here to transact the public business, and to that alone their attention ought to be turned. Congress, it was well known, as he had said on a late occasion, was the local Legislature for a great part of the country; and bills, in relation to the Public Lands, and the new States, had often been lost because Congress had not time to act upon them. He was willing to do as much towards the furtherance of the business as any one.

MARCH 21, 24, 1828.] *Private Land Titles.—Organization of the Militia.—The Franking Privilege.* [SENATE.]

He was willing to meet early, sit late, and work hard : but he did not think now the time to fix upon a period for adjournment.

The motion of Mr. BRANCH was rejected.

#### PRIVATE LAND TITLES.

The unfinished business of yesterday was then taken up, being a bill to provide for the trial of private land claims in the several States and territories, and the question being put on the modified motion to amend, of Mr. JOHNSTON, of Louisiana, to exclude the States of Louisiana, Mississippi, and Missouri, from the operations of the bill, it was rejected.

The bill having been reported to the Senate, and the amendments, previously made, agreed to,

Mr. JOHNSTON, of Louisiana, renewed his motion to amend, by inserting the words "except the States of Louisiana and Mississippi ;" which was agreed to.

Mr. BARTON renewed the motion made by him yesterday, by adding "and Missouri."

Mr. KING moved to amend the amendment by adding "Alabama."

Mr. COBB hoped it would not be adopted, and that the motion on Mississippi and Louisiana would be reconsidered. It was time to stop this course, if it was ever intended to settle these claims. If the State of Alabama was to be excluded, he should vote against the bill.

Mr. KING did not understand the gentleman, when he said that he objected to leave those States untouched, who did not ask for any assistance. He thought the bill was intended to adjust unsettled claims ; not to unsettle all those claims which had been settled.

Mr. COBB said that he had no such designs as the gentleman supposed. The Board which would be established by this bill would not take up any claims already settled.

Mr. WEBSTER said he rose to ask for information. He was ignorant of the exact merits of the claims. He knew that there were such claims, and they ought to be settled ; but as to the manner, he was not entirely satisfied. He understood that a difficulty arose in the adjudication of some of these claims in Louisiana, from the fact, that the Government having never granted the lands, there exists no adverse claimant. It would appear that they might have been settled by Commissioners. He saw, however, no difficulty in causing suits to be commenced in the Superior Courts of Florida, Louisiana, and Missouri, to be defended in each by the officers of the United States. This course he thought preferable to the reference of these claims to the tribunal contemplated by this bill. He saw difficulties in the bill in its original form ; but, if none but the claims in Florida remained, he thought they ought to be settled by local jurisdiction.

Mr. BERRIEN said, that there were claims proposed to be settled by this bill in Illinois and Arkansas, as well as the other States and Territories that had been named. The committee on Private Land Claims had ordered him to report a general bill for their settlement. Hitherto Commissioners had been authorized to examine and decide upon many of these claims—and a great number of their decisions had been confirmed by Congress. These, it was not designed to touch. There were others that had never been reported upon, and others still, which had been examined and reported on, but had never been decided. From the turn which the discussion of this bill had taken, it appeared that the Senate was not favorable to the passage of a bill so extensive in its operations. And if its provisions were confined to the Territories of Florida and Arkansas, its object would be defeated, and the Committee would not feel authorized to press it before the Senate. If he could not advance the general object which he had in view, then there were claims within his own State for which he should endeavor to make provision, by bring-

ing forward a measure by which the same Commissions established in Missouri might be extended to Florida and Arkansas. He should at an earlier period have made such a proposition ; but knowing that a general bill was in contemplation, he thought it unnecessary.

Mr. WEBSTER suggested to the gentleman from Georgia, whether it would not be better to strike out this bill at once, and introduce a substitute.

Mr. BARTON spoke at considerable length in explanation of the manner in which the grants had been settled in Missouri. They had already a competent tribunal, and would object to coming to Washington for the settlement of the claims. He thought the suggestion of the gentleman from Massachusetts ought to be acted upon.

Mr. BERRIEN then moved a substitute to the bill, which he stated, was formed from a bill for the settlement of claims in Florida, which had sometime since been laid on the table, and the law of Congress by which the trial of claims in Missouri was established. He moved that it lie on the table, and be printed ; which was agreed to.

Mr. BARTON gave notice, that, when the bill came up, he would move to amend it by altering the provision in relation to costs.

FRIDAY, MARCH 21, 1828.

#### ORGANIZATION OF THE MILITIA.

On motion of Mr. CHANDLER, the bill for the organization and discipline of the Militia of the United States was taken up, with the amendment submitted by Mr. HAYNE, some time since, to strike out the 5th, 6th, 7th, 8th, and 9th sections, relating to the classification of the Militia.

Mr. CHANDLER opposed the amendment.

Mr. HAYNE repeated the views offered by him on a former occasion, and pressed his objections to the classification proposed by the bill.

A brief conversation took place between Messrs. NOBLE and CHANDLER, when, on motion of the former, the bill and amendment were ordered to lie on the table.

Mr. NOBLE then offered a bill, which he gave notice that he would hereafter move to substitute for the present bill.

The bill from the House, to authorize the Speaker of the House of Representatives to frank letters and packages, was read a second time, was briefly discussed by Messrs. WEBSTER, JOHNSON, of Kentucky, CHANDLER, BELT, VAN BUREN, and TYLER, ; and was, on motion of the latter, ordered to lie on the table.

MONDAY, MARCH 24, 1828.

#### THE FRANKING PRIVILEGE.

The joint resolution from the other House, granting to the Speaker of the House of Representatives the privilege of franking letters and packages, was then taken up.

Mr. JOHNSON, of Ky. moved to amend the resolution by striking out the original resolution, and inserting the following:

"That the Speaker of the House of Representatives shall exercise and enjoy the same privilege of franking letters and papers, as is by law granted to the Vice President of the United States, and that the privilege of franking letters and papers, exercised and enjoyed by members of Congress, within the limit now established by law, shall exist, and may be exercised by them, at any time while they continue to be members."

Mr. JOHNSON supported his amendment at considerable length. He considered that the privilege of franking ought to be allowed to the members of Congress to the fullest extent. Much had been said of the privileges of members of Congress, but he thought them little better than beasts of burthen. They were separated from their families, their business, and their friends ; their privilege

of farming, of doctoring, and of lawyering, was destroyed by their Congressional duties. It was said that the franking privilege extended only to documents, but, he did not think so, by the present law. He thought it hard that they should be prevented from sending little presents home to their families. These might be plebeian notions. He owned he was a plebeian, born of plebeian parents, with a plebeian education, and he trusted he always should be a plebeian. He had been censured at home, for voting for the compensation bill. At that same time he also voted for the extension of the franking privilege. But when he came to talk to his constituents, and explained to them that he was in favor of it because it would facilitate communication with them, they fell in with his views, and he believed he had more votes on account of it. He had voted for the compensation bill, to enable members of Congress to carry their heads erect—heads up—and he was not ashamed of the part he had acted. He concluded with some remarks in relation to a penknife which he held in his hand, and which, under circumstances, (which the reporter could not comprehend) expressed his willingness that it should be used against his own bosom.

Mr. RUGGLES thought members of Congress ought to be satisfied with the privileges extended to them. He objected to the amendment offered by the gentleman from Kentucky, who seemed to think that they ought to have the privilege of corresponding with their constituents during the whole year. If sixty days before the session, and sixty days after, were not enough for that gentleman, they were for him, (Mr. R.) He thought that, when a member returned back to the people, he should become one of the people; and he knew no reason why a member of Congress should have the privilege of franking, more than any of his neighbours, during the recess. As to the privilege of sending presents to their wives and children, he did not think it entered into the Congressional duties of the members. The gentleman also supposed that the refusal of this privilege was aristocratical, while he (Mr. R.) viewed this bill as creating an aristocracy in the members of Congress. He was desirous of consulting the interest and feelings of the people, but he thought this resolution would not consult either.

Mr. JOHNSON, of Ky. said he rose to set the gentleman right as to facts. The gentleman's remarks might give color to a prejudice which was abroad among the People, as to the franking system. Mr. J. wished the gentleman to tell him whether the franking privilege had been confined to documents. He was convinced that it had not, and that the law did not so confine it. There was a prejudice abroad, against members of Congress, in relation to this privilege, which the remarks of the gentleman from Ohio would, in his opinion, aggravate. For himself, he always had, and always should, under the present law, frank any thing he pleased whether documents or not.

Mr. MACON observed, that the gentleman from Kentucky and himself had always disagreed on this head. He did not believe it was necessary that any franking privilege should go beyond the present. [Here were some observations in conclusion of Mr. M. which the reporter could not hear.]

The question being then taken on the amendment offered by Mr. JOHNSON, of Ky. it was decided in the negative, 22 to 16.

The question then recurring on ordering the resolution to a third reading,

Mr. TYLER said, that, in some remarks made by him on Friday, he had intimated that the privilege of franking had been assumed heretofore by the Speaker of the House, throughout the year. This he found was not the case, and he retracted that supposition. He had found that it had only been exercised during the sessions.

The present Speaker, who, he believed, had no solicitude upon the matter, had refused to use the privilege to the extent used by the former Speakers, from a belief that the law did not authorize him to do so—and this having come to the knowledge of the Post Office Committee of the other House, they had no difficulty in reporting the resolution now under consideration. By the law, the Vice President was empowered to exercise the franking privilege, while his situation was perfectly analogous to that of the Speaker of the other House. It was true that the Vice President was elected to provide for any contingency by which the President of the United States should be taken away; but, in the absence of such a contingency, his duties were in all respects similar to those of the Speaker of the House of Representatives. The principle on which the grant of this privilege was maintained, was, that, when an individual was elevated to a high station, his correspondents were consequently increased; and it became necessary that he should enjoy the right of franking. So fully had this principle been acknowledged, that the privilege of franking was extended to the Ex-Presidents, after they had long ceased to fill any office under the Government. The gentleman who filled the situation of Speaker to the other House, was to be considered a man of high character, and worthy of being entrusted with the same privileges that had formerly been enjoyed by those in the same station. One great reason why the right of franking was necessary to him, was, that he was the organ through which numerous petitions were presented, which would otherwise be a great burthen. He thought that a refusal on the part of the Senate, to extend this privilege to the Speaker of the House, would be a breach of etiquette, and destructive of the harmony which ought to exist between the two Houses.

Mr. WEBSTER said he was willing to pass the resolution in any shape that should extend the privilege of franking to the Speaker of the House, as far as it had been before enjoyed. Further he did not wish to go.

Ten or twelve years since, a law was passed which allowed the Speaker to frank packages, without regard to the weight—which remained until three years since, when an act was passed, which was now supposed to have repealed the powers of the Speaker in this respect. The resolution now under consideration proposes to restore that power. But is this all which it proposes? No. It is to extend this privilege through the whole year. He knew no reason why the privilege should be so extended in the case of the Speaker, more than in that of any member of Congress. And it appeared to him, that those members who had been for years Chairmen of some of the standing committees, required that privilege equally with the Speaker. He was willing to go so far as to restore the act which was repealed, and no farther. He then moved to substitute the following for the original resolution:

"That during the present, and every subsequent session of Congress, all letters and packets to and from the President of the Senate, *pro tempore*, and the Speaker of the House of Representatives for the time being, shall be received and conveyed by mail, free of postage, under the same restrictions as are provided by law, with respect to letters and packets to and from the Vice President of the United States."

Mr. TAZEWELL had no objection to the amendment, but was opposed to the manner in which it had been brought forward. By the revival of an old law the Speaker of the House had, by accident, been left out of its provisions, in relation to the franking privilege. Owing to this accident, which was not discovered by the Post Office Department, the Speaker had gone on to frank as usual; but, as it turned out, illegally. The present Speaker, on assuming his office, turns to



MARCH 24, 1828.]

*The Franking Privilege.*

[SENATE.]

the law, and finds that he had no power to follow in the steps of his predecessors. It was well known, that, where the Speaker franks once for himself, he does it one hundred times for the members. The attention of the House of Representatives was drawn to the subject, and they were willing to place the Speaker on the same footing as the Vice President occupied in this respect—not, as the gentleman from Massachusetts proposes—to restrain him to the same power as is enjoyed by the members. The difference between the proposition of the resolution and that of the gentleman from Massachusetts, did not seem to him of sufficient importance to authorize the rejection of a proposition for placing the presiding officer of the co-ordinate branch on the same footing with the President of the Senate. It would be a breach of courtesy to refuse to accede to this proposition—a rude and undeserved rebuff, which could not but have a tendency to interrupt the harmony between the two Houses. On these grounds he opposed the amendment offered by the gentleman from Massachusetts.

Mr. WEBSTER said, it was extremely painful for him to be necessitated to say another word. But he thought it extremely unjust to consider the amendment as a rebuff, or as a want of courtesy towards the other House. He had no such meaning in offering the amendment. They had been told that the deprivation, by the last law passed upon the subject of the Speaker, of the privilege of franking, was a mistake, and that it was proposed to re-establish the ancient provisions of the law in that respect. But, by looking at this resolution and the old law, it would be found that this bill did not re-establish the ancient law—on the contrary, it proposed to do much more. He differed with the gentleman from Virginia—and thought the amendment no way indicative of a want of courtesy to the other House, as it merely sought to place the power of the Speaker on its former footing. He had not wished to say another word on the subject, or oppose the wishes of the other House. No man would do more than himself to contribute to the facility of any officer of the Government, in the performance of his duties.

Mr. VAN BUREN expressed himself briefly in opposition to the amendment. He spoke, generally, in so low a tone, that the Reporter cannot undertake to detail his remarks. He was understood to say, that he thought the object to be effected by the amendment of too little importance to authorize an opposition to the wishes of the other House.

Mr. JOHNSTON, of Louisiana, said, he concurred with the gentlemen, that this was too small an affair to engage seriously the attention of the Senate. If the bill was placed on the ground of courtesy, he had nothing to say; but he saw no necessity for the passage of the bill. He was in favor of extending the franking privilege to all the members throughout the year. The privilege, during the time it lasts, is ample. The Speaker, as member of the body, enjoys this privilege. No former Speaker of that House has ever enjoyed the privilege asked in this bill; and what occasion is there now for extending it? The Speaker now exercises all the right which was formerly enjoyed under the law (which was repealed,) of franking every thing of a public character, or on public business. Mr. J. said, we have the right to frank public documents now; and, if a member received papers upon public business, they are in the nature of public documents, and come free. He said the member had only to inform the Postmaster at this place, that the package was of a public character, and the postage was discharged; he had himself received a memorial and documents, to be presented to the Senate, which were charged at eight dollars postage; but, upon giving the information to the Postmaster, it was discharged—that is, the frank extended to it. This was the true construction of the law. No

member ought to enjoy the right of franking beyond two ounces, except in the transmission of public documents, or of papers relating to his public duties. Mr. J. said, he was confident that neither the Speaker, nor any member, paid postage on any papers relating to official business. The limitation on the right of franking, to the official nature of the packets, was very proper, but he thought there ought to be no limitation as to the time it should run throughout the year.

Mr. SMITH, of Maryland, said, that the gentleman from Louisiana was perfectly correct in his statement, as to the privilege of members. He had formerly received a very large document, beyond the weight allowed by the law; and on writing to the Post Master General, stating that it contained a public document, it was franked by him; and he [Mr. SMITH] had done so ever since. He did not see the necessity of passing this act; as he considered that all members of Congress had it in their power to frank as much as their duties required.

Mr. MACON thought the gentleman from Louisiana in error. Members were allowed to frank only to the weight of two ounces. He was willing to give the Speaker the power of franking, while Congress was in session—but no farther.

Mr. HAYNE would trouble the Senate with but a few words. The gentleman from Massachusetts seemed to suppose that the object of this resolution was to re-establish the former law. That gentleman might have means of knowledge, which he [M. H.] did not possess; but he certainly saw nothing in the resolution which admitted such a supposition. He could look for the intentions of the House, to no other source but the resolution itself; and there he found no such intention, as the gentleman had presumed, to exist. It was proposed by the resolution, that the presiding officer of the House of Representatives should have the same privilege of franking letters and packages, as was enjoyed by the Vice President. It might be said, that the office of the Vice President was peculiar, because he was elected to fill the place of the President of the United States, in case of his removal by death; but while he was acting in no other capacity, than that of presiding officer of the Senate, his situation was similar to that of the Speaker of the House of Representatives. In regard to franking for members, their functions had no point of difference. The House believed that the Speaker ought to have the same privilege as the Vice President; and could it be supposed that the House would object, if it were the desire of the Senate to place its President *pro tempore*, on the same footing in this respect? The gentleman from Louisiana puts his objection upon the ground, that the restriction as to weight is not practically observed at all. If it was not, it was certain that it ought to be, if any law was entitled to observance. The gentleman from Massachusetts thinks that it would not be a want of courtesy to send this resolution back to the House. The declaration that such was his opinion, was for him, a disclaimer of any such design. But, said Mr. H. for myself I do think it would be a want of courtesy to refuse to accede to a matter of so little real importance. He said so little importance. It certainly would be so, if adopted; but, if it were rejected, it would be a matter of great importance: because it would tend to interrupt the cordiality with which the two Houses ought to act together.

Mr. CHANDLER said, that, when this subject was brought up on Friday, he was of the opinion that the Speaker of the House ought not to enjoy the privilege of franking throughout the year. But, on further reflection, he could see no reason why the presiding officer of the other House should not enjoy the same extent of privilege granted to the President of the Senate.

Mr. WEBSTER remarked, that he disliked to be misrepresented. He had not presumed that the resolution



SENATE.]

*Relinquishment of School Lands.—Private Land Claims.*

[MARCH 25, 1828.]

from the other House intended a repeal of the former law—but a restoration of the privilege to the Speaker, which he formerly enjoyed. He would remark that although the gentleman from South Carolina had said that the intention of the resolution was to place the Speaker on the same footing as the Vice President, it did not contain one word in relation to the power of the Vice President. The resolution gave an unlimited power to the Speaker through the whole year. His [Mr. W's] wish was to restrict it to the same limits to which it was confined by the former law.

The question was then taken on the amendment offered by Mr. WEBSTER, and negatived, and the resolution was ordered to a third reading.

TUESDAY, MARCH 25, 1828.

## RELINQUISHMENT OF SCHOOL LANDS.

On motion of Mr. KING, the bill to authorize the relinquishment of the 16th section of lands for the use of schools, in the State of Alabama, where they should be found barren and unproductive, was taken up, and having been explained by Mr. KING,

Mr. BARTON opposed the bill, on the ground that a bill had been passed at a former session, allowing the State of Alabama to sell these 16th sections and invest the proceeds in other funds, and that this bill would derange that plan altogether. He thought the Government had done enough in this matter, in allowing the State to sell these lands and invest the proceeds in some productive fund. This was the first application of a State to be allowed to exchange the sections allotted to schools, (whether good or bad,) for other lands which are good, and he thought this the proper time to put a stop to such a system. He should rather adopt the plan of the gentleman from Indiana, however he might differ with him in his Constitutional opinions. He would rather give up the whole of the public lands to the States, than go on, step by step, as Congress would be obliged to do if they began with this bill. The sixteenth section was set apart by Government as a boon which was consistent with its policy to give to the new States, for the encouragement of education.

Mr. KING expressed surprise at the remarks of the gentleman from Missouri; and could not conceive how the grant of the sixteenth section could be considered a boon. The effect of granting this section to the townships had been to accelerate the sale of the contiguous lands. But it was, without a doubt, intended that this boon, as the gentleman called it, should be useful to the towns to which it was given. If the object of the grant had, in many cases, been defeated by the unproductiveness of the lands, he thought nothing could be more just than to allow them to exchange them for those of a better character, although not considered worth the minimum price. In the State of Alabama, there was more sterile land than in any other of the Western States; and, in the townships where the sixteenth section was totally unproductive, schools were more wanted than in the fertile townships, because the large plantations, covering a great extent of land, but with a white population, were situated in the latter, while the poorer class of People settled on the former. Thus, in the poor townships, the population was much larger, and the want of schools greater in proportion. He could not perceive how the gentleman from Missouri had brought the subject of the graduation of the Public Lands to bear upon this question, which had nothing to do with it. He did not think the land system would be in any way interfered with by passing this bill. If other States were similarly situated, they would probably ask for the same privilege. He hoped the gentleman from Missouri would not have influenced the Senate to refuse this request of the State of Alabama, which extended only to those sections

which, by their sterility, defeated the design of the Government in granting them.

Mr. BARTON rose to reply to one point only of the remarks of the gentleman from Alabama. It was, that the fund from which the lands to be given in exchange for the barren sections would not bring the minimum price—which was a favourite idea put forth on all occasions where a grant of public land was wanted. It was an incorrect supposition that all the land which would not bring the minimum price was inferior land. It was not to be supposed that all the lands of the public domain could be sold in market. It could not be done; and the Government might as well suppose that they could cover those lands by their simple *feiz*, as that the whole could be disposed of at the minimum price. And this was the true reason why a minimum price was needed at all. The State of Alabama had no reason to complain if the United States should adhere to the compact. Other States had also found their school lands, in some instances, unproductive; but they had not asked for an exchange.

Mr. McKINLEY said, that there was a great proportion of the land in Alabama which, from its sterility, was entirely useless. Yet those parts of the State which were most barren possessed the most dense population. They needed this provision more than any other portion of the population, because they were generally poor, and not able to obtain the means of educating their children. If this grant of the sixteenth section of land for schools was not to be considered as a lottery, in which blanks and prizes were to be drawn by chance, the land grants for the purposes of education ought not to remain as they were. At present, some derived a benefit from it, and some derived none. The object had in view by the Government, in granting it, was doubtless to extend the benefit of education to every quarter of the country. But, in many instances, this object had entirely failed. The sixteenth section was fixed upon because it was nearest to the centre of the townships, and the quality of those sections was mere matter of chance. That a needy portion of the settlers in any of the States should be exposed in this manner to a chance that the provision made for them should fail altogether, seemed to him very unreasonable. It was also unreasonable to refuse to grant to the People an equality in respect to their school lands, that one township might enjoy the same benefit from the system that was enjoyed by others, unless, as he had said before, the principle of a lottery were adopted. The argument did not apply exclusively to Alabama, but was also applicable to other States. And because Alabama was the first to apply for this privilege, that afforded no reason for its rejection. He apprehended that there was no danger that the bill would make any inroads upon the present land system; while it was an object of great desire to the People of Alabama.

Mr. CHANDLER thought there would be danger in making the exchange, from the precedent which would arise from it. It was never supposed that Congress intended to enter into the minute merits of the matter, and make the grant exactly equal to all the townships. If this privilege was granted to one State, it must be to another. He therefore thought it better that it should remain as it was.

The question being then put on engrossing the bill for a third reading, it was decided in the negative, 22 to 18.

So the bill was rejected.

## PRIVATE LAND CLAIMS.

On motion of Mr. BERRIEN, the bill to provide for the final settlement of private land claims in the several States and Territories, was taken up.

Mr. BERRIEN explained the objects and effects of the substitute offered by him on Thursday last, in place of the original bill, and offered an amendment, the precise purport of which our reporter could not ascertain; which was agreed to.

MARCH 25, 1828.]

*Private Land Claims.*

[SENATE.]

Mr. HAYNE observed, that his colleague (Mr. SMITH, of South Carolina) was not present, and he knew that he was unable to appear in his seat, from indisposition. He also knew that he took an interest in the bill, and would suggest to the Senator from Georgia the postponement of the bill until to-morrow.

Mr. BERRIEN said he would not press the bill on the present occasion, but that the colleague of the Senator from South Carolina, and himself, entirely coincided upon this measure. If the Senator from South Carolina would point out any particular in which he conceived his colleague would disagree with him, in the provisions of the bill, or amendment, he (Mr. B.) would with pleasure postpone it.

Mr. BARTON made some remarks in favour of the bill in its present form. He considered the plan proposed for the settlement of claims in Florida, which was similar to that adopted for Missouri, and which proposed that the Superior Court of the Territory should adjudicate upon them, subject to appeals to the Supreme Court, would lead to a satisfactory adjustment.

Mr. HAYNE asked whether the larger claims were excluded from the provisions of this bill.

Mr. BERRIEN said, that most of the large claims were included in the plan proposed by the bill, and the titles would be settled by the Commission provided for in the bill.

Mr. HAYNE said, that, if such was the design of the bill, he must oppose it. There were some claims which were too large to be subjected to a judicial tribunal. All the Government was bound to do, was to appoint Commissioners to decide upon the titles. He thought they were of too great importance, extending, as in some instances, to upwards of a million of acres, to be finally settled by a judicial tribunal. If the Senator from Georgia would modify his bill, so as to exclude from its provisions these large grants, he should willingly vote for it; but not otherwise.

Mr. BERRIEN remarked, that he was perfectly willing the Senate should decide this question now. He read the proviso in the bill, of which he observed, that he thought it rendered the bill sufficiently guarded. The proposition of the Senator from South Carolina went to limit the tribunal to the decision of the small claims in Florida, and to restrict it from the right which it exercised in Missouri, and prevent the settlement of the large claims. He would ask the Senator from South Carolina if it would be justice to the People of Florida, to grant to them a partial tribunal, curtailed of the powers exercised by it in Missouri? What then was the object of the gentleman's proposition? To appoint Commissioners to consider and report upon the large claims, for the confirmation of Congress. But this had already been done, and Congress had refused to confirm the decisions of the Commissioners. With the security which this bill afforded, providing for an appeal to the Supreme Court of the United States, he thought there could be no good ground for excluding the larger claims. It was reserved for the Supreme Court to correct any errors that might occur in the decisions of the local tribunal. He would repeat the question, whether it would be just to refuse to Florida the same kind of trial, to those claims within her limits, which was granted to Missouri. He would say no more, not believing that it was necessary to occupy the time of the Senate on a matter, which, to him, appeared so plain.

Mr. JOHNSTON, of Louisiana, rose to call the attention of the Senator from South Carolina to the principle which he had laid down. This Government had bound itself by treaties, to confirm the titles of the claimants of these lands, when once fixed. It had bound itself to adjudicate upon those titles. Congress could only surrender the claim of the United States, when the title of the claimants was established; and if Congress refused to do this, it held these claims in suspense, to the great injury of the

individuals concerned. When the country was pledged to regard the rights of those claimants, could it ask them to prosecute their claims: and was it not the duty of the Government to bring the settlement to a speedy issue? In the State which he represented, they had been often refused a settlement. When they were brought up before Congress, they could not decide upon them—yet they would not allow them to be determined by a court of justice, because they were too important. Congress could not form a decision upon them, because the members were ignorant of the laws and customs of the States in which the lands were situated—and was unwilling to submit them to a judicial tribunal because they were of such great value. Thus those claims might be held in suspense forever. The words of the Treaty were that Congress would adjudicate on the titles. Under this agreement, the People of those States did not think, when the United States took possession of the country, that the Government would hold the lands in their own hands, and dispute their titles. It was never anticipated that these titles would be decided upon by a tribunal like this (Congress.) Gentlemen must see the difficulty of deciding upon these questions in Congress, from the ignorance of the members, of the localities and laws of the Territory in which the lands lie, and the difficulty of bringing the facts before Congress. Besides, when these claimants came here, they were loaded with such a cloud of suspicion, and the minds of members were so filled with prejudice, that it was difficult to obtain any decision upon them. He had endeavoured to obtain their settlement, by every method of adjudication; but in vain. The present bill seemed to offer to certain classes of claims a competent tribunal for their settlement. But the Senator from South Carolina says, he is fearful of trusting them to Courts of Justice. What was the reason? It must be that he supposed there was some legal defection in the subject itself. As to the amount, that did not seem to be sufficient reason for the objection. Cases, involving larger amounts, were trusted to the Courts every day—for, although as the gentleman says, the amount of lands is very great, yet the amount of their value was less than was imagined. They consisted of large tracts of unsettled lands, for the improvement of which the States were very anxious—and they were as much interested in their settlement, as the individual claimants. But, upon these subjects, it was impossible that a body of 230 members, like the other House, or even the Senate, could ever understand, thoroughly, a legal title of so much intricacy, as that to these lands was, in many cases. The different claims were to be established by different facts and on different principles. In some cases they were decided by the quantity of land; in some by the location; in some by the time at which they were granted. Several important and intricate questions of local law were presented by them for discussion and settlement, rendering them unfit subjects for the deliberations of Congress. On the other hand the lawyers of those States, in which these questions arise, have had their minds bent upon them for twenty years, and their adjudication would be much more satisfactory in the sections of country in which they arise. A delay of the adjustment of these claims was creating increased embarrassment and confusion, as individuals would settle upon the lands in their present dubious situation, and cause much future annoyance to the rightful owner. He was convinced that, as long as the settlement of these claims depended upon Commissioners, and the deliberations of Congress, the delay would be interminable. He knew no reason why a distinction such as the gentleman from South Carolina contemplated, should be made between the large and the small claims. The small claims, he thought, were grounded upon the same principle as though they amounted to millions. There was another ground upon which this settlement might be ur-

SENATE.]

*Graduation of the Public Lands.*

[MARCH 25, 1828-

ged. Most of the original claimants were dead, and their heirs were minor children, in some instances, with no other property than their claim to land. It was very desirable that they should have a speedy decision. Their fathers had asked for it for twenty years, by every method, by Commissions, by Courts of Justice, by Congress, and yet their claims were undecided. He hoped that this delay would end here; and that the bill might pass.

Mr. VAN BUREN proposed to amend the bill, by striking out the words placing the duty of appeal in the hands of the District Attorney.

Mr. BERRIEN said, that the Senator from New York would perceive, that, by the 6th section, the claims were to be tried by the same tribunal as had been established in Missouri. The District Attorney was directed to transmit to the Attorney General a statement of the facts of each case, and the points of law on which it was decided. The intention was to give to the United States every possible guard; and it was thought that no greater guard could be given than by submitting the points of law to the Attorney General.

Mr. VAN BUREN said that he was not entirely satisfied. The original bill gave the right of appeal, and in some cases made it imperative. He thought the present bill, in its general features, bore promise of being effectual in attaining its object, and he was, therefore, favorable to it. But, he wished that it might be made imperative to refer all cases over a certain amount, say 10,000 acres, to the Supreme Court. He did not wish to delay the bill, and hoped it might now be amended in this manner.

Mr. JOHNSTON, of Louisiana, made a proposition to amend the seventh section, but withdrew it in favour of an amendment offered to the same section, by

Mr. BERRIEN, which makes it the duty of the Attorney of the United States for the District in which suits may be prosecuted, wherever they exceed 1000 acres—in case the decision is adverse to the United States—to make out and transmit the facts in the case, and the points of law on which it was decided, to the Attorney General, and if it should be his opinion that the decision of the Superior Court was erroneous, it shall be his duty to make an appeal to the Supreme Court of the United States; and it shall be the duty of the District Attorney to observe the directions of the Attorney General.

Mr. EATON moved to amend the amendment, by striking out the words "exceeding 1000 acres."

Mr. VAN BUREN observed, that this was a bill of great importance, and one which, he was happy to perceive, the Senate were disposed to act upon. As this subject had already cost the Government more than the advantage which they should ever derive from it, he would move to lay the bill upon the table, that the amendments proposed, and the object of the bill, might be better understood.

His motion was agreed to.

#### GRADUATION OF THE PUBLIC LANDS.

On motion of Mr. BENTON, the bill for the graduation of the prices of Public Lands was taken up; the amendment formerly offered by Mr. HENDRICKS still pending—

Mr. BARTON rose and said: I must be excused, Mr. President, for not changing my opinion of the injurious operation of the proposed measure upon the Public generally, as well as upon my constituents particularly, on account of the array of petitions in favour of the bill, that have been presented, from time to time, to the Senate, with so much pomp and circumstance, during the present session; including the new file of them that has been held in reserve, and so opportunely announced just now when I was about to rise to address you. I have long since determined to discharge what I believe to be

my solemn duty upon this subject, and leave to my constituents the exercise of their right to send another in my place to advocate this measure, should they not be convinced that it ought not to be adopted. I am aware that I have an up-hill task in the beginning. This bill has been for about five years pending before the Senate, and playing before the public imagination, in the Western States, without ever having been brought to a vote. Not one man in ten, of the honest and undesigning part of the community in Missouri, has read, examined, and understood its provisions and operation upon this great interest of the public domain of the Union. All have heard of it; and many have received a general confused idea that some signal advantage to them is proposed by it. They have viewed it as men too often view distant objects and untried schemes, as some great and unprecedented good, without understanding very well what would be their actual value or operation. This bill has had the tendency to introduce new tests in the exercise of the elective franchise in that State; of destroying the distinction between qualification for office and the want of it; between character and integrity and the want of them. It has corrupted the great elective franchise of the State, and, for a time, destroyed its free and salutary exercise. For five years it has hung like an impending guillotine over my neck, and I now call upon you to strike the blow, or take away your apparatus. Let us now have a final vote upon the proposition, and put the public mind at rest upon the subject. This bill contains three principal, though not independent provisions.

First. Under the deceptive title and profession of graduating the prices of lands to their quality, it contains a mere scale of rapid annual depreciation of them, by which near one hundred millions of acres now in market, will run down in three years after the passage of the bill, to the price of twenty-five cents per acre, and all other public lands, hereafter put in market, will undergo the like rapid annual depreciation.

Secondly. After the graduated depreciation shall have been some time in operation, it proposes a restricted and modified plan of donations, in small quantities, to actual settlers; and,

Thirdly. After the two first provisions shall have been satisfied, it proposes a cession of the residue to the States in which it lies. These things are all to be completed within five years.

By the first, or speculating provision, (I call it so in reference to the effect it will unavoidably produce,) by the first provision, near one hundred millions of acres of the public lands now in market, excepting the small pittance that may be needed and purchased by the migrating cultivators of the soil, will be thrown, at the end of three years, into the hands of companies of speculators, who are now waiting to receive them. All other portions of the public lands that may hereafter be put in market, will undergo a like operation. How much land will the cultivators probably need in three years? Let us calculate the future by the past.

In forty years, since the first sales of public lands in New York, in 1787, the whole migrating population of the Union have purchased only about 19 millions of acres, in all the new States and Territories where the United States had the primary disposal of the soil. They did not need half so much for agricultural purposes; but they have appropriated that quantity. If then 40 years, under the great impulses given to the spirit of migration by the war of the revolution, the intervening war with England, all the Indian wars, and the acquisition of Louisiana and Florida, required only 19 millions of acres, how much would three years probably require now, when this whole nation has resolved to free itself from a dependence on Europe for those things which we can make as well at home, and distribute its labor among other branches of

MARCH 23, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

industry, and sources of wealth and independence, as well as agriculture? Probably not more than two millions of acres. And the whole vast excess, after deducting that quantity from the whole quantity in market, might be considered as decided by the passage of this bill, to the companies of capitalists that would soon form, at 25 cents per acre, upon four years credit, as an engine to enslave your posterity in the character of sub-purchasers or tenants. And so of all portions of the public domain to be brought into market hereafter. It would be decidedly preferable to give away the lands to such as would settle them. Gentlemen tell us that land speculation is at an end. That all have failed who engaged in it. But they omit to tell us the reason of that failure. It was because the public land system held a constant check upon them. When, a few years since, companies of capitalists, under the credit system, made such bold strides at a monopoly of the good soil of the country, the single act of the Government in reducing the price, and changing the mode of selling the public lands, dissipated all their prospects, and brought them to sue for relief from their bargains. This bill, if I am capable of foreseeing its effects, will resuscitate the fraternity of land jobbers, and revive the scenes that once threatened one of the worst species of subjugation to the operative portion of our agricultural citizens. The idea of speculation, to an extent injurious to the poorer and middling classes of cultivators, has been treated as a phantom. To show you the true character and dangerous power of this phantom, permit me to read to you an extract from a statement of the former Receiver of the Land Office at Huntsville in Alabama, now among the files of the Senate. He states, "That at the sales of public lands which commenced by proclamation of the President of the United States, on the first Monday in February, in the year 1818, at Huntsville, a formidable company appeared, which had been formed for the purpose of putting down competition amongst attending bidders, and purchasing the most valuable lands at reduced prices, intending to make re-sale and divide the profits of the speculation. It is needless to enter into detail concerning it. Its nature, strength, means and mode of operation, rendered its success inevitable, unless it should, in some manner, be countervailed. Your petitioner was at that time receiver of public moneys for the Huntsville district. Himself, and the other officers of Government, and Superintendants of the sale, were solicited to join the association and participate in the proceeds. They all rejected the proposition, being unwilling to engage in what they viewed as an abuse of the trust to them confided." Thus we have seen this wily spirit of speculation, which has lain in wait for the fruits of the laborer's toil from the beginning, assume a bolder mien, and marching confidently up to the official sanctuaries of the country, attempt to gain them to its purposes by direct corruption. It was defeated, in the end, by that very power which it is now persuading to lay aside its armour under the pretext that it is at peace—may even that it is dead! Sir, I believe not in this feigned death. It is artfully attempting to remove the only real obstacle to its success. I mean the control of the public domain, not by a few, or a part of the owners, but by the whole people of the Union, through their National Legislature. The whole history of your vast tracts of military bounty lands in the west, to which I shall presently advert for another purpose, admonishes us that this death is but feigned, and that this spirit of speculation cannot succeed while we hold the protecting shield of the national land system over our citizens. Adopt any plan by which the lands shall become suddenly private property, in greater quantities than is needed for cultivation, and the proprietors will always find means to rule matters to their own advantage, in the absence of the countervailing powers of the Government

over the subject. If such advantages as were held out in 1818, when lands were selling high, induced such combinations, what may we not expect, should such vast quantities, indeed the greater part of the good lands in our new States and Territories, be thus suddenly put down to 25 cents per acre, without regard to the existing demand for such a supply? Indeed it has become an axiom with political writers, that the owners of the property, especially the real property of the country, will become its governors. It has even become a proverb that all governments are made for the rich: and the results which I have been sketching to your view would go far towards realizing the adage in this country. I will conclude this branch of my subject with an expression of my sincere belief that this measure, if adopted by the Government, will establish in this country one of the most alarming and oppressive landed aristocracies that ever afflicted any. To the second provision of the bill, in favor of actual settlers and cultivators, I am friendly, and will demonstrate that friendship before I sit down, by proposing an amendment to the existing land laws of the United States that will secure to them something better than the miserable refuse, in very restricted quantities, after this colossal scheme of engrossment shall have swept over the land; something more substantial than an invitation to pick up the crumbs after the speculators shall have finished their gorgeous feasts upon the public domain. A judicious plan of donations, of lands that have remained unsold for given periods of time, may be adopted, that would place the agricultural portion of our citizens high above the rank of sub-purchasers or tenants, and pluck up by the roots the whole system of land speculation, by taking away the power, and with it the motive, to make fortunes by re-selling, leasing, or renting, the monopolized soil of the country, and at the same time counteract the bounties offered for the emigration of our citizens, by the neighboring Spanish American and British American Governments upon this continent, and be quite consistent with all the objects to which our national domain can be considered as pledged. As to the third feature of the bill, proposing cessions to the States, I expressed my views on this floor two years ago; and both subsequent reflection, and the concurring opinions of some of the ablest and eldest members of this body, have confirmed me in that opinion. After lowering the price of land from time to time, as circumstances may require, accompanied by some judicious plan of donations when lands have been in market a given term of years, and when all the best may fairly be considered as disposed of, as well for the purposes of meeting our pecuniary obligations, as for the higher purposes to which I have alluded, as the States arrive at such maturity and population as Ohio, for example, now has, let the whole remainder be relinquished to the States in which it lies, and break up our whole establishment of land officers and offices in such States at the same time, without attempting to drain revenue from refuse lands by pursuing them down to twenty-five cents per acre. Such are my general views of this subject; and for the promotion of actual settlers, and the population of our extensive frontiers, I will go as far as the best friend of this bill. But, as this bill proposes a permanent and almost total change in the laws for the disposal of the public domain, it becomes our duty to turn our attention, more in detail, to the subject upon which it is to operate, and see what is, in fact, the situation and importance of this great national interest, our public lands. We all know, in the language of the President in his annual message, that "The acquisition of them, made at the expense of the whole Union, not only in treasure but in blood, marks a right of property in them equally extensive." We all know our very union was based upon the stipulation that the wild lands of the west should be a common property of the people of all the States; and that those subsequently acquired were purchased

SENATE.]

*Graduation of the Public Lands.*

[MARCH 25, 1828.]

with the common treasure. The gentleman from Illinois, (Mr. KANE,) who addressed you a few days ago, undertook to show that in the acquisition and disposal of the public lands we had made a losing bargain; and that the proceeds of the sales had not yet defrayed the original cost. A remark of the President in his message was adverted to and commented on by the gentleman. The President has hitherto recommended, in pursuance of the policy of his predecessors, the redemption of our national pledges of the public lands for the payment of our debts, and the application of the residue to the great purposes of improving the country we inhabit. He has, in no instance, pointed to that vast fund, the public domain, as a bribe to individual cupidity, to influence their votes in the approaching Presidential election; but seems to have resolved first to do his duty, and let popularity follow, if it will. In touching such topics he incidentally mentions, as one reason for discharging our trusts, that we have paid out on account of the public lands thirty-three millions of dollars in money. For the purpose for which he mentioned it, this statement is perfectly fair. But when considering the real original cost, we must remember that there are three millions of that sum chargeable to another account—to the expenses of surveying 188 millions of acres, and selling nineteen millions; leaving thirty millions of dollars as the original cost. For that sum what have we acquired? Including the purchases of Louisiana and Florida, the Mississippi stock, the extinguishment of Indian titles, and all other forms of purchase, we have acquired about 261 millions of acres to which the Indian title is extinct, and about 56 millions still subject to the Indian claim; making about 317 millions of acres, lying within the limits of our organized States and Territories. West and North of our organized governments we have acquired about 750 millions more, subject mostly to the claims of the aboriginals, making, for that sum, the total quantity of upwards of one thousand millions of acres. Of this vast domain, securing to this great people the means of elevating to the proud rank of freeholders the present generation, and their posterity for ages to come, upon easy terms, as our increasing population may demand the soil, we have hitherto sold about nineteen millions of acres, producing in actual receipts into the treasury, up to the 30th June, 1827, \$34,874,488 63, which added to the outstanding land debt, that may be considered secure, as the patent will not issue until the land is paid for, makes the total proceeds about forty millions of dollars, after deducting all relinquished lands and forfeitures, besides twenty odd millions of acres for education, military bounties, and other donations. So that, viewing our public lands in their most cold and uninteresting aspect, as a mere source of pecuniary revenue, we have more than paid the original cost with only nineteen millions of it; leaving the vast excess of 242 millions within our organized governments, to which there is no adverse claim, and 896 millions (about fifty-six within the several States and Territories) mostly subject to the usufructuary claims (for such they are in practice,) of the rapidly expiring tribes of the natives, as clear gain, in the bargaining view of the subject. And here I may remark, that, the single fact that government has put in market, and generally kept there, of late years, about one hundred millions of land, for the people of the west to pick and choose, not only accounts for the proceeds averaging little more than the minimum price, but also stamps a high and dignified refutation upon all accusations of peddling parimony, and grinding tyranny, that have been made, of late years, against the government of the union, in relation to the public lands. Here also I will remark that the only reason why the existing system has not produced a graduation of the price to the quality of the land, ranging from the minimum upwards, according to the occupation, the judgment, or the fancy, of the purchaser, has been that the great quantity in mar-

ket rendered much competition unnecessary. I do not complain of this. It was for the promotion of the new States. But it is a good reason why they should not complain of the General Government. Such is the subject upon which this bill is to operate if it should become a law.

I will proceed now to answer what appear to me to be the most prominent arguments urged against the existing land system of the United States, by the Senators from Missouri, Illinois, and Indiana, to whom I am replying. The good people of the West have been recently let into the secret, that the earth is the gift of God to man, and that it is a violation of their natural and social rights to pursue the miserable policy of the United States in relation to their lands. Did not the grant of the Deity extend to the ocean as well as to the earth? Has not man the same divine right to the free use of the one as of the other? The same right to make a vessel and traverse the ocean, that he has to make a plough and break the earth, in quest of sustenance? Yet we raise, without a murmur, twenty odd millions of annual revenue from the use of the ocean, and about one million from the use of the earth. By the founders of this republic and by their successors, until of late years, there was thought to be a wise propriety and forecast, nay even a necessity, in our complicated and multifarious forms of State and Federal Governments, to resort to every source of indirect and voluntary revenue, for the support of the General Government, to save the people from the grinding operation of a double system of direct taxation for the support of both State and Federal Government. Under our present revenue system, not a cent of the direct taxes paid by the people of the States and Territories, come into the United States Treasury; but they are all expended in the local affairs of their own establishments at home. Besides, those people know, or ought to know, that the whole expenses of our Indian affairs, amounting, in some years, to \$700,000 per ann., little below the annual revenue from lands, are but the consequences of our acquisition of the soil from the natives who were placed here by Divine Providence before us. And can they see no propriety in which a patriotic public should acquiesce without a murmur, in raising a moderate revenue from the sale of lands to meet such demands, and effect such objects? This fund of the public lands is the common property of all, open equally to the acquisition of all, as they may choose to migrate, and carry their means from one State to another. They have acquiesced. Until very recently the public mind in the Western States was as tranquil as the Pacific that lies beyond them, upon this subject. When the law of 1821, for the relief of the purchasers of the public lands, was passed by Congress, there was a general burst of grateful and good feelings among them towards the Government of the Union, for the parental kindness of the act. Universal satisfaction with the existing revenue laws prevailed. Even they whose property had been depreciated by the change of the credit to the cash system, and the reduction of the minimum price, in the sale of lands, without deriving any benefit from the "relief law," breathed not a murmur upon paper: but seemed to view it as a private sacrifice upon the altar of the public good. They would have done so still; but agitators arose, and disturbed the calm of the public tranquility.

We are told now of great popular excitements upon the subject of the public lands. Excitements that have produced instructions to members on this floor to advocate and vote for this specific bill. And how was that excitement gotten up? After several years labor, how was it brought to that height in August 1826, from which it has been ever since subsiding? Let me give you a brief sketch of its rise, progress, and downfall in the State of Missouri, where it originated. The other new States that have caught the mania are but the disciples of Missouri; and as she has reflected herself into reason upon this subject, I hope they will follow her example. Ala-

MARCH 25, 1828.]

Graduation of the Public Lands.

[SENATE.]

hama has already done so, and sent new instructions to her Senators to propose a purchase of the lands within her limits from the Union, upon some reasonable terms.

This excitement sprang originally, as I have thought, from views of personal and political advancement. The most highly wrought pictures of the grinding tyranny, and peddling meanness of the Government, in selling her lands, was circulated among the people. The most exaggerated and erroneous representations of the expensiveness of our land system was made to them. And all the cupidity of man was addressed with the hopes of having the vast fund of the public domain given to the inhabitants of the new States. Just before the August elections in 1826, thousands of pamphlets exhibiting those views were circulated among the people, containing a speech that had been adroitly gotten before them without an opportunity for reply. Every county in the State was deluged with them. They even overflowed upon Illinois and the neighboring States. The thing took like fire in our prairies, and the general cry was for the graduation bill. The artful speculator imagined his prey within his reach, and joined in the cry. The capitalists counted in advance their hundreds per cent. upon the re-sale of engrossed lands, and joined in the cry. The temporising aspirants to office, so numerous in new countries and mixed population, saw in the popular delusion, the road to the Assembly, and joined in the cry. Interest and ambition, knavery and weakness, all joined to swell the praises of the graduation bill. The Government was denounced as a hard-hearted and grinding tyranny. The cutting of a public twig was represented as cause of fine and imprisonment; and the spirit of disaffection was abroad in the land. During the six weeks delusion, pledges were demanded of the candidates for the Assembly in relation to the graduation bill, and the approaching Senatorial election. The Assembly met, thus fettered by promises. Reason, however, had resumed her command; and public spirit had recovered its former tone. The committee in both branches of the Legislature, to whom the subject had been referred, upon the recommendation of the Governor, reported against the measure; and a sensible and laconic report was drawn up and circulated among the people, representing to them their true interest and duties as combined with the interests and rights of the whole people of the Union. The people of Missouri are intelligent, patriotic, and honest, when they have an opportunity to understand the true merits of a proposition. The members of Assembly kept the letter of the promise; but condemned the measure upon which that promise was predicated. This state of things seemed to imply a failure of consideration, and it was thought necessary to do something to break the fall of the measure. Last Summer a direct appeal was made to the people for this purpose. Hundreds of those printed petitions you have seen presented, with all the words and phrases, calculated *ad captandum*, printed in large roman capitals, were prepared in advance, and circulated in every county in the State, and almost every neighborhood and fireside. Runners carried them every where, and the mover of the bill, in riding through the country, distributed them in person. An artifice of a darker complexion was resorted to. The presses in the interest of General Jackson were made to say, that the same party that supported General Jackson for the Presidency supported the graduation bill; that the parties were identified; and this idea was propagated from "Boon's Lick" to Washington city, and reverberated from Washington city upon the West. And I am sorry to see the "signs of the times" in Congress look so much like it. I notice this, sir, because it is, I believe, the first bold and direct attempt, since the foundation of our Government, to bribe the people with their own lands, and point the people of the West to the vast fund of the

public domain as the booty in the event of victory in the Presidential contest. Once get the two ideas associated in the public mind, that the success of a particular candidate will be tantamount to a distribution of the public lands among the Western people, and there will be no accounting for the result. It is a bold, artful, and unparelled attempt at the worst kind of corruption in the Presidential election. The hopes of a few aspirants to cabinet appointment, or foreign missions, could have no such influence upon the votes of their States. But the people of the new States are not to be bribed; and I acquit Gen. Jackson of the charge. He is as far above such means as the present Chief Magistrate has shown himself to be in his honest and patriotic recommendations upon this subject. That artifice originated with men, who stand in more need of General Jackson than he does of them—with men whose object is self elevation. The same object now that it was a few years ago, when they attempted to strip the General's brow of every sprig of laurel he had ever won, and consign his name to infamy; though to be attained by very different means. Then the plan was to rise upon his ruins. Now, to associate their ignoble names with that of the General, and even tackle the frail bark of their shattered reputations and fortunes, to the more triumphant steam-boat of the General's fame, to be towed into port. But, sir, how has the artifice succeeded thus far? Those petitions—I wish that the last file of them had not been presented as a damper upon me just before I was to speak upon this bill—those petitions would, of course, be signed by many good men, who have an opinion of the operation of this bill different from the one I have. But, sir, I hazard nothing in saying, they were signed more generally by the loose trash that floats around every body politic—by the political partisans, the designing, the speculating, the electioneering, the boys, and the inconsiderate, who have all to gain, and nothing to lose. In a word, by the David's men—all that were in distress, all that were dissatisfied at home, and all that were in debt, fled unto the graduation bill, and sought relief upon the spoils of other people's property. And after all the pressing and the artifice, and the facility with which men sign papers that cost them nothing, to what number do they amount, all counted? What is the strength of General Jackson in Missouri, as indicated by the result of this appeal to the people? They amount, counting the recent cargo, to about three thousand four or five hundred! Sir, soon after the last Federal census, we gave in Missouri upwards of 12,000 votes at a Congressional election, when our Representative numbers stood at a little upwards of 62,000. This large proportion of voters is accounted for by the migration of single men, and our freedom of suffrage. We claim double that population now, which would give 24,000 voters upon the same proportion. Put it down, for safety, to 20,000, and how stands the account? Not one-sixth of the voters of the State are in favor of this bill, according to the indication of their sentiments expressed by these petitions. So far as they test the matter, I am representing more than five-sixths of the intelligence and virtue of the State in my uniform opposition to this bill, in its present inadmissible form. In its present form, few, indeed, will be found there or here to support it. The result of this appeal to the people is, however, no test of the strength of General Jackson, with whom the measure has been so artfully connected. It has been perceived by the Senate that the opponents of the present land system of the United States, cannot agree among themselves upon any thing but the denunciation of the existing order of things. They turn reformers, and decry the old regime, but they cannot agree upon any substitute to be offered in its stead. Indeed the mover of the bill cannot agree with himself, for two sessions in succession. In 1826, he announced that "the idea of making revenue" from the sale of land is explo-



SENATE.]

*Graduation of the Public Lands.*

[MARCH 25, 1828.]

ed." "A wider horizon opens before me. Consequences as superior to the accumulation of dollars in the Treasury; consequences even superior to the honor and advantages of paying off the public debt, present themselves to my vision." But, in 1827-8, in his prefatory speech, on asking leave to introduce his bill, he declares it to be a revenue measure, whose ultimate object is to produce the prodigy of a Nation without a debt. The gentleman from Illinois seems perfectly conscious, that this bill may produce injurious speculations, and admits it. In the speech he delivered to the Senate a few days ago, he seemed to be almost orthodox, and had it not been for the instructions of the Legislature of Illinois, I believe he would have been entirely of the true faith. He is in favor of repressing speculators and encouraging actual settlers; and so am I. He is in favor of discharging the trust reposed in us, under the Constitution, with respect to the public lands; and so am I. The gentleman from Indiana, (Gov. HENDRICKS,) takes a bold course of his own, and sets up for himself. And I prefer his plan, decidedly, to the misnamed and mischievous bill now before the Senate. He lays claim to the whole of the public lands lying in Indiana, as belonging of right to the State. His doctrine is, that the act of admitting the new States into the Union, vests them absolutely with the soil within their limits, as inseparable from their sovereignty, under the Federal Constitution, and the laws of Nations. The Constitution briefly provides that "new States may be admitted into this Union," without saying a word about the terms of admission, further than the general provision that a Republican form of government shall be guaranteed to them by the United States. And as if the Federal Convention had intended to preclude cavil, in all future time, upon this subject, in the very same section, and the very next paragraph, they provide that "the Congress shall have power to dispose of, and make all needful rules and regulations respecting the Territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to pre-judge any claims of the United States, or of any particular State." Let gentlemen bear in mind, that it is not the Constitution, but acts of Congress, or rather members of Congress, that talk about the new States being placed upon "equal footing, in all respects whatever, with the original States." A thing that is impracticable, and never has existed yet in any of the new States, as I will presently illustrate more fully. The gentleman quotes M. Vattel's treatise upon the laws of Nations in support of his proposition. Protesting now, as I did twelve months ago, against the authority of M. Vattel, or any other writer upon national law, to interfere in a matter created and regulated by our own peculiar institutions, I insist that that author, as quoted by the gentleman, fully sustains the existing order of things in the United States, upon the subject of the public lands. I have not the book before me, nor any copy of the quotations, but M. Vattel's proposition, as read to us, is, substantially, that the possession and control of the soil are inseparable from the sovereignty and independence of a nation. Agreed, so far as this subject is concerned. That is precisely the case of the United States, in relation to Great Britain, France, Russia, and other wholly independent nations. If we had prosecuted our revolution no further than to promulgate the declaration of independence, still leaving Great Britain the control and management of our soil, we should have been in the situation contemplated by the writer. A situation incompatible with our national independence; although sovereignty over a country may exist without the proprietary right to the soil. M. Vattel's next proposition, quoted by the gentleman, is, that confederacies are compatible with independent sovereignty, and in confederacies the parties confederate may make such voluntary arrangements upon the subject

of their soil as they please. That voluntary arrangement is made in the federal constitution to which the new States have become parties. True, we claim to be somewhat above the distracted and distracting state of a mere confederacy. We look down upon that, as to ground to which we shall never against descend; but if we were still a mere confederacy, the doctrine of M. Vattel is constant enough with our existing arrangements upon this subject. There seems to me to be no subject upon which there is a more prevailing popular error, than that of the sovereignty, or, if you please, the power of the States under our Federal Union. We republicans seem fonder of this word 'sovereignty,' than monarchists and imperialists are; and we use it without mercy. We put in the captions of our State Constitutions that we have established a "Free, Sovereign and Independent Republic," as if we were wholly unconnected and independent in proud and solitary self-existence. When, in fact, there is no such thing, under our Federal Constitution, as such unmeasured and sounding phrases import. Each Government, State and Federal, has a portion of the whole power of the whole people, and ought to be content with the exercise of its legitimate portion. The disposal of the National Domain was not among the powers to be granted to the new States upon their admission; nor is an equal footing, in all respects whatever, in the power of Congress to confer upon them. Indiana is not equal to Pennsylvania in her population and representation in the House of Representatives. The gentleman will tell me that was not contemplated—that the same constitution that provides for the admission of new States, also provides for representation according to numbers. I admit the validity of his answer. And when I tell him that the same constitution which provides for the admission of new States, also provides for the disposal of these public lands, not by the local members, but by the Federal Head of the Union, why does he not admit the validity of my answer?

Again, Indiana is not equal to Pennsylvania in her wealth, taxable property, and available means; and in that respect they are not upon an equal footing. The whole intention of the Federal Convention, and of the Congress that talked about this equal footing, was to confer upon the new States all the kinds and quantities of political power possessed by the old States under the different regulations of the Constitution; and not all the subjects upon which those powers might be exercised—to confer the same potential sovereignty, leaving them to work out their own elevation, as to the subjects upon which to exercise those powers. If the laws of Indiana be infringed, she is not ousted of her jurisdiction, because the whole, instead of a part of the people composing this great body politic, have the property and disposal of the ground on which the infraction happened. Her powers are as complete as if the ground were private property belonging either to American citizens or foreign subjects. I repeat to gentlemen, that all this argument that the proprietary right of the Union to lands in the new States, is incompatible with State sovereignty, as contemplated by the Federal Convention, when pursued to its legitimate conclusion, proves too much, and the reverse of what they desire to establish. The argument may be thus simplified: "State Sovereignty cannot exist in these new regions to the West, until the national lands shall have been disposed of; those lands were not disposed of when Indiana was admitted into the Union; therefore, Indiana was prematurely and unconstitutionally admitted, and the whole proceeding of Congress upon the subject was void!" And thus, Sir, with the gentleman's own propositions, we most syllogistically get clear of this novel demand for all our lands, by turning the claimants out of doors. But this is their argument and not mine. I am disposed to respect the States, and the demand. Make lands as cheap to settlers as you please. Adopt



MARCH 25, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

the Spanish plan of donations, if the public interests require or justify it; but suppose the public lands were ceded absolutely to the States in which they lie. Whose imagination can paint the scenes of confusion and rivalry that must result from establishing in the West a number of independent and contending venders of the public lands? Each State would immediately bid for the migrating population of the Union. The Federal plan, which has resulted in such uniformity and security of titles, could not be sustained by the States; and the scenes of land-litigation of Kentucky and Tennessee, under the defective land-laws of Virginia and North Carolina, would be re-enacted upon the theatre of the West. The States holding the lands would be driven, to avoid rivalry, to form some kind of league or understanding upon the subject. Even the amendment of the gentleman from Indiana, while he contends that the States are the owners of these lands, calls in the aid of the federal head to settle their contests in anticipation. It provides that the States shall not undersell the United States in their Territories—a proposition inconsistent with their absolute ownership of the soil for which he contends. If the States own these lands, Congress has no right to legislate upon the subject.—The gentleman cannot adapt his legislation to his claims without calling in the aid of the Union. He cannot, for instance, confer upon the States the power of treating with the Indians for their lands. Why are we not content with the existing league, or understanding, upon their subject expressed in the Constitution, giving the disposal of this national property to its true owners, all the people of the Union, as represented in Congress? Sir, I have long thought that, if there were no other object to be attained but the uniformity and security of land titles, the provision of the Constitution, giving the disposal of our national domain to the General Government, was a wise one. You are not restricted in the manner of disposing of that domain. Make it as favorable to the citizens of the new States, as our duties towards the whole Union will admit, and I will go with you.

I will now proceed to answer several objections which are urged in common by the friends of the bill and the amendment.

They tell us that the sales of lands have been slow—only nineteen millions of acres in forty years, or rather in thirty years, since the present system has been in active operation; and that, therefore, our policy has been a miserable mistaken one, and the prices of the soil too high. It is true, we have sold but about nineteen millions, averaging but a fraction over the minimum price per acre; but that proves very little for or against the present system. What is the true reason of this result? It was because there were not people enough in the Union in need of lands; nor money enough in America to have purchased up the vast regions of wild lands which we have acquired. The little handful of human beings, scattered along the eastern coast of North America, who achieved our revolution, and set up for themselves on this continent, could not possibly multiply and replenish the earth rapidly enough, to have needed, in so short a time, the vast supply of lands which we have acquired. It is matter of more surprise that they have done so much, than that they have not done more. They could not make men by law or cover the continent with people by a single fiat. They must have time to do such things. They have already pushed forward their progeny to the mouth of the Kansas upon the West, and to the Sabine upon the Southwest. They have extended their borders as rapidly as the interests of either the whole, or any part of the whole, seemed to demand. The reason why the sales have not produced more, was, that the vast supply, of about one hundred millions, kept in market for many years by the Government, besides numerous donations, and several millions of military bounty lands, given for both the revolutionary and late

war, so far exceeded the actual demand for the article, that none would compete, except to a very limited extent, and that mostly in the acquisition of the cotton lands of Alabama. The emigrants to the West found themselves in the situation of Abraham and Lot of old. The whole land lay before them; and strife was unnecessary. In the Kaskaskias district, where the gentleman from Illinois resides, I have understood that the whole District became subject to purchase at the minimum price, because none would compete above that price. I do not object to this; it was for the benefit of that country. I suggest these things to show that the small portion of the common owners who have gone to the West, have no great cause of complaint, on that score. Gentlemen object further, that the proceeds of the lands have come in "driblets." Who would have expected them to have taken any other course? It was the natural order of such things. At the first sales 40 years ago, only a few purchasers were found, and only a handful of money was received. At subsequent periods, both increased, until at length we received a million of dollars per annum of voluntary revenue from that source, for the support of the Union, without the excise-officer, or tax gatherer entering any man's premises. Such things must have a beginning; and all such beginnings are usually small. So you might step across the mountain rivulet, or divert its course with your foot, at its source; but, if you will pursue its meanders into the depth of its valley, it expands into a broad and magnificent river. Again, we are told by these friends of reform, or rather of revolution under the name of reform, that our land system, considered as a source of revenue, is extravagantly expensive as well as unproductive; and the enormous error has been deliberately propagated in the West, that the expenses of the surveys and sales have been 33.13 per cent upon the amount of the proceeds! If this were true, it would be good reason for reforming or amending the laws upon that subject; but no good reason for abandoning, either openly or covertly, the position assigned us by the constitution. But how stands the fact upon this branch of the subject? The whole expenses of selling the 19 millions, heretofore disposed of by sale, including all the regular and incidental expenses of the surveys and sales amount to 8.6-10ths per cent. of the proceeds, as appears by the official reports lying before us, and founded upon actual calculation. An expense as cheap, at least, as that of our revenue from imposts. They also tell us that the land system drains off the money from the West. This objection has often been answered. There was no money in the Western wilds to be drained off; until those wilds drained off the men from the elder States, and the money with them in their pockets. This objection does not become men professing a common interest; inhabiting common country, with the constitutional privilege of residing on whichever side of a State line they please. If the elder States were disposed to be captious with us, they might object that the younger ones drain off, not only their money, but their men, that make the money, and acting upon this narrow policy they might have kept the Western lands out of market, or the Western people out of the Union. Instead of that, I am glad to hear the more moderate friends of these proposed measures acknowledge the liberality and fostering favor of the General Government towards the new States.

The gentleman of Illinois has attacked the Treasury Report of this year, because the Secretary supposes the ease with which lands are acquired in the West, and the vast quantity of them kept in market, of which the people of the Union may pick and choose, operate as a standing encouragement to agricultural pursuits; and draws an inference from these facts, in favor of a correlative encouragement of another branch of national

SENATE.]

*Graduation of the Public Lands.*

[MARCH 25, 1828.]

industry, the great and rising interest of domestic manufactures, in opposition to commercial dependence upon, (not commercial freedom with,) foreign countries. The gentleman's objection must be to the Secretary's inference, and not to the notorious fact that he states. For it is notoriously true, that the abundance and cheapness of our wild lands in market, do operate to encourage and increase the agricultural class of the people of these States, as naturally as the scarcity and dearth of lands in Europe, drive their people to engage in other pursuits, and find out new branches of industry for the support of life. The Secretary might have added, if he had chosen, another standing incentive to agricultural pursuits, and migration to the West. One founded in the nature of man; and not to be either implanted or eradicated by laws. I mean the natural love of liberty and free space in the bosom of man; or, if you please, even his natural propensity to return back to the free and wild state of nature. We are taught that it requires constant exercise to keep mankind up to the sticking point of civilization, and that every intermission of the exertion produces a lapse from the point gained; as it requires a constant application of the oars to drive the bark against the stream, while we have nothing to do but let fall the oars, and we float down again without an effort. As a great general proposition, surely this standing encouragement to agricultural industry does impose a duty to extend a corresponding protection to the mechanical industry of the country, unless, indeed, we are prepared to sit down in abject dependence upon the supply of necessities which foreign and rival nations may deign to afford us, in war as well as in peace. Unless we are content to cover our country with retail shops of European goods, and convert a large portion of our citizens into mere shop boys, and tape-measurers, for Europe to carry on a kind of dependant traffic for the benefit of the European manufacturers and exporters, more exhausting to our country than forty public land systems could be. Every duty imposed on importations from abroad, no matter how moderate that duty may be, operates, unavoidably, to encourage the manufacture of the same kind of articles at home, especially if our own country produce the material of such articles, whatever may have been the motive of the legislator in imposing the duty—whether he said, in his speech, or in the preamble to his bill, that it was for revenue or for protection. The truth is, we are all tariff men; and we are all anti-tariff men. The real point in dispute among us is the degree, the extent to which we may carry encouragement, without too much injury to other great interests, without doing more harm than good. Whether the Secretary would propose too high a rate of duties on foreign articles, to attain the object of a proper encouragement to home industry over foreign, is another question, upon which we may be expected to differ in opinion, as we do upon almost every question of any moment that comes before us. I am not about to ramble, at present into the tariff bill that may be proposed at this session. To that I will answer when called. I only wish to indicate that bill as the true point of attack, if the gentleman from Illinois really intends to overturn the Treasury Report: for the Secretary is invulnerable in his general position, that the existing laws and practice respecting the public lands, do contain a standing encouragement to agricultural pursuits in the United States. And while our Constitution secures to every citizen the right of free migration to, and citizenship in, the new States in the West, the deepening and widening currents of emigration cannot be stopped by any laws that our National Independence may require for the encouragement of home industry—the infant weakness of home industry against the herculean manhood of its European and jealous rival. Free men, with such rights of locomotion ingrafted in the Constitution of their social compact, unlike the fettered subjects of European Monarchs, when pent up in dense

thongs in the old States of this Union, will as naturally and as irresistibly migrate to the new States and Territories, as water will descend an inclined plane, or seek its proper level. Nor is there any disposition manifested to prevent them. Even now there would be no difficulty, I believe, in reducing the price of the public land if gentlemen would be content with a reasonable thing, instead of claiming all, or that which would be worse than all. The military bounty lands have been pressed into the service of the bill before the Senate. Gentlemen who are single owners of the lands are offering hundreds of tracts of them for any thing they can get for them, and are underselling the government; and, hence, they argue that our system is wrong and our minimum price too high. Sir, the history of our military bounty lands in Illinois and Missouri, presents a high and simple eulogy upon the general results of our public land system. Those bounties, though granted from the most patriotic motives, have turned out, as was predicted by some of the most experienced statesmen of the day, to be of no service to the soldiers who fought the battles of the late war. They became the subject of extensive speculations, and have fallen, in large and injurious quantities, into the hands of those men of prey, the land jobbers; and now sit like an incubus upon the bosom of our States. Those prowlers roamed the Union in search of soldiers' claims; and why are they now offering them for any thing they can get for them? One reason is, because the protecting shield of the public land system saved our citizens from the blow aimed at them by the speculators, by rendering it impossible for large land-holders to make fortunes by resales, leases, or otherwise, while the public had so much land at such moderate prices lying all around them. Another reason was, that men doubted the titles of the speculator. For although the original grant to the patentee was as good as any, yet the emigrants fear, that in the long chain of intermediate conveyance, and, in some instances, of a speculative knavery, between the patentee and present holder, some rotten link may be found to turn them off in their old age to begin the world anew, as so often happened in Kentucky and Tennessee. Ask the plain Western farmer why he gave a higher price to Government for his quarter section, when one of equal advantages, lying in sight, beyond a mathematical line, on a river, in the county tract, might have been bought for a fifty dollar horse, or a smaller sum in money? He will, perhaps, tell you that he came from Kentucky or Tennessee, because he lost his land; that he has no higher object in this life than to raise his family respectably, and leave them a sure competency at his death, and that he has no more faith in the direct guaranty of a great and powerful nation both able and willing to secure him in his purchase, than he has in the itinerant speculators in military bounty lands. And in so saying he would express a higher encomium upon the wisdom of the venerable founders of our public land system, than all the Congressional speeches ever made about it; especially if he should add, as such men often do, that he is "a law bidding man," and perfectly willing to contribute his share of the moderate revenue raised from public lands and foreign commerce, rather than come to direct taxes. A third reason for this result of underselling Government has been alluded to by the gentleman from Illinois. The speculators in bounty lands, having failed in their object of making fortunes by resales to the cultivators, find themselves prostrated under the operation of State direct taxation. Every year a tract must be sold if they can find purchasers, to defray the taxes upon the residue. They are in the situation of some gentlemen of the South, who, having the misfortune to own many slaves, are compelled to sell one every year to pay for the food, raiment and taxes of the remainder of the gang. Their offers to undersell the Government is but another form of acknow-

March 25, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

ledging the great and happy truth, that large landholders in the United States cannot succeed in that mode of subjugating man to man, so long as the whole people own, all around them, such vast quantities, within the reach of every industrious man, upon such reasonable terms. Mr. Burke's speech in favor of the sale of the Crown lands in England has been quoted in support of this bill. It is no small tribute of praise to our young Republic, that we are doing with our public lands precisely what Mr. Burke advised should be done with the Crown lands of England: selling them out, without encouraging strenuous competition among our citizens: throwing them into the general circulation of private property, instead of holding them up, and leasing them out as landlords to our own citizens as tenants, as was once done with the Crown lands in England. I will not insult the common sense of my constituents, by attempting to show them the wide distinction there is between our public lands, belonging to the people themselves, and the Crown lands of England, belonging to the King. Nor will I attempt to show them the applicability of Mr. Burke's speech for selling those Crown lands, to the wholly dissimilar subject of our public lands: for I confess I am not able to perceive that myself. The United States have been doing, from the beginning, with our public lands, what Mr. Burke recommended, at a late day, of the Crown lands of England. Our much abused public land system holds an impenetrable axis over the young agriculturist, commencing life without fortune or patronage. Hence, we see that portion of society who live by their wits, and prey upon their species, most active in every effort to prostrate that system, because, while it lasts, their "occupation's gone."

I now submit my amendment, to strike out the original bill, and, in lieu of it—

1. To reduce the price of all lands to one dollar per acre, after the 4th July next; and

2. To allow any person to take a quarter section, after it shall have been in market for five years; and by inhabiting and cultivating it for five successive years, to entitle himself to a patent.

I will vote for this, or for any other project that may be submitted, calculated to increase the number of freehold cultivators of the ground, upon such terms as will prevent injurious speculations, and landed aristocracies; but, with my opinions of the operation of this bill, as it now stands, I cannot vote for it. I deem it a serious obstacle to more reasonable and practicable plans of amendment, and believe, that, by grasping at too much, we shall secure nothing beneficial to the new States.

Mr. KANE said: The deep interest which this proposition has excited in the minds of the people of Illinois, expressed, as it has been, through the Legislature of the State, in the form of instructions to their Representatives on this floor, must furnish an apology for the part I take in this debate. Difficult as may be the undertaking, I will endeavor to confine myself to such considerations as have not been urged by gentlemen who have already discussed, and almost exhausted the argument. Of such consequence has the measure been considered, as to have engaged the earnest attention of the Legislatures of three States of this Union, who concur in approving the precise plan before you, and who look to its adoption with all the anxiety which the prospects of future advancement in population, and in the comforts of life, can excite. Those of us, therefore, who advocate the passage of the bill, will not, I trust, be charged with an attempt rashly to overturn the present system of selling the public lands without sufficient warrant. If we err, our error will be referred to an honest desire faithfully to discharge a duty of obedience to the sovereign will of our constituents, in a matter about which we agree with them most heartily in opinion.

Under circumstances produced by a document upon the table, and to which I shall call your more especial attention hereafter, it will not be improper, before entering upon the consideration of the particular subject before the Senate, to take a rapid review of the acts of this Government which have tended to advance the interests of the people of the new States, and thereby to show that no "bounties" have been awarded in favor of their agricultural pursuits, and that no gratuitous efforts have been made to increase their wealth or their numbers. Besides, suggestions, unfavorable to the modesty of the Representatives of the new States, have been made in more than one place, while pressing so frequently upon the attention of Congress, subjects connected with, and growing out of, the land system of the United States. Such, as that we are unreasonable in our requests; that favors have been dispensed to our constituents with a liberal hand; that we are never to be satisfied; and that one benefit conferred, operates only as an inducement to fresh demands. It is time, sir, that the truth should be more generally understood. It is especially necessary that it should be so far understood, as that this bill may not be prejudiced by false impressions. The care of this Government over the multiplied interests of this extended empire, is witnessed in the general and happy results which have ensued. The claims of a people who deserved something for the enterprise with which they have explored your extensive regions of wilderness, and developed its resources, who expended their toil and blood in the defence of your frontiers, have not been overlooked.

As early as March, 1791, to such as served during the early periods of our history in the militia, you have given 100 acres of land a piece: to such as cultivated and improved your soil within reach of the tomahawk, surrounded by numerous and hostile savages, you have given 400 acres each; and to the head of every family a like quantity. The gross thus given was small, because the people of that description were few in number. It furnished to them a slender remuneration for services which, though voluntarily rendered, were not the less patriotic and useful to the State. At a later period you have given to the people of the new States the right of preference in the purchase of the lands they had improved, at two dollars per acre, leaving to them what you could not in conscience take, the value of their labor. Who will urge that these acts were in the nature of bounties, in favor of the growth and wealth of the new States? Bounties are usually offered to encourage migration, but these have not induced migrations thither, because the persons interested were already there.

Many laws have been passed in relation to the public lands, in which the Representatives from States in which those lands were situated have taken an active and efficient part. It was but natural that they should. But whilst it is admitted that so large and interesting a portion of national property has received the repeated attention of Congress, it is denied that the people of the new States have, in a single instance, received from the Federal authorities any thing in the nature of a mere gratuity, unaccompanied by a corresponding national benefit. If grants have been made for schools, salt works, or seats of State Government, the inducement was found in advantageous equivalents, secured by compact with the Territorial Conventions, and in the certain tendency of the measures pursued, to expedite the sale of other lands, and at enhanced prices. Cessions for canals have been made, but in such a manner as reserved to the nation alternate sections, thereby giving to the half a greater value than the whole would otherwise have possessed. When you have enacted laws to relieve from their ruinous bargains the purchasers of public lands, you have taken care to get back your own, or obtain a just price for that you parted from. It is true, you did not exact the full measure of the con-

SENATE.]

*Graduation of the Public Lands.*

[March 25, 1838.]

tract, but you received as much as the principles of natural justice would sanction, and quite as much as your land was worth without improvement.

I wish not to be understood as asserting that these several laws have had any other than a happy and soothing influence upon the minds and condition of the people to whom they applied. My only object is to disencumber this bill from the prejudice which is so liable to be produced by the so often repeated declarations, that an undue share of favor has been awarded to the new States. To consider the acts referred to in the light of gratuities simply, would be to charge upon Congress direct partiality in legislation, in giving to the few at the expense of the many—a course of conduct wholly inconsistent with the duty of a body selected for the protection of the equal rights of all, and in manifest violation of the Constitution.

Without taking up your time further upon matters not strictly relevant to the important question before the Senate, I will now proceed to lay before you a statement of facts with regard to the sale of public lands, from which I think it must appear that the present system has been, and if persevered in must continue to be, a losing one, considered as a measure of revenue. During the whole continuance of the present plan, under all its modifications, comprising a period of thirty years, out of nearly 139 millions of acres of surveyed lands, you have sold 19 millions for 40 millions of dollars; of which \$1 millions have been paid in cash; the remainder being subject to liquidation under the revival and continuance of the relief laws. We are told by the President in his last annual message, that a sum little short of 33 millions has been paid from the common treasury for that portion of the public lands which had been purchased from France and Spain, and for the extinction of the aboriginal titles. This sum is made up of the purchase money of Louisiana; money paid the State of Georgia and Yazoo scrip; money paid on account of Indian cessions; for surveying, and expenses incidental to the sale of the 19 millions of acres. In this long period of years, then, you have not paid into the Treasury from the public lands the amount of their cost by nearly two millions of dollars. You have a large remaining capital which ought to be so disposed of as at least to reimburse the principal, and pay an interest upon the money advanced. 20 millions of the purchase money this Government borrowed, by selling stocks bearing interest at the rate of five and six per cent. per annum. Sir, the interest upon the sum paid for Louisiana since 1803, exceeds the principal. Charging the public lands with 243,000 dollars of Indian annuities, most of which are perpetual, your yearly net receipts on account of land sales, which may be estimated at one million of dollars, do not pay the interest upon the purchase money of Louisiana alone.

The Senator from Missouri [Mr. BENTON] on a former occasion, showed you that the public lands were a fund for the payment of the public debt, and that, so far, they had paid less than the interest of that debt. But, sir, the present system by which sales are regulated, will appear infinitely more vicious when we come to understand that it has not made good the principal of the debt created on account of lands alone, that more than twenty years interest upon the greater part of the sum paid for them is now due, and that the yearly sum now received upon sales does not equal the yearly interest. The public lands are now a charge upon the public revenue; and without a radical change—such a change as shall expedite sales—will continue to be so to the end of time. Although, to use the language of the President, "The acquisition of them made at the expense of the whole Union, not only in treasure, but in blood, marks a right of property in them equally extensive." Yet, sir, I am not willing that my constituents should bear a portion of a burthen, though

it be in common with others, to sustain a system so profitless in a national point of view, and so immediately injurious to their own growth and happiness.

Is it possible, Mr. President, that this is a mistaken view of the subject? I have spoken of facts—of facts disclosed and verified by printed documents upon your table—and do these not justify the assertion, that the public lands, as a source of revenue merely, have thus far proved worse than nothing? Amongst these documents, there is one which it would be uncandid in me not to notice. It comes from an officer who has received from this Government repeated proofs of confidence and regard. The Secretary of the Treasury, in remarking upon the existing system of selling off the territorial domain of the Union, says, "The system is interwoven beneficially with the highest interests and destiny of the nation;" that "it rests upon foundations both of principles and practice, deep and immovable, foundations not to be uprooted or shaken." Surely this distinguished statesman, while using this strong and beautiful language, lost sight of the Federal revenue, with the management of which he is particularly charged. Sir, he goes further. In the very same document containing this high eulogium of our present land system, he "summons" our "gravest attention" "to the consideration of correlative duties which the existence of such a system in the heart of the State imposes." And what are these "correlative duties?" the giving of additional bounties upon manufactures, one effect of which he declares will be "to lessen, and usefully lessen," the "absorbing force" of this very system, so beneficially interwoven "with the highest interests and destiny of the nation." The amount of all this I understand to be, Mr. President, that the present mode of selling the lands is not to be changed by a repealing or amendatory law, but laws are to be passed upon other subjects which shall secure the employment of more of the surplus labor of the Northeastern and middle States at home, and extinguish, so far as may be, the motives for the purchase and cultivation of your soil: no mind employed in a close scrutiny of this report can escape these conclusions. Whilst then we, who advocate this bill, assert and prove, that, under existing regulations, the nation has lost, and must continue to lose, money upon its lands, the Secretary of the Treasury proposes, with a view of attaining other than revenue objects, to check the sales and diminish the receipts of money from that source.

This brings me to the consideration of the question, whether the Federal Government can rightfully and constitutionally adopt any course, with regard to its lands in any of the States, which shall not be strictly confined to the purposes of revenue. I am not, sir, about going over the ground so often occupied by others, by insisting that the holding of lands by the Federal authorities, within the bosom of the new States, is in violation of their sovereignty, impairing that "equal footing in all respects whatever," secured to them by the terms of their admission into the Union. Whatever consideration such arguments may be entitled to, it is neither my duty nor inclination here to repeat them. My positions are, that the public lands are to be converted into public revenue, either by sales for money, or by such donations to actual cultivators as shall increase the class of consumers of articles paying a duty into the Treasury, or by such donations of parts as shall facilitate the sales of the remainder; and that any other mode of disposition, or any delay in the disposition of them, not essential for revenue, is a breach of solemn compacts; is contrary to the evident intention of the Constitution, and is a high violation of the political rights of the States.

Sir, the cession acts of Virginia and of Georgia, the treaty with France for Louisiana, and with Spain for Florida, all contemplate the admission of the ceded territories and their inhabitants into the Union, with the full benefit of

MARCH 25, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

all the provisions and principles of the Federal Constitution, and with the same privileges of self-government as the then existing States; each of these instruments contains a solemn pledge to that effect. However void of equality may be the condition of the new States compared with the old, as to the rights of dominion over the soil, and of taxation, we must all agree that their political sovereignty ought to be, within their respective limits, equally independent of the Federal Government. Each ought to have the same right to extend its wealth, increase its numbers, and provide for the happiness of its citizens, that other States possess. Over none ought the Federal Government to have the power to enlarge and diminish, at pleasure, the means of advancement and prosperity. Sir, for the sake of the argument, I will admit that the national revenue was a matter of such great moment as necessarily to subject the new States containing national lands to the condition of inequality, resulting from a continuation of the ownership until the lands could be "disposed of" for the benefit of the national Treasury. But it is a breach of all faith, a violation of all the principles of these compacts, a violation of treaties and of the Constitution itself, to continue this condition of inequality for any other purpose, or for any longer time, than is indispensable to a judicious disposition of them. Out of nearly two hundred and sixty millions of acres, to which the Indian title is extinguished, you have "disposed of," in the course of thirty years, about nineteen millions, and in the meantime brought your Treasury further in debt. And what is now the language of men at the head of affairs? The system is immovable. It has operated as a legislative bounty upon agriculture; and means are devised to check the operation of the system, poor as it is, because the new States, if left to cultivate the advantages which God and nature have provided for them, will drain off the surplus population of the old States, and thereby prevent those States from becoming manufacturers, and increasing their capital.

Is there much difference between stopping the sale of lands at once, by a direct act, and adopting measures under the idea of correlative duties professedly for the purpose of discouraging their cultivation and settlement? I am not now addressing to the Senate any objections to the projected tariff, but I wish distinctly to be understood as protesting against the power of this Government so to use the soil within the new States, as to check the march of those States through natural avenues to wealth and consequence. If Providence has assigned to them a better soil, a milder climate, or superior advantages of any sort, has the Constitution conferred upon you the power, directly or indirectly, to control the progress of migration thither, by withholding lands from market, unless the state of the national exchequer manifestly, urgently, and undeniably requires it—(a state of things which can never happen;) or do you hold the right of conferring bounties upon the inhabitants of other States and countries less beneficially endowed by the Creator, to induce them to hire them to remain at home? If additional duties are necessary for the protection of the manufacturing industry of the nation, that is one thing, and I have now nothing to do with that matter. But if no other reason exists for such a measure than the supposed expediency of confining the population of the country to the region east of the Alleghany, you act cruelly and unconstitutionally if you attempt the measure. The natural checks to emigration in all countries are of the most powerful kind. They are "wound in close and intricate folds around the human heart." Attachment to our native soil yields in strength and in ardor only to the love of kindred, connections, and friends. The idea of distant emigration is always accompanied with the apprehension of expense, and with fears arising from the uncertainty of comfort, health, and welfare, in a land of strangers. So powerfully have

such considerations operated in all old countries, as to have retained in them, under a thousand evils, a population rather redundant than deficient. People submit to want, and even to the extremes of poverty, rather than break ties so interesting, or run hazards, imaginary if you choose to call them, so replete with uncertainty and danger. May I be permitted to bring to my aid, in order to quell the apprehensions of the old States, the opinions of a justly celebrated writer—a writer whom you are in the constant habit of consulting whenever questions of political economy are presented? The celebrated Malthus declares, "there are no fears so totally ill-grounded as the 'fears of depopulation from emigration. The *vis inertia* ' of the people in general, and their attachment to their 'homes, are qualities so strong and general, that we 'may rest assured that they will not emigrate unless, 'from political discontents or extreme poverty, they are 'in such a state as will make it as much for the advantage of their country, as of themselves that they should 'go out of it.' This language was applied to the state of things in the old world, and is not completely applicable to emigrations from one State of the Union to another. But it is so far applicable, that no one leaves the East for the West, except with a view to provide additional comforts for himself or his progeny. Is it not unkind, then, to restrain them? They consist of your brothers, your sons, and near connections. They carry with them the recollections of their infancy, still fondly cherishing the remembrances of their native homes. Instead of acting the part of the prodigal son, I will inform the Senator from North Carolina, that they ask you, conformably to your duty, and in the exercise of your clear constitutional authority, to put it into their power, by thickening population around them, to sustain schools and educate your progeny, that if ever (which God forbid) the imbecility of old age shall overtake you, these, your children—your second selves—may know how to value, yes, sir, and how to defend your institutions. They ask you to give them strength that they may rush to your assistance when danger shall threaten you, and surround you with that best fortification—the breasts of grateful and devoted freemen. Will the Senator from North Carolina [Mr. BRANEN] insist upon stopping up every avenue to such results, and by adopting the views of the Secretary of the Treasury, doom the youth and vigor of the country to a state of dependence upon a manufacturing aristocracy? Sir, some of our best citizens have removed from North Carolina. Why did they do so? Because their prospects at home were gloomy. Indeed, we have been informed by a venerable Senator from that State, whose name is always pronounced by his countrymen in that distant region with all the pride and affection which his long and eminent public services entitle him to, that times were never so hard there as the present. Stop up the road to Western emigration, and where will your poor find employment? In manufactories. In those very establishments, the further protection of which you pronounce to be your ruin. What shall I say of the unconstitutionality of an effort on the part of the Federal Government thus to wield the destiny of independent States? In what part of the Constitution do you find such terrible authority? In the power to admit new States into the Union "upon an equal footing with the original States, in all respects whatever," or in your right "to dispose of" the territory and other property of the United States?

If, Mr. President, I have succeeded in establishing the positions, that the control of this Government over the public lands in the several States is limited exclusively to objects of revenue, and that the present system has failed to answer any such purpose, the inquiry is not whether any change shall be made, but what change? what amendments are best calculated so to "dispose of" these lands, as to make them available to the public

SENATE.]

*Graduation of the Public Lands.*

[MARCH 25, 1828.]

Treasury? The obligation of such an amendment is enjoined, not only by the considerations I have urged, but by the pledge given so early as 1790, to the public creditors, to appropriate the proceeds of the sales of lands in the Western Territory, then belonging, or such as might thereafter belong, to the United States, to the discharge of the debts, for the payment whereof the United States were holden. There appear to be but two general modes of disposition in your power to adopt, in order to comply with these high obligations.

1st. Sales for money, at such prices and upon such terms as will raise the largest sums within a reasonable period of time, without a wanton sacrifice of public property.

2d. A system of donations, upon conditions of cultivation and improvement, by which the poorer class of citizens shall become more substantial members of the community, and be thereby enabled to contribute more abundantly to the indirect revenue of the Federal Government.

To either plan, if separately pursued as an entire system, many great and unanswerable objections present themselves. It is only from a combination of the excellencies of both, that a plan may be extracted which it will be safe and wise to adopt.

It appears to me, Mr. President, that the bill before you discloses the principles of such a combination not sufficiently guarded, perhaps, in all its details, but exhibiting the foundations of a system upon which it will be both prudent and profitable to commence the work of reformation. I will not detain the Senate, by repeating what has been said so often by others; every particular provision, its object and tendency, have been discussed, and are well understood. My attention will be directed to the objections which have been urged against the plan, in the hope that, by yielding my assent to such as have force, we may all be brought to agree in such amendments as will make its great and leading features acceptable to all. It has been said by the Chairman of the Committee of Public Lands, whose opinions are always listened to in this body with much respect and attention, that "the plan of graduating the price by the quality of the public lands, however desirable in itself, is now impracticable, if it ever were so;" that "the procession has gone by." His idea appears to be, that the mode of ascertaining the quality "should have been infused into the system, some thirty years ago, at its commencement." That the modes of ascertaining the different rates of the lands should have been prescribed "at the time of the public surveys." Suppose, sir, that you had directed by the law, originally passed for the sale of lands, that your surveyors should note and report the different qualities of surveyed lands, according to any mode that can now be imagined to have been an efficient one, would it have proved successful? Is it in the nature of things that you can by law, or by the reports of official agents, fix upon the saleable quality or price of lands? Before you can do this, you must establish a uniform standard of valuation and quality, which shall be received by all persons interested, as equally just and proper. Yet, we all know that their value varies on account of quality, location, and the purposes for which they can be used. The different value of lands, and perhaps the most essential difference, depends upon the difference of the dispositions of the human race. Some will prefer a tract because it lies in a particular neighborhood, though its soil be not so rich as another which lies more distant. Sir, I might here instance entire settlements made in the State which I have the honor in part to represent, upon this very idea. The county of Union, in that State, contains a class of citizens who are not excelled by any, any where, for industry and correct moral habits, who have settled together in order to enjoy the benefit and comfort of each other's society, and the better to participate in the blessings of their own

religion. Sir, such instances are not uncommon throughout all of the Western States. Some will value a quarter section because it contains a mill seat. Yet, all the world is not composed of millers, or persons able to erect mills. Emigrants from the North want to grow wheat, corn, and flax; those from the South, tobacco, hemp, and cotton. How is it possible, then, that a surveyor should be able to fix upon the saleable value or quality of lands? Sir, the only practicable mode is the one by this bill proposed, to permit purchasers to do that which you cannot prevent them from doing; that is, to be their own judges of the value of that which they purchase. Can it be believed that combinations of individuals will ever be so extensively formed as to induce all men to forego that which they want, in the hope and expectation that by delay they will at a future day acquire it at a cheaper rate? Such was never the practice or disposition of the human race. The saleable value of lands can no more be fixed by this sort of agreement than it can by the estimate of surveyors.

It is again objected, sir, that this bill is to effect a ruinous scheme of speculation, and that great land barons are to grow up under it, because no purchases will be made, of consequence, until the lands shall fall to twenty-five cents the acre. Protesting that this is not a proper subject of inquiry for this Government, who have no right to legislate upon the public lands any further than to turn them into revenue, I am safe in denying that any such result will follow if this bill goes into operation in its present shape. The people in Illinois have had some experience upon this subject. More than three millions of acres have been given, out of the lands in that State, to the soldiers of the late war. Most of these lands have fallen, at a price much below the minimum established by this bill, into the hands of what the Chairman of the Committee of Public Lands calls "land barons;" yet it is a fact that they will sell for a much less price than the lands of the Federal Government. This is owing to the wholesome control which the State Government exercises over lands when they become the property of individuals. Our Legislature has said to these "land barons," we cannot object to your holding as much land as you have money to purchase, but you must contribute to the support of our Government in proportion to the extent of the property you hold in it, and which we are bound to protect. The thousands of acres yearly sold for taxes, shows that the visions of land barons have not and cannot be realized, where the people of a State are true to themselves; and where, too, they act with perfect justice in imposing no higher taxes upon others than upon themselves. But, sir, for the sake of getting this bill through, I will admit the force of this objection, and vote for an amendment, should it be proposed, which shall limit the operation of the graduating principle of this bill to given portions of lands within the several districts, within given periods of time, and confine the right of entry at the minimum of twenty-five cents to actual settlers alone. Surely this course will destroy all hopes of mere speculation. Sir, the Federal Government have the strongest security against an engrossment of the lands by speculators, in the fact that they now own more than 700 millions of acres, without the States and Territories, upon which this bill cannot operate, which they can, by extinguishing the Indian title, at any time bring into the market upon any terms they choose. I have thus, sir, answered the two prominent objections which have been made against this bill; permit me to express to you my views of the general results likely to flow from its passage. A large, troublesome, unproductive national property will be turned into cash upon terms not injurious to the revenue, and within periods of times sufficiently distant from each other to insure sales at fair prices, and by which means the constitutional duties of Congress will be discharged, and your obligations to the public creditors cancelled.



MARCH 25, 26, 1828.]

*Graduation of the Public Lands.—Cumberland Road.*

[SENATE.]

The rights of the States are equalized by dispensing with the means of exercising, on the part of the Federal Government, an unequal share of influence over any.

The public lands will be made the property of individuals, after such mode of distribution as will increase the class of actual cultivators, and an immense region of uncultivated wilderness will be brought into a state of improvement and production, by which the wealth and strength of the nation will be augmented, and the condition of the new States greatly improved.

The poorest citizen of this republic will have it in his power to become an owner of a freehold, the sovereign of soil sufficient to give him comfort at home and respectability amongst his neighbors. He will feel himself exalted into a substantial citizen in the State, and will feel all that added interest in its welfare, which his augmented substance is sure to inspire.

If such are the ends to be accomplished, who can hesitate to give this measure his cordial support? Is the fear that agriculture will be thereby too much encouraged to induce this body to overlook all the considerations which I have suggested? Although not far advanced in years, and certainly young in political life, the time is within my clear recollection when the generally received axiom of the day was, that agriculture and commerce constituted the two pillars upon which the hopes and happiness of this country mainly rested. And the document to which I have alluded, is the first which has met my eye from any high public functionary that has ventured upon the allegation, that "correlative duties" required a check to be placed upon the natural advancement of either. To whatever employment the rising and future generations of this republic may be destined, none will contribute to infuse into them a more general, a more exalted spirit of independence, than the cultivation and ownership of the soil. Other pursuits may be better calculated to heap wealth upon individuals, but none will so equally distribute it amongst the great body of men; none will make more virtuous citizens or sounder patriots. And, without pretending to a gift of prophecy, I will hazard the assertion, that the last spark of the liberties of this nation; if it ever die, will be extinguished amongst the men who till the ground. I do not agree with my friend from Indiana, [Mr. HENDRICKS] that, upon the decision of this question, or his proposed amendment, now or hereafter, depends, in the least degree, the existence of this Union entire and uninterrupted. Do with this measure as your wisdom shall decide. However hard may be the fate of the new States—produced by a disposition to exercise control over nine-tenths of their territory, for purposes unknown to the Constitution—whenever the sun of your liberties shall set, it will sink into the West, unallied by a single effort of the patriotic yeomanry upon your borders to dismember this great and happy confederacy.

After some further conversation between Messrs. WEBSTER and BARTON, on motion of Mr. McKINLEY, The Senate adjourned.

WEDNESDAY, MARCH 26, 1828.

## CUMBERLAND ROAD.

The bill to continue the Cumberland Road was taken up—

Mr. NOBLE observed, that as the amendments were merely verbal, he presumed no objection would be made as to their adoption, provided the Senate decided that the bill should pass. His object however in rising was merely to move to lay the bill on the table. There seemed to be a difference in sentiment between the gentlemen from the Western Country in relation to the Public Lands; and until two subjects now before this body, one being the "Graduation bill," and the other a bill introduced by his colleague, upon which the provisions of this bill are in part

bottomed, he was not disposed to press it. A stipulation had been made between the United States and the State of Indiana, that the U. States were to perform certain acts, to be paid for out of the 2½ per cent. fund, reserved from the sales of the Public Lands; but how can we expect, said he, the obligor to fulfil the contract if the fund is exhausted? How can we expect, asked he, of the Federal Government to fulfil the compact while this bill to graduate the price of Public Lands, to make donations to settlers, and to cede the refuse to the States in which they lie, together with the amendment of his colleagues was pending? He should be placed in a state of embarrassment, to urge it at this time. Much excitement had been produced in his State in relation to the Public Lands. He was as willing as any gentleman, that the State sovereignties should be maintained, but situated as he was at present, he was reduced to the necessity of asking of the Senate to lay the bill on the table—and why so? Let, said he, my colleague dispose of his subject first, and after having given my vote decisively against it, I will take the most proper course with the bill I advocate. When the subject came fairly before the Senate, he thought he could prove, incontrovertibly, that if the measure of his colleague be adopted, the State of Indiana will be placed in a worse situation than under a territorial government and tributary to the United States. He repeated, that he wished the bill to be laid on the table, and that when the measure proposed by his colleague came fairly before the Senate, he should give it his feeble opposition, in order that his sentiments might be spread before the people here.

Mr. HENDRICKS said he had no objection to whatever course the gentleman was pleased to take with the bill, it was his own, proposed and advocated by him—but this was the first time he had ever heard it objected that any proposition made to the Senate stood in the way of a bill that was pending. The proposition he had submitted, said Mr. H. was based on constitutional grounds, and it surely was not his intention ever to submit any proposition to impede the progress of any bill. It seemed strange that any thing of the kind could possibly obstruct the regular business of the Senate. In relation to any excitement which might have existed in Indiana, he was conscious of never having written one single line, or of having said one word calculated to produce it. But he did say that he hoped to see the time when the new States should be restored to the rights of their own soil. He did not believe, however, that any excitement had existed in his State.

Mr. NOBLE said a few words in reply. The bill was not his own, it belonged to the Senate. He did not charge his colleague with having produced any excitement; he only spoke as to the fact of its having existed. His colleague might be right, and he might be wrong—his only wish, however, was, to place his sentiments fairly before the people, which he would do at a proper time. Whenever the proposition of his colleague came before the Senate, he should go back to the act of cession of the State of Virginia, and judge for himself.

The bill was then laid upon the table.

On motion of Mr. WILLIAMS, the bill to provide for the settlement of private land claims in the several States and Territories was taken up; the amendment offered by Mr. BERRIEN, yesterday, still pending.

Mr. VAN BUREN said, that the appeal ought in his opinion to be made imperative in certain cases. In smaller cases it was not important. The law ought to be imperative in such cases on the Attorney General. He had prepared an amendment, which he thought would cover this point and some others satisfactorily. There was now, according to the bill, no person pointed out as the permanent prosecutor for the United States. He thought there should be some individual appointed



SENATE.]

*Graduation of the Public Lands.*

[MARCH 26, 1828.]

to look to the interests of the Government. His amendment, therefore, authorized the President of the United States to appoint a law-agent; or, in certain cases, to appropriate money for the employment of additional counsel. It was not supposed that the District Attorney, in all cases, would feel competent to the defence of the more important cases without advice; although he did not mean to insinuate, that any one of those, to whose hands the prosecution might be entrusted, would not do his duty.

Mr. BERRIEN accepted the amendment offered by Mr. VAN BUREN, as a substitute for that offered by him on Friday.

Mr. HAYNE said, that, as the amendment offered by the gentleman from New York consisted of two distinct propositions, first, in relation to appeals, and secondly, to provide additional compensation for the employment of a law-agent, he would suggest the propriety of dividing the question upon it. He expressed his objection to that part of the bill which included the large grants in the adjudication of judicial tribunals. He thought it was not the policy of the Government that they should be so adjudicated. This had been long his opinion; but he would content himself with stating it to the Senate.

Mr. WEBSTER made some inquiries as to the organization of the courts which would try these cases.

Mr. BERRIEN replied to Messrs. WEBSTER and HAYNE, and supported the bill generally.

Mr. EATON objected particularly to the provision for adjudicating on the larger claims.

Mr. BERRIEN replied to the remarks of Mr. EATON at some length.

The question being then put on the first part of the amendment offered by Mr. VAN BUREN, it was agreed to.

Mr. VAN BUREN moved the division of the second clause of his amendment, so as to take the question first on the appointment of a law-agent, and then on appropriating money for the employment of assistant counsel. Both propositions having been agreed to, the bill was ordered to be engrossed for a third reading.

#### GRADUATION OF THE PUBLIC LANDS.

The unfinished business of yesterday, being the bill for the graduation of the prices of public lands, was then taken up.

Mr. BENTON accompanied the reading of a letter from a Land Agent in Tennessee, with some prefatory remarks. The writer of the letter made some statements of the effect of the system of graduation in that State, and gave a schedule of lands sold under the system, detailing the benefits derived from the plan of graduation, and wishing success to the bill proposed by Mr. B.

Mr. BARTON replied.

Mr. MCKINLEY said—the great interest felt by the people of Alabama in the fate of this subject, made it his duty to offer, to the consideration of the Senate, his views upon the various provisions of the bill, connected with the amendment offered by the gentleman from Indiana. [Mr. HENDRICKS.]

The bill contains, said Mr. McK. what I conceive to be a wise and salutary change in the mode of selling the public lands; and it is proposed by the amendment to confine the operation of the bill to the Territories of the United States, and to cede in full property to the States the public lands within their limits.

Sir, I am fully apprized of the difficulties I have to encounter on this subject. The strong partiality of the Senate for the present system has been too often manifested to leave a doubt on that point, but the difficulty and embarrassment is greatly increased in advocating

the amendment, as I shall endeavour to show that the United States have no constitutional right or claim to the lands in the new States. Here I have to encounter the long pre-conceived opinions of many of the Senators, the influence of an established system, long in practice, and the force of precedent. Under these circumstances it will not be surprising, if some of the doctrines, which duty requires me to advocate, should be regarded by some as wild, visionary, and untenable. Let that be as it may, they are the result of the most mature and deliberate reflection I have been able to give to a subject of so much political and pecuniary importance. I have long entertained the opinion that the United States cannot hold land in any State of the Union, except for the purposes enumerated in the Constitution; and whatever right they had to the soil while the country remained under territorial governments, passed to the States formed over the same territory on their admission into the Union, on an equal footing with the old States.

A slight attention to the history and character of this Government, will satisfy the most sceptical, that the United States did not, as a Government, under the articles of confederation, acquire by conquest from Great Britain, any title to the waste and unappropriated lands (formerly called Crown lands,) lying within the chartered limits of any of the parties to that league or compact. Whatever might have been the opinions or wishes of some of the States upon the subject, it is obvious that it was not the opinion of the Congress of that day, that the United States would (in the event of success attending the war in which they were then engaged,) be entitled to these lands. If such had been the opinion of Congress, why did they pass the resolution of the 15th of September, 1780, asking that as a favor which they might demand as a right? On the contrary, it was then believed that the States would, in virtue of their sovereignty, succeed to all the rights of the crown over these lands, if they succeeded in the establishing their independence. And this doctrine has been fully sustained by the opinions of the Supreme Court of the United States, in the cases of Fletcher and Peck, and Johnston and McIntosh. As the resolution referred to, and the subsequent proceedings under it, form the basis of right now exercised over the public lands by the United States within the new States, it will be proper to examine the resolution, the cession by Virginia to the United States of her waste and unappropriated lands north-west of the Ohio river, the ordinance of Congress of 1787, and the cession by Georgia to the United States in the year 1802. By this resolution Congress requested the States having waste and unappropriated lands in the Western country, to make liberal cessions to the Union; and promised that the lands so ceded should be disposed of for the common benefit of the United States, and be settled and formed into distinct republican States, which States should become members of the Federal Union, and have the same rights of sovereignty, freedom and independence, as the other States. 1 vol. Laws U.S. p. 475.

Virginia, with that spirit of patriotism and liberality which characterizes all her public acts, granted this request, by conveying to the United States all her waste and unappropriated lands Northwest of the Ohio river. But the same patriotism which induced this great sacrifice of interest on the part of Virginia, induced her to secure, as far as practicable, the sovereignty, freedom, and independence of the States thus to be created. And, therefore, in the act of the Virginia Legislature and the deed of cession, the grant is made upon this express condition: "That is to say, upon this condition, that the territory so ceded shall be laid out and formed into States containing a suitable extent of Territory; not less than one hundred, nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit; and that the States so

MARCH 26, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

formed shall be distinct republican States, and admitted members of the federal Union, having the same rights of sovereignty, freedom and independence, as the other States." After the execution of this deed of cession, Congress thought proper, on the 13th of July, 1787, to pass an ordinance for the Government of the territory Northwest of the Ohio, in which the terms and conditions expressed in the deed of cession are essentially altered, and the following restricted terms for the admission of these new States into the Union, are enacted. "The legislatures of these districts or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchaser. No tax shall be imposed on the land, the property of the United States." "The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and for ever free, as well to the inhabitants of said Territories as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor." By this article of the ordinance, Congress violated the compact with Virginia. The conditions contained in the act of the legislature and deed of cession, are entirely disregarded; and new, contradictory conditions imposed upon the people of the Territory. Sir, Congress had no power to change or alter these conditions, not even with the consent of Virginia; because they were made for the benefit of the people who were to become citizens of these new States. Those who had purchased land from the United States, and settled there under this compact, and for whose government this ordinance was intended, had a vested right in those conditions; which could not be divested by one, or both of the original parties to the compact. Therefore, that portion of the ordinance was wholly void and inoperative, which changed the conditions of admission.

Sir, I have already shown that all the States of the Union, at the close of the war, became sovereign and independent; and, in virtue of their sovereignty, were entitled to all the waste and unappropriated lands within their limits. I have shown that this was the opinion of the old Congress: that it is the opinion of the Supreme Court. It follows, then, as a necessary conclusion, that some of the rights of sovereignty to which the old States were entitled, the new States have been deprived of, by extending the restricted conditions of the ordinance of 1787 to their admission.

All the writers on public law, the ablest jurists of ancient and modern times, agree that sovereignty is necessarily and inseparably connected with the territory and right of soil over which it is exercised. So essential is this right, that sovereignty cannot exist without it Vattel, 165—112—99. By the conditions on which the new States were admitted into the Union, they have been deprived of the right of disposing of, or in any manner interfering with the disposition of the public land, or any regulations that Congress may choose to make for securing to the purchasers any title it might choose to grant; they have been deprived of the right of taxing the lands belonging to the United States, for any length of time they may choose to withhold it from sale; they have been deprived, for ever, of the right of collecting tolls upon their own navigable waters, although they may improve their navigation at their own expense, and of the right of charging tolls for turnpike roads, which they may make between those waters. Under these circumstances, can any one say that the new States have the same rights of sovereignty, freedom, and independence, as the old?

Sir, the creation of a sovereign State over this territory

with the consent of Congress, was of itself a transfer of the whole title to the land, and right of domain of the United States to the new States. If it would not have had that effect, why annex these restrictions upon their sovereignty to the acts of admission? The very necessity which induced the United States to pass the ordinance of 1787, and the subsequent acts extending its conditions to other States admitted into the Union, proves that, without these restrictions, the new States would have been entitled to all the land within their limits, and all other rights of eminent domain. I have shown that the ordinance of 1787, was a violation of the compact with Virginia. I will now endeavor to show that the ordinance was repealed and superseded by the constitution of the United States, even if it had been consistent with the compact with Virginia, and valid under the articles of confederation.

Before any of these new States were organized, or admitted into the Union, a new era in the political history of the United States occurred. The articles of confederation were found to be wholly incompetent to effect the national purposes for which they were designed; and it became necessary to new model the General and State Governments. The Constitution of the United States was formed in 1787, and adopted by the requisite number of States in 1788. By this Constitution, the States conferred upon the Government of the United States all the national, and as much of the municipal sovereignty, as they deemed necessary for the great purposes of foreign intercourse and national defence. The residue of the municipal sovereignty was, by the 10th article of the amendments to the Constitution, reserved to the States, or to the people. The States, fearing what might be, and now is, called a liberal construction of the new Constitution, might, by the influence of implication, result in a consolidated, instead of a confederated Government, suggested and carried this, among other amendments. By this amendment it is expressly declared, that "The powers not delegated to the United States, by this Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." This provision plainly fixes the boundaries of National and State power: where one ends the other begins; and when taken in connexion with the powers granted to the United States, and those prohibited to the States, furnishes an unerring rule of construction of the whole instrument; which, if adhered to, will for ever keep the Federal and State Governments within their proper orbits; and the exercise of power by either, within its legitimate channels. It is impossible to avoid error of construction if the Constitution of the United States be regarded (as it most frequently is, by American statesmen,) as furnishing the whole fundamental law governing the action of the Federal Government. The Constitutions of the several States form as much a part of the great code of constitutional law, as the Constitution of the United States. The latter is but an emanation of the former, and depends essentially for the character, extent, and exercise of its powers, upon a correct understanding of the powers reserved to the States. The States intended to grant no power to the United States, that they could exercise, separately, themselves. The creation of this Government was the result of necessity, and not of choice. There was no municipal power that the States could not exercise; and therefore it was not necessary to confer upon the United States any such power, except so far as it became absolutely necessary for the exercise of national power. If this view of the subject be correct, we must agree that the United States have no power to hold land in any of the States, to restrain the States from taxing the land, from controlling the navigable waters and public highways within their jurisdictions, unless such power is expressly granted by the Constitution. The only grant of power upon this sub-

SENATE.]

Graduation of the Public Lands.

[MARCH 26, 1828.]

ject, is to be found in the enumeration of the powers of Congress, in the 8th section of the 1st article, in these words: "Congress shall have power to exercise exclusive legislation, in all cases whatsoever, over such district, (not, exceeding ten miles square,) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States; and to exercise like authority over all places purchased by consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings." So much municipal sovereignty over the soil within the States, and no more, was deemed necessary for national purposes; and thus far, it has been found amply sufficient. The power to purchase land for the erection of "other needful buildings," than those specified, authorizes the purchase of land for navy yards, custom houses, court houses, jails, &c. Here, the whole power of Congress to hold land within a State of the Union, or to make compacts with a State for land, ends; and here, also, terminates the exclusive legislative powers of Congress over land within the States; unless these powers can be derived from the power granted to Congress to admit new States into the Union. That is a simple and unconditional grant, in these words: "New States may be admitted by the Congress, into the Union." In the same section, Congress is restrained from erecting a new State within the jurisdiction of any other State, or forming a State by the junction of two or more States, without the consent of the legislatures of the State concerned, as well as Congress. If the Constitution is to be confined in its operation to its plain and obvious meaning; if to infer powers not granted, would be an illegal accretion of power to the United States, and an encroachment upon the reserved rights and municipal sovereignty of the States; then Congress have no right to annex any condition whatever to the admission of the new States into the Union, and such conditions are unconstitutional and void.

Sir, suppose it were within the competency of Congress and the States to enter into compacts, could they enter into such as would abridge the sovereignty of the States, and confer upon the United States the sovereignty thus surrendered? Vattel, in discussing this question, as between nations, says: "A nation ought to preserve itself, it ought preserve all its members, it cannot abandon them; and it is under an engagement to support them in their rank as members of the nation. It has not a right, then, to traffic with their rank and liberty, on account of any advantage it may expect to derive from such a negotiation. They have joined the society for the purpose of being members of it; they submit to the authority of the State, for the purpose of promoting, in concert, their common welfare and safety, and not of being at its disposal, like a farm or a herd of cattle."—Page 118. Again, 194, he says: "A treaty pernicious to the State, is null, and not at all obligatory, as no conductor of a nation has the power to enter into engagements to do such things as are capable of destroying the State for whose safety the government is entrusted to him. The nation being necessarily obliged to perform every thing required for its preservation and safety, cannot enter into engagements contrary to its indispensable obligations. In the year 1506, the States General of the kingdom of France assembled at Tours, engaged Louis XII. to break the treaty he had concluded with the emperor Maximilian, and the archduke Philip, his son, because that treaty was pernicious to the kingdom. They also decided that neither the treaty nor the oath that had accompanied it, could be binding on the king, who had no right to alienate the property of the crown." High and respectable as this authority is, I will call the attention of the Senate to one still higher, the obligations of which operate directly upon our legislative power; it is the Constitution itself.

By the 10th section of the 1st article of which, the States are expressly prohibited from entering "into any treaty, alliance, or confederation," whatever. Every compact between sovereign States is a treaty. "A treaty, in Latin, *foedus*, is a compact made with a view to the public welfare, by the superior power, either for perpetuity or for a considerable time."—Vattel, 192. "As a State that has put herself under the protection of another, has not, on that account, forfeited her character of sovereignty, she may make treaties and contract alliances, unless she has in the treaty of protection expressly renounced that right. But she continues forever after bound by this treaty of protection, so that she cannot enter into any engagements contrary to it."

Sir, a just application of these principles of the law of nations, taken in connexion with the prohibition on the States to enter into "any treaty," proves that the States of this Union have no power to enter into any compact with the United States, and much less with Congress, for any purpose whatever, except those enumerated in the Constitution. By the law of nations, just referred to, it appears that a State, binding herself by a treaty of protection not to enter into treaties or alliances, is forever precluded from that right. The States of this Union have bound themselves by a much more sacred and obligatory instrument, not to "enter into any treaty, alliance, or confederation." Surely, then, they have no power to enter into compacts to abridge their sovereignty. If the Constitution prohibits the States from making such treaties with the United States, it is equally prohibitory on the United States to enter into such treaties or compacts with the States. If the United States can enter into treaties or compacts with the new States for the acquisition of sovereignty, land, or money, not warranted by the Constitution, she may do the same with the old States, and thereby change, amend, or destroy the fundamental law of the land by compacts with the States. These compacts, if valid at all, are the supreme law of the land, and as obligatory on all the people of the United States as the Constitution itself. The States cannot, by any act of theirs, release themselves from their operation; they can pass no law violating them, nor can Congress. But, by the concurring consent of both parties, like all other contracts, they may be cancelled. Thus, then, the constitutional law may be changed, by the simple operation of making and cancelling a contract. But, sir, are the conditions annexed to the admission of the new States, treaties, compacts, or contracts? All the essential qualities necessary to constitute a valid contract between individuals by the common law, are required by the law of nations to constitute a valid treaty or compact between nations or sovereign States. In either case, the parties must be able; that is, they must have legal power; they must be willing; the subject-matter of the contract must be authorized or permitted by the law governing it; and the contract must be made according to the forms of that law. Testing the conditions annexed by Congress in the statutes for the admission of the new States into the Union, (which by a singular misnomer are called compacts,) by these simple rules, it will be found that they do not possess one of the legal requisites of a compact. The only compacts that Congress can make with the States on such subjects, are those enumerated in the sections of the Constitution already referred to. By the consent of Congress, and the cession and consent of particular States, the United States may acquire right to the soil within the jurisdiction of any of the States for the seat of Government of the United States, for the purposes of erecting forts, magazines, arsenals, dock-yards, and other needful buildings; and, when thus acquired, Congress can exercise exclusive legislation over it. Congress may enter into a compact with a particular State for the purpose of erecting a new State within its jurisdiction, or with two

March 26, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

or more States for the purpose of consolidating them into one. The first of these powers authorizes the acquisition of soil and jurisdiction, but the latter authorizes neither. It has been shown that the States conferred upon the United States these rights of acquiring soil and exercising municipal sovereignty for national purposes only, and as auxiliary to the national powers. Here, then, the sphere of the municipal action of the United States is limited to specified objects, to be effected by specific modes. It has been shown that all other municipal sovereignty over the residue of the soil was expressly retained to the States.

From these propositions the induction is plain, that Congress had no constitutional power to enter into a compact with the new States for the land, and jurisdiction over it, within those States, and, therefore, Congress was unable to make the compacts. The other party had still less power. The people of the Territories had no political power, whatever political rights they may have had. Those Territories were not States; the inhabitants were not citizens of States, nor of the United States. They could not vote for a President or Vice-President of the United States; they could not vote by their Representatives in Congress. It has been determined by the Supreme Court of the United States, that the inhabitants of the Territorial Governments are not citizens of States or of the United States. They were, therefore, the mere subjects of the United States, and bound by their laws, in the enacting of which they had no participation, and, of course, could oppose no political resistance to their operation. The people of the Territorial Governments, standing in this relation to the United States, were politically passive. And, therefore, when Congress passed laws authorizing them to elect members of a convention, and authorized that convention to form a Constitution for the Government of the State, the people were as much bound by that as by any other law of the United States. The convention, when thus organized, had not even the nominal option of accepting or rejecting propositions in relation to the right of soil, taxation of land, and jurisdiction over navigable streams, and certain carrying places between them, (as seems to be generally supposed.) No, sir, these provisions of the ordinance of 1787, were, by these statutes, made the basis of the Constitutions to be formed. After pointing out the mode of electing members and organizing the conventions, the statutes authorized the conventions "to form for the people of the said State, a Constitution and State Government; provided the same was republican, and not repugnant to the ordinance of the 13th of July, 1787."—*Laws U. S.* 3 vol. 497. Would any lawyer call this a compact? Here, to be sure, are conditions tendered to the people of the Territories, but they are the only conditions upon which they are permitted to form a Constitution and State Government. These conditions were not propositions for a compact, but were the law of the United States prescribing to these people a rule of action, and the only authority by which they were permitted then to act on that subject; and this is called a compact between the United States and the new States! Upon the same principle, whenever the people obey a statute, a compact is thereby formed between them and the Government. It surely cannot be necessary to carry this inquiry further, to prove that there never was a compact between the United States and the new States, by which the latter yielded their right to, and sovereignty over the lands within their limits; and even if there had been, I have shown that all such compacts are unconstitutional and void.

Sir, if this reasoning be correct, the advocates of the right of the United States to the lands in the new States, and the concomitant rights contended for, are reduced to the necessity of sustaining them upon the statutes of the United States alone, and of maintaining the paradoxical

doctrine, that Congress can by statute acquire any right belonging to the States, of property or sovereignty, the Constitution to the contrary notwithstanding. And paradoxical as this doctrine may appear, if the right of the United States to these lands, and the right of Congress to exercise exclusive legislation over them, be sustained, the whole power is admitted, and the most dangerous precedent ever yet established will remain in full force.

The compact between Georgia and the United States is not liable to one of the objections taken to those with the new States. Georgia was at the time of making it an organized and an old State, but she was one of the States that adopted the Constitution of the United States, by which she bound herself never to enter into any treaty, alliance, or confederation; therefore, so much of that compact as extended the operation of the ordinance of 1787 to Mississippi and Alabama, was void, upon the reasons and authorities applicable to the compacts with the new States. But so far as the compact related merely to the erection of new States within the territory ceded by Georgia, it is valid and binding, because Congress may erect a new State within the jurisdiction of another State, with the consent of the Legislature of such State.—See 3d sec. 4th art. Const. U. S. The consent of the Legislature of Georgia, as well as of Congress, being had to the erection of these States, for that purpose, the compact is constitutional and binding.—See the articles of agreement and cession between the United States and Georgia, 1 vol. *Laws U. S.* 448.—See also act of Congress extending the ordinance of 1787 to the Mississippi Territory, 3 vol. *Laws U. S.* 380.

Sir, I have shown that all compacts between sovereign States are treaties; that Congress had no power to make compacts for land or jurisdiction over it, except for certain specified purposes. I have shown that the land and jurisdiction over it, and all other rights of eminent domain, belong to the old States in virtue of their sovereignty, except so far as they have been conferred upon the Government of the Union for national purposes; that the new States would have been entitled to all the rights which the old States enjoyed, if these compacts had not been made; and I have shown, by irresistible implication, that Congress believed that the new States would be entitled to the land within their limits, and all the other rights of eminent domain, of which they have been deprived, if the principles of the ordinance of 1787 had not been extended to them in the manner mentioned. If all these propositions be true, these compacts (admitting them to be such) must be null and void, unless it can be shown that the United States have the constitutional right to hold land in the States, for other purposes than those enumerated in the Constitution; and upon proving that proposition, another equally difficult of proof remains to be established before the title of the United States to these lands can be made out. All compacts between sovereign States being treaties, and Congress having no right to make treaties, it must be shown that the treaty-making power of the United States was employed in making these compacts. The treaty-making power being vested in the President and Senate of the United States, by the Constitution, and these compacts not having been made by them, they are void upon that ground also, even if they would otherwise have been valid.

Sir, there is another view of this subject worthy of consideration. There was nothing in the conditions contained in the deed of cession by Virginia, which rendered that part of the ordinance of 1787 necessary for carrying them into effect. The first condition was, that the land ceded should be disposed of for the common benefit of all the States, Virginia included; and the second, that the ceded territory should be laid out and formed into distinct republican States, and that these States should be admitted into the Union, with all the rights of sovereignty,

SENATE.]

*Graduation of the Public Lands.*

[MARCH 26, 1828.]

freedom, and independence, of the old States. There was no limitation of time in the deed of cession within which the United States was bound to do all these things. The ordinance, fixing the time when these new States should be admitted at the period when they should have sixty thousand free inhabitants, was the voluntary act of Congress, and not required by the terms of the compact. Before any State formed out of this territory was admitted into the Union, Virginia had given an interpretation and her meaning of the words employed in one of these conditions by her compact with Kentucky, by which the latter became a sovereign, free, and independent State, and was admitted into the Union. At the time the compact was made between the United States and Virginia, Kentucky formed a part of what was then her waste and unappropriated lands in the Western country. She had commenced appropriating and settling them. In 1789, the Virginia Legislature passed an act authorizing the people of Kentucky to form a State Constitution; by which act they gave up all the unappropriated land within Kentucky, to be disposed of as the new State might think proper. This shows what Virginia meant by the condition, "having the same rights of sovereignty, freedom, and independence, as the other States," contained in her deed of cession to the United States. Because, if she had believed it consistent with the sovereignty, freedom, and independence of a republican State, to be deprived of eminent domain—if she had thought it consistent with that equality which ought to subsist between sister States of the same Union—it is not probable that she would have given to Kentucky land worth more than two millions of dollars. But Virginia was not so money-wise as some of the States are at the present day. She was not disposed to deprive a State of its sovereignty for the sake of money. So far as the course pursued by Virginia towards Kentucky shows her meaning of the conditions contained in her deed of cession to the United States, it is a good rule of construction: for she had then no particular interest in the matter; at least, her interest, if any, was the other way.

Sir, if the United States might have performed all the conditions in the deed of cession, and chose to violate a part of them, she must abide by the consequences; and the people of the States are, nevertheless, entitled to all their constitutional rights, even if the United States shall get less by this voluntary cession made by Virginia, than her avarice seems willing to demand. The same course of reasoning, in a great degree, applies to the cession made by Georgia. The conditions of that cession were, that the land ceded should be disposed of for the common benefit of the United States, Georgia included; and when the territory should have sixty thousand free inhabitants, it was to be formed into a State, and admitted into the Union. The United States had all the time from the date of the cession until there should be sixty thousand free inhabitants in the territory. If she failed to dispose of the land within the time limited in the compact, the right to it legally and necessarily passed to the sovereign, free, and independent States formed over it; that being the legal effect of the contract. Sir, notwithstanding the people inhabiting these Territorial Governments had no political powers, they had political rights. They had a right, by the Constitution, to the benefits of self-government. When the Territories were formed into State Governments, they had a right to unconditional admission into the Union upon an equal footing with the other States. These people, with all these rights, were placed under the entire control and government of the United States. Under these circumstances, Congress could no more make a contract with them than a guardian can with his ward. Suppose A, by his will, were to convey to B the whole of his estate in trust for his only son, to be conveyed to him when he arrived at full age, and to con-

fer upon him, also, the guardianship of the son. And suppose this testamentary guardian and trustee were to say to the ward, when arrived at the age of twenty years, (who, like the people of Territorial Governments, would be anxious for self-government,) if you will agree never to interfere with my right to dispose of your manor of C, for my use, I will release you from your wardship, and permit you to do as you please with the rest of your estate; and the ward were to agree to this proposition, and were even to execute a release to the guardian, the law would pronounce this contract to be void. And yet this is not so strong a case as that of the Territories and the United States: for the latter did not even give the former the right to decide upon the proposition of yielding up their patrimony, but told them plainly, you shall not be entitled to self-government unless you give up to us all right to the land which, but for this act, would have been theirs; and this act having been shown to be utterly void upon legal and constitutional principles, the land now of right belongs to the States, together with all other rights of sovereignty of which they have been thus unconstitutionally deprived.

Sir, however important may be the question of pecuniary interest involved in the measure under discussion, it sinks into insignificance when compared with the political principle involved. The great political question involved is this: can the United States, by mere legislation; by treaty, or by any form of contract with the States, acquire rights of sovereignty or property not granted to the former by the Constitution, but expressly reserved to the latter? If such power does exist in this Government, liberty and free Government cannot be preserved by a written Constitution. All the checks and balances necessary for the preservation of these vital principles were believed to have been carefully and skilfully interwoven into the very texture of this system of Government. State rights and State sovereignty, it was thought, were protected beyond doubt or controversy by the 10th article of the amendments to the Constitution. But this, and all the other guards in the Constitution, may be abandoned, if the principles contended for by the opponents of this measure, shall prevail, and be practised upon. The principle contended for by them, is, that the United States can contract with a State of this Union for a portion of its sovereignty; for such was the contract with Georgia, and such the contracts with the new States, if contracts at all. If a contract of this character is valid for a portion of the sovereignty of a State, it would be equally valid for the whole. Do the friends of State sovereignty perceive that by supporting this doctrine they are sustaining a principle which may overturn State sovereignty, by the mere operation of money appropriated for the purchase of all the disputed rights between this and the State Governments? If the interest which the United States have, or suppose they have, in these lands, has such an influence in the determination of this question, what may we not apprehend from the influence of interest or money upon other questions? Sustaining this principle of compacts establishes a precedent for bartering in sovereignty between the United States and the States: and it establishes a still more dangerous precedent. It is this: that the ownership of land by the United States, within a State, gives them the right to dispose of it as they please by the legislation of Congress. Having the possession of the immense revenues derivable from commerce, the United States may purchase land in any of the States of the Union, from the fee simple owners; and when they have obtained it, may grant it in fee simple, fee conditional, or fee tail, or they may lease it out, and improve it in any way they may think proper. They may make roads and canals over it, build houses or manufactories; in short, they may do every thing that the lord paramount may do with his own domain.

MARCH 26, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

Sir, this is not an idle speculation; this principle was distinctly recognized a few days since by the Senate, and a part, at least, of its ground occupied. A bill passed the Senate authorizing the President of the United States to lease out certain lots of land lying in the State of Illinois, for a term of years, and authorizing the President, with the advice and consent of the Senate, to appoint an agent or steward to superintend these leasehold estates of the United States and to collect the rents. Is this not establishing the principle that the United States, owning the soil within one of the States of the Union, may establish the relation of landlord and tenant between the United States and the citizens of that State? Is it not establishing the principle that the United States may improve or dispose of her lands as she pleases? Is it not establishing the principle that officers, for the superintendence of such affairs, may be appointed by the United States? And what more is necessary to establish the whole of the doctrine?

Sir, suppose a majority of Congress have in view some favorite project of internal improvement within the State of Virginia, for instance, to which Virginia opposes her State sovereignty, may not Congress pass a law appropriating money and authorizing the purchase of the land from the fee simple owners, for the track of a canal or a road, and thereby confer upon Congress the right of legislating over it? And what, then, becomes of the State sovereignty of Virginia?

Or suppose the United States choose to make a contract directly with any of the States for any or all of their sovereignty, as she did with Georgia for a portion of hers, would not such compacts become as sacred as these are? The gentleman from Missouri, [Mr. BAIRD] in his speech upon this subject, dwelt much upon the sacredness and inviolability of these compacts. The power has been denied to Congress, by other gentlemen, to pass any law contrary to them. What more reverence and respect could be manifested for the Constitution, or what more obligatory force would that instrument have upon the legislation of Congress? By these compacts the new States are reduced to a state of vassalage; they have become the mere feudatories of the United States; may not the old States be reduced to the same condition by the same means? These compacts operate here as constitutional law; may not other compacts operate in the same way? If they may, then the constitutional law may be changed by compacts. Is the Senate prepared to sacrifice the Constitution for money? Shall we establish principles and precedents which may lead to the destruction of the only free Government in the world, that the Treasury may be a little richer? If all these lands were given up to the States, they would not be lost to the United States. Whatever adds to the wealth or prosperity of the States increases the wealth and prosperity of the United States. Sir, which is most important to the people, these lands or the Constitution, money or liberty? The gentleman from Missouri [Mr. BAIRD] stated that this question of sovereignty of the new States was one of no importance in the consideration of this measure. I have no doubt he thinks so; but, in my opinion, a more important question than the one really involved could not engage the attention of Congress, however little interest it may excite on the present occasion.

Inquiry, however, has been awakened on this subject, and it will go on whatever may be the fate of the measure under discussion; and the doctrines here advanced will, I trust, gain strength as the inquiry progresses, not in the new States only, but every where that the subject is investigated by the friends of the Constitution, of State sovereignty, and of civil liberty.

Sir, it has been said that these lands ought to belong to the old States, because they all contributed in conquering them from Great Britain, or contributed otherwise to

their acquisition; that the acquisition of the Crown lands was one of the inducements to the Revolution; that they have been pledged for the payment of the public debt; and, therefore, the United States cannot, in justice to themselves and good faith to their creditors, relinquish them to the new States. It has been shown that the successful issue of the Revolution did not confer upon the United States, as a Government, the Crown lands in the respective States, but that the States in which they lay, in virtue of their sovereignty, succeeded to all the previous rights of the Crown. Such has been the opinions of the old Congress, of the Congress under the present Constitution, and of the Supreme Court of the United States. The Crown lands had, it is true, some influence in producing the Revolution, if we are to credit the Declaration of Independence; but it was an influence wholly adverse to the arguments urged against this measure. The complaint in the Declaration of Independence against the King, on this subject, is in these words: "He has endeavored to prevent the population of these States; for that purpose obstructing the laws for the naturalization of foreigners; refusing to pass others to encourage emigration hither, and raising the conditions of new appropriations of lands."

Sir, the opponents of this bill are welcome to the full benefits of these complaints against the King of Great Britain, and their just application to the existing state of things here. These very complaints may now be justly urged by the new States against the United States. Is there not, now, an attempt making to discourage or prevent emigration to the new States, by refusing to pass laws for that purpose? And, if not, by raising the conditions of new appropriations of lands, the same effect is intended to be produced, by refusing to reduce the price to their real value. The Secretary of the Treasury, in his annual report on the state of the finances, at the present session of Congress, has entered into a learned and labored argument to show that the price of the public lands ought not to be reduced, because it would give too much encouragement to emigration from the old to the new States, and thereby prevent the great manufacturers from obtaining the labor of the poor class of society at a cheap rate.—[See the Report, pp. 24-5-6.] He admits that the population may be more rapidly increased by encouragement to emigration and agricultural pursuits; and he might have admitted, also, that the sum of human happiness, and the preservation of republican principles and our free institutions, would be better and more certainly promoted by the same means. But the amount of his argument is, that it is better to increase capital in the hands of manufacturers, by compelling the poor to labor for them, than to permit the poor to become landholders at a cheap rate, and pursue agriculture; although population would be thereby increased, and the true principles of Government be best preserved.

Sir, is not this a direct attempt on the part of the President of the United States, through his Secretary, to prevent emigration to the new States? Is it not the direct opposition of the Executive department of the Government against the passage of this bill? It has been before the Senate for several preceding sessions: if it passes, its effect will be to encourage the emigration of the poor class of society to the new States, where they may become landholders at a cheap rate, and rear their families in freedom and independence. The policy of the President and Secretary is, to deprive the poor of these great benefits; to force them into the service of the wealthy manufacturer; to prevent, as far as possible, the population of the new States, and diminish their political importance in the scale of the Union. Have not the new States good cause to make the same complaint, on the subject of the public lands, against the United States, that the colonies did against the King of Great Britain? But,



SENATE.]

*Graduation of the Public Lands.*

[MARCH 26, 1838.]

sir, this attempt to arrest emigration to the West is vain and useless; the tide of emigration will roll on, in despite of legislation here, or opinions expressed elsewhere. So long as men are free, they will pursue their interest and happiness according to the dictates of their own judgments. So long as the lands are poor and unproductive, and agricultural products at their present depressed prices on this side of the Alleghany, the poor will—nay, they must—seek, on the other, richer and more fertile land, even if they are destined to be tenants there. It is better to be a tenant on rich land than a landlord on poor: it is better to be a free man in the West than a slave to a manufacturer in the East.

The gentleman from Missouri [Mr. BARTON] says the effect of the graduating principle of the bill will produce a rapid depreciation in the price of the public land, and a monopoly in the hands of speculators. The proposition in the bill is to fix the price of the land according to its quality. Is there any thing in this proposition dangerous to the interests of the United States, or unjustly favorable to the purchaser? There are millions of acres of land that have been offered for sale at public auction, and would not sell at the minimum price, that have remained unsold, some for more than twenty years, although it has been subject to entry, by any one choosing to apply for it, at two dollars an acre, until 1821, and since that time at one dollar and twenty-five cents. Is not this sufficient to prove that such land is not worth a dollar and a quarter an acre? If it is not worth a dollar and a quarter, is it wrong, is it doing injustice, to sell it for less? If land that has been in the market for twenty years, had been sold at first at sixty-two and a half cents an acre, it would have produced twenty-five per cent. more to the Treasury than it would now if sold at a dollar and a quarter. Calculating the simple interest on the amount at six per cent. it doubles itself every sixteen years. Gentlemen say that these lands are pledged for the payment of the public debt. The debt is more than doubled by the interest, since a great deal of this land has been in the market, and it will be doubled again before it will sell for a dollar and a quarter an acre. Is this a judicious system of finance and economy? Is this the way to pay the public debt? I cannot perceive how selling land for its value will produce a rapid depreciation in its price. But if this effect could be produced by the passage of the bill, it seems to me impossible that the lands could be the subject of profitable speculation. Suppose individuals were to purchase up large quantities of these lands in the expectation of making a profit upon them. If similar lands continued to depreciate in the hands of the Government, would not those in the hands of the speculator depreciate in the same ratio? The longer the speculator held the land, the greater must be his loss, if the Government lands continue to decline under this system. Therefore, there can be no possible danger to the interests of the United States in that quarter.

Sir, the friends of the present land system are the last that ought to say any thing about speculation. Who is the great land speculator in this country? The United States is the greatest that ever was in this or any other country. She obtained from Virginia all her waste and unappropriated lands northwest of the Ohio river, under a solemn pledge to sell them for the common benefit of all the States, and apply the proceeds to the discharge of their war debts. This was expected to be done speedily, and sovereign, free, and independent States erected over the territory ceded, as soon as there should be sufficient population. All these pledges have been disregarded; the public debt has not been discharged by this fund; the States created there have been deprived of their sovereignty; and now the lands are to be held up for high prices, to the great detriment of these new States. These lands have already produced to the Treasury up-

wards of twenty-two millions of dollars, and very large bodies of them remain unsold. In violation of the Constitution, the United States purchased from Georgia all the country now forming the States of Mississippi and Alabama, which had previously been the subject of the most fraudulent system of legislative speculation. They paid nothing for it, but promised payment to Georgia out of the proceeds of the sales; compromised with the Yazoo company of speculators, promising payment in the same way. They issued stock to the amount of six millions two hundred and fifty thousand dollars, called Mississippi stock, delivered it in payment, and made this stock receivable in payment for the lands when sold; thus creating an immense artificial fund, not based upon the specie capital of the country, for the purpose of ensuring high prices for the lands, and enriching the Treasury at the expense of the citizens. The result was as might have been expected. This Mississippi stock was thrown into the market, and at the sales of these lands was worth just as much as the hard dollars of the planters. The lands sold for unheard of prices; the citizens were many of them ruined by their purchases; their money redeemed this stock, and the United States pocketed a clear profit of upwards of eight millions of dollars by the sale of much less than half the lands, without the advance of a dollar of the purchase money. And not content with wholesale and retail speculation, they laid out towns where nature never designed towns should be, puffed them by their agents, and actually descended to peddling in the lots.

And now we are told that it is dangerous and immoral to encourage a system of speculation among our citizens. Sir, while the Government gives such examples of successful speculation to its citizens, they will not believe that it is demoralizing to speculate in land, and they will follow this illustrious example. If this system of land jobbing and speculation is pernicious to society, let the Government abandon it, and set an example of moderation, of justice, and fair dealing, by restoring to the new States their violated sovereignty. The territorial Governments, within which the Constitution authorizes the legislative action of Congress, afford an ample field for the operation of the land system, without extending it to the States. And there this graduating plan will be found highly beneficial. The gentleman from Missouri [Mr. BARTON] read, in his place, this morning, a statement showing the beneficial effects of a system like this in the State of Tennessee. There it produced large sums of money to the Treasury, and no speculation among the citizens. None of the evils so much deprecated by the gentleman from Missouri, [Mr. BARTON] resulted from the operation of this system in Tennessee. We may, therefore, fairly conclude they will not happen to the United States, if we adopt the same system. Another proposition contained in this bill will effect partially what the amendment proposes. After this system of graduating the prices shall have exhausted itself, by disposing of all land worth twenty-five cents and upwards per acre, the residue is to be subject to donations for one year to actual settlers, and whatever may be left after this operation is to be ceded in full property to the States. Should the amendment be rejected, the operation of the bill would, within some reasonable time, give to the States complete jurisdiction over the lands within their limits. Admitting, for sake of the argument, that the United States have a right to hold these States as vassals and feudatories, would it be good policy, would it be generous, would it be consistent with our scheme of Government to do it? You deprive them of many of the essential attributes of sovereignty, control the internal police and economy of a Government called free and independent. They are deprived of the right of regulating the settlement and improvement of the country, in that mode which might be best calculated to promote their happi-



MARCH 27, 1828.]

*The late General Brown.*

[SENATE.]

ness and prosperity. They are deprived of the revenue derivable from the soil, the most certain and available source of revenue in any country. They are subject to the operation of the laws of the United States upon subjects purely municipal, which do not operate in the old States, and which they have a right to pass for themselves, or not, according to their sovereign will and pleasure. A majority of Congress represent the old States, and are, of course, wholly irresponsible to the citizens of the new, for any laws they may choose to pass on these subjects. They are ignorant of the peculiar wants and wishes of the people they are legislating for; and when those who represent those people bring their petitions and wants before Congress, their statements and representations of the actual condition of things, are often, to their great mortification, received here "with grains of allowance." The President of the United States has the discretionary power of bringing as much or as little of the public land into market, annually, as he chooses. In the exercise of this power, he may give a preference to the settlement and population of one State over another; or he may restrain the settlements entirely, for the purpose of carrying into effect the policy of the Secretary of the Treasury. I do not mention these as complaints against the Executive, but against the operation of such principles, because the same result might take place by the exercise of the same power by a majority of Congress, and the people interested be equally without remedy.

Sir, the Legislature of the State I have the honor, in part, to represent, taking into consideration these grievances, addressed to the present Congress a respectful memorial, proposing to purchase all the lands within her limits, that she might thereby acquire full sovereignty within her jurisdiction. This memorial I had the honor of presenting to the Senate, and upon which a committee was raised. A majority of that committee decided against selling the lands to Alabama, preferring the present so much eulogized system. If the United States refuse to give or sell to us what we believe we are constitutionally entitled to, we certainly have good cause of complaint, and will continue to complain until we obtain our rights.

On motion of Mr. BENTON, the bill was then laid on the table, with the understanding that it should be taken up to-morrow.

THURSDAY, MARCH 27, 1828.

## THE LATE GENERAL BROWN.

On motion of Mr. HARRISON, the bill for the relief of Mrs. Brown, widow of the late Gen. Brown, was taken up for consideration.

Mr. HARRISON observed, that, having ascertained, shortly after the death of Gen. Brown, that he had left his family in a most distressed situation, dependant entirely upon connexions who were illy able to support them, he had introduced, upon motion of leave, the bill which was then before the Senate. I did it, Mr. President, (said Mr. H.) under the conviction that it neither comported with the honor or the interest of the nation, to suffer the family of a man to whom it was so greatly indebted for its military renown, to retire from the seat of Government, at the moment, too, when the Legislature were in session, without the means of a decent support. I hold in my hand, sir, a statement, drawn up by the administrator of the deceased General, containing a particular account of the situation of his affairs. It is at the service of any Senator who may wish to peruse it. Without entering into particulars, I think it necessary to state, generally, that, at the close of the late war, Gen. Brown was possessed of very considerable landed estates in the Western part of the State of New York, but that he was considerably indebted in part for the purchase of these lands. He believed that, but for the cruel

disease under which he so long lingered, he would have been enabled to extricate himself from his debts, and preserve a competent provision for his family. This opinion is corroborated by that of others who were well acquainted with General Brown's circumstances. Having little hope of being restored to such a state of health as would permit him to devote a portion of his time to his private affairs, Gen. Brown gave up his real estate, to be disposed of for the benefit of his creditors. A part of it still remains in that situation, but entirely insufficient to pay the debts for which it is bound. Another part, including the farm upon which he formerly resided, has been sold, and the latter purchased by his son-in-law, who is still indebted for a large portion of the purchase money. Besides his own debts, General Brown was bound as security for a considerable debt of a brother. The larger portion of this has been discharged by him, but a balance of some thousand dollars is still unpaid. I now offer to the Senate, [said Mr. H.] and request the Secretary to read, two letters from the Physicians who attended General Brown, in his illness, to show the nature of his disease, and the cause to which it is to be attributed. [The letters here read were from Doctor Lovell, Surgeon General of the Army, and Dr. Henderson, of this city. They both concur in the opinion, that the disease, of which the General died, was produced by the sudden suspension of another, contracted in the army.] In addition to this testimony, [said Mr. H.] I am authorized, by a gentleman of the greatest respectability, now in this city, [Governor Cass,] to say, that, in the year 1815, General Brown informed him that he derived the disease under which he was then laboring, from the wounds he received in the battle of Niagara.

It will be seen, sir [said Mr. H.] that the Surgeon General asserts, that, if General Brown had lived, and retired from the Army, he would have given him a certificate for a full pension, under the existing laws of the country. There is, however, no law now in existence, under the provisions of which, his family could obtain relief; but, I rely with confidence, that it will not be withheld, as the principle upon which it can be supported, strictly accords with those upon which the Government have heretofore acted. I can say with truth, Mr. President, [said Mr. H.] that I would be one of the last men who would introduce into this country that system of sinecures and pensions which has produced so much misery in another quarter of the globe, and which, more, perhaps, than any other cause, obliges, in the language of our great countryman, Mr. Jefferson, "The European laborer to go supperless to bed, and moistens his bread with the sweat of his brow." There is, however, no danger of this as long as our free institutions remain: as long as the other branch of the Legislature consists of the real Representatives of the People, and this the Representatives of the State authorities, themselves fairly and freely chosen by their fellow-citizens. Public opinion will always interpose an effectual check to exorbitant expenditures of the common treasure, or to any which is not strictly compatible with the genius of Republican Government. Our pension laws exhibit nothing which is at variance with these principles; nothing which a free country should blush to own. They contain moderate appropriations, as a requital for distinguished services and sufferings in the cause of liberty and the people.

As yet, sir, public opinion is far in advance of the Legislature, upon subjects of this kind. As far as my observation has extended, no appropriation of money, for any object, is viewed with such decided approbation, by the American People, as those of the character contemplated by the present bill. Where was any measure hailed with more joy and satisfaction throughout the whole Union, than that which provided for the ease and comfort of the indigent soldiers of the Revolution? I had the honor, about the same period, to introduce into

SENATE.]

*The late General Brown.*

[MARCH 27, 1828.]

the other branch of the Legislature, of which I was then a member, a bill to extend the pensions granted to the widows and orphans of those who fell in the late war, to an additional period of five years, and I can say, with truth, that no act of my political life ever received more decided approbation from my constituents.

The grounds, [said Mr. H.] upon which I support the bill now under consideration, are those of moral obligation and correct policy. I am persuaded, Mr. President, that there is not a Senator within this Hall, who, placed in the same situation with regard to other individuals as this Government stands in relation to the family of Gen. Brown, that would not acknowledge that he was bound, by a sense of duty, to provide for them a decent and comfortable support. An old and faithful servant, whose best days have been spent in your service : who has received, on his own manly bosom, the missiles aimed at your life ; and, in your absence, protected your property from being plundered and your family from dishonor, dies of a disease incident to his employment. Is there a person within the reach of my voice who would abandon the family of one by whom he had been thus faithfully served, to the cold charities of the world, if he possessed the means of relieving them? No : I am persuaded there is none. But I may be told, that it is the money of the People which we are now called upon to disburse, and that it was placed under our control for no such purpose ; that we should be generous with our own, but not with the funds of our constituents. But, Sir, if I am correct in supposing that there is a moral obligation, upon the part of the nation, to make this appropriation, who but ourselves can discharge it? We are the Representatives of the People, and possessed of the sole authority to perform their obligations. I will not believe that it will be asserted, that the principles which should govern honorable men do not apply to a nation ; that a crime, which would attach infamy upon an individual, would be considered as no crime at all, when perpetrated by the Government of a People, who, individually, profess to be honorable and virtuous. But, it is asserted that we have been furnished with written instructions, by our constituents, which do not authorize us to appropriate their money in the manner proposed. I will endeavor to shew, Sir, [said Mr. H.] that there is no constitutional impediment to our making the proposed grant ; but, even if the question is doubtful, (which I most positively deny) there is one mode of settling it to which I always delight to refer, and which, under any circumstances, would put an end to my doubts. Apply, Sir, to the plain, honest, unsophisticated opinions of the American People. Follow the family of General Brown to their home—no, Sir, they have no home—not a spot of earth upon the globe which they can call their own. Follow them to the place of retirement provided by a friend, and, as you march along, inquire of every farmer or mechanic you may meet, whether the proposed appropriation shall be made, or not ; and if ninety-nine out of an hundred should not tell you to make it, then I will acknowledge that I am ignorant of the character of the American People.

But, let us, Sir, take a glance at the Constitution, and see what power it has given us to act in this matter. By that instrument, Congress is authorized "to raise and support armies, and make rules for their government." Under this authority, we have raised and supported armies, and have established severe rules for their government. For what purpose, but by rigid discipline, to make them efficient? And is the power given to produce this efficiency by punishment, by torture, and by death ; and that which is more effectual, and which operates upon the mind of the soldier, which elevates, and ennobles his character, withheld? If this is so, what ignorance of the character of our race does it manifest upon the part of those who framed our Con-

stitution. The effect of rewards in producing heroic achievements is so well understood, even in governments founded upon principles opposite to ours, that they have been denominated "the cheap defence of nations." But, Sir, this principle is not new to us. We have always acted upon it. Our statute books are full of laws of that character. Nor are they confined to rewards bestowed upon the individual who has served. His widowed wife and orphan children have received the public bounty, and, I presume, not solely with a view to pay a debt of gratitude, but to stimulate others to the performance of heroic deeds. And I most sincerely pity the man who does not believe that it is the most effectual means that have ever been used for that purpose. I have, Mr. President, [said Mr. H.] high authority for this assertion. It is in the example set us by a country, which, of all others, more nearly resembled our own in the principles of its Government. I allude, Sir, to the Republic of Athens. If we inquire into the cause of the wonderful power possessed by this little State, whose territory is scarcely discernible by the naked eye upon an ordinary map of the world—if we ask by what magic such wonders were accomplished upon the fields of Marathon and Plataea, and we refer to her own citizens for an explanation, the wisest and best amongst them would point to an institution of a character similar to that of the bill before you. They will inform you that the glory of Athens, as immortal as the rock of her Acropolis, was founded upon that institution which claimed the sons of those who had fallen in battle as the adopted children of their country.

[Mr. H. here read, from the history of Thucydides, the concluding part of the speech of Pericles at the funeral of those Athenians who fell in the first campaign of the Peloponnesian war, in which he says, speaking of the law which adopted and educated, as the children of the State, the sons of those who had fallen in battle, "for, wherever the greatest rewards are proposed for virtue, there the best of patriots are ever to be found."] ]

But, Sir, [said Mr. H.] I have a better authority even than Pericles. Aristides, the just and virtuous Aristides, the able General, accomplished statesman, and economical superintendent of the finances—he has pronounced that the law of Solon, which enjoined it upon the State to educate and support the children of those who had died for their country, was, from the effects which it had produced, the pride and boast of Athens. "She alone of all the nations had the sagacity to adopt, and the firmness to adhere to an institution which had rendered her armies invincible." [Mr. H. here read a passage, from Stanley's life of Solon, of a speech of Aristides, preserved by the ancient historian Laertes, to confirm his statement, and thus concluded.] Let us Mr. President, [said Mr. H.] at however humble distance, follow the example set us by this far-famed Republic. Contribute something from the public Treasury to educate the children of the gallant General whom we have lost. Your money will not be thrown away. In your future wars it will produce to you a rich return. Other Browns will arise ; like him will conquer ; and, like him, if necessary, die for their country.

Mr. CHANDLER said, that he was fully aware of the delicacy of the case and the danger there was in opposing it. He was willing to do justice to Mrs. Brown, but he thought, to pass this bill, would be to commence a pension system, to which the gentleman from Ohio had said he was unfriendly. How many wounded soldiers were there under Gen. Brown, for whom no provision had been made? This was, he conceived, but a beginning, and he was averse to going into any pension system whatever. If a sum of money were necessary for the relief of this lady, he had rather that it should be paid by the members of Congress themselves : and, although not

MARCH 27, 1828.]

*The late General Brown.*

[SENATE.]

very able, he would contribute his proportion. This, would be his own charity; but he did not think he was authorized to take the money out of the public Treasury, and tax the very men, and their children, who had contracted the same disease in the same service. He knew it was not popular to oppose a grant for a female; but he could not, consistently with his own feelings, vote for such a measure.

Mr. NOBLE said, that he objected to the bill. When he was in the western country, he heard the epithet Military Chieftain at every corner. When I hear, said Mr. N., the philanthropy and benevolence of the country called into question, where shall I shelter myself from the imputation of illiberality? Or when a military chieftain is in the case, shall every man put his hand on his mouth and go home, allowing the military fever which now rages to consume every thing? Are we in such a case to be treated with facts from the history of Athens? Why, I will ask, what became of Athens? It became a tyranny; and so will this Government turn out, when once the Constitution shall have been scorched, as it will be, if this military plan is pursued. General Brown's success did not form a debt. If that was all, the yeomanry of the country had equal claims. Their widows, when deprived of their husbands, felt as much as the wives of officers. He objected to making distinctions. All ought to be treated alike. When people talked of economy, they ought to begin to practice it here; and not go home and talk about it. He was willing to go heart in hand to put people, when they were disabled in the service, on the pension list, but he could not agree to a measure so partial as this bill proposed.

Messrs. CHANDLER and BRANCH having made some inquiries as to the pay of General Brown,

Mr. HARRISON said, that the whole of his pay and allowances amounted to 6,700 dollars. He would state that he had it within his own knowledge, that all this sum, with the exception of sufficient for the subsistence of his family, had been applied to the payment of his debts.

The amendment offered by Mr. HARRISON was then agreed to.

The question then being on engrossing the bill for a third reading,

Mr. BERRIEN said, he was called upon to record his vote on this question, and desired to state, very briefly, the reasons which would influence it. Whatever may be the result of this discussion, [said Mr. B.] all will agree, that it becomes us to conduct it in a spirit of moderate respect for the sufferings of the afflicted lady, who is the object of the benevolent provisions of this bill. The sorrows of widowhood and of orphanage are sacred. I am persuaded there is no one among those to whom I address myself, especially that there is no one who has permitted himself, for a moment, to consider the really destitute condition of the family of General Brown, whose feelings would not prompt him to alleviate their sufferings. The refusal of any member of this House to give his assent to this bill, will arise, I am sure, from no indisposition to relieve them, but from a distrust of the power to do so, or from a belief of the inexpediency of establishing the principle which it proclaims. It becomes us, then, to examine, as calmly as we may, both the claim which is made upon us, and our own power to afford the relief which is solicited.

A gallant and gifted soldier, who often perilled life in our defence, and wasted health in the exposure incident to protracted warfare, has been recently summoned from among us, leaving his family in a state of utter and hopeless destitution. To the desolation of the heart, which belongs to widowhood and to orphanage, are too surely superadded, in their case, the horrors of instant

poverty—the abrupt transition from comfort to want—it may be, the exchange of the greetings of respectful gratulation for the chilling condolence of the world's cold charity—its protective kindness—its supercilious sympathy. The impulse which prompts to the relief of such sorrows, is innate, instant, irrepressible. We cannot be insensible to it, even in the cold exercise of legislative power. It is nature's own dictate and it will be obeyed, unless controlled by the imperious obligations of conflicting duty. Do these obligations exist here? Must the warm, but often erring suggestions of the heart, be restrained and silenced by the calmer, colder, but more enlightened dictates of the understanding and the judgment? I am ready to yield—it may be a reluctant, but certainly an unqualified obedience to the latter—and yet I will confess it—it is due to truth to say so—that I would not surrender, without a struggle, the conviction which I feel, that the vote I am disposed to give, although it may spring from the impulses of feeling, is, nevertheless, consecrated by judgment.

Sir, I had, with this distinguished soldier, no intimacy of acquaintance, and of him no particular knowledge beyond that which is common to those with whom I am associated. The story of his life was, indeed, familiar to me, for it illumines the page of our national history; and the glory which he had carved out for himself, with his own good sword, has now become the common property of his countrymen. But there is little need, on this occasion, to invoke the feelings which belong to the intimacy of friendship; on the contrary, I would deal with this matter as coldly as gentlemen please—as a question of power, of justice, of policy.

The moment is not propitious, sir, at least, so far as I am concerned, to the discussion of a question of mere power—I do not propose it—but I would not shrink from it. I can yield to no one, in the sincerity of my disposition, to confine myself within the limits of our Federal charter; to preserve inviolable, and untouched, the rights which are beyond its pale. But, if there be a power, which, more emphatically than any other, is given to the General Government, it is the power to provide for the national defence, in the hour of danger. It is given generally, and in detail—fully—freely—absolutely.

If the provisions of this bill be dictated by an enlightened policy, and consistent with a sound discretion, in the exercise of this power, the question of our authority to do what is proposed, is at an end. The position cannot be maintained, that the Department of the Government, which is invested with the war-making power, is limited, in the remuneration of military service, to the simple fulfilment of its contract with the soldier. All Governments, in all times, have, from necessity, exceeded this limit. This Government has repeatedly exceeded it. It habitually acts upon a principle, which transcends it. What is the principle of your pension law? Your contract with these soldiers, you say, has been performed. On a recent occasion, you have solemnly decided that it has been fulfilled to the letter. Whence then do you derive your power to make them objects of your bounty? That bounty is extended to the wounded; to the relatives of those who have fallen in battle; of those, also, who have died, in consequence of wounds received, or casualties encountered in your service. What is the pervading principle of these acts? What the motive to their enactment? What but to cherish that military ardor, which leads to deeds of chivalry, in the hour of coming danger—to nerve the arm of the soldier when he strikes for his country? Look to the case of Penelope Denny, sent to us, two years since, from the other House, and passed without a dissentient voice in this. You gave to the mother of a gunner, who had died in your defence,

SENATE.]

*The late General Brown.*

[MARCH 27, 1828.]

a pension for five years. You have provided, by law, for the widows and children of those who die by accidents or casualties, (I use the words of the law) occurring in your service. Gen. Brown was as emphatically sacrificed in that service, as if he had fallen in either of those glorious conflicts which gave lustre to his name.

The war of 1812 found him in the very vigor and spring time of life, rich in all sources of virtuous enjoyment. When danger came, he left them to meet it. His whole soul was in that conflict. He came out of it with a brilliant reputation, indeed, but with a constitution worn out and exhausted by the rigor of the service, and by the wounds which he had received in your defence. He has lingered, for a few years, under the pressure of the disease—which was then incurred—and has finally sunk under it, at an age, when, but for that disease, thus contracted, he might reasonably have calculated on prolonged life—and while he was yet young enough to have provided for those who were entitled to his protection. To him personally, you have been just. Do not be unmindful of those, the remembrance of whose destitute condition gave the keenest anguish to his expiring hours. He had commenced a new year of service, and is, therefore, entitled to something at your hands. Enter not into strict judgment with the soldier's widow, in settling its amount. Do not let the ledger of your Treasury record the exact moment of a hero's departing breath.

You are asked to allow to his widow, the compensation of the current year. The principle, I understand, is habitually applied to the quarter, in various departments of the Government. To you, it is a pittance—to her comfort, it is all important; and you, yourselves, in the moral value of the principle, which, by its allowance, you will proclaim to the future defenders of the country, will find an ample reward.

Mr. MACON made some remarks, the commencement of which the Reporter could not hear. He said the pension law ought to be applied equally to all—to rich and poor. At present, there was a system of favoritism, not unlike to that of Great Britain, which was constantly referred to. Every season, some new cases were added to it. He knew that the feelings were always easily excited in favor of the defenders of our country; and he wished that provision might be made for them all, so as to give them enough to eat and drink, and what was decent to wear. This he thought the right system to equalize the operation of the pension law; and he must, therefore, vote against this bill.

Mr. SMITH, of Maryland, had been desirous of giving a silent vote upon this subject. If it had been a pension that was asked, he should have objected, for the same reason given by the gentleman from North Carolina. The shape of the bill had been altered since it was first introduced, and, as it was not now proposed to give to the widow of Gen. Brown a pension, and would, therefore, establish no bad precedent, he was entirely favorable to the bill. There were a variety of cases in which similar donations to this had been made to the survivors of public servants. Gen. Mercer died without property, and the old Congress, although they were much afraid of a system of pensions, passed an act, authorizing his son to be educated at the public expense. He believed there was no original obligation to give to the widows of those killed in the army any relief. But it had been considered wise and expedient to do so. The gentleman from Kentucky had several years since introduced and carried through a bill to give, to the widows of all those who died of wounds received in the service, a remuneration. Mr. S. said he believed the People had always been gratified at the passage of that bill. There was a particular case, to which he might refer—that of the family of Commodore Perry, who had rendered great service, and for whose family a provision was made. This in

stance had its peculiar circumstances, and could not, he thought, extend the practice in an injurious manner—and, as to precedents, we have enough of them. He thought it incumbent on the bachelors of the Senate to support this bill. They could not resist the appeal made by the widow and children of a distinguished man, with scarce the means of transporting them to their friends at a distance. He could not resist the claim.

Mr. CHANDLER asked the gentleman from Maryland, who was in favor of this grant in favor of the widow of General Brown, whether the Government was not equally bound to every officer and every soldier who served under him? And, if this was the case, were they not commencing a system which will go to a far greater extent than they could well calculate?

Mr. HARRISON moved an amendment, in the form of a preamble, in substance that, "Whereas the late Maj. General Brown died in consequence of indisposition contracted in the service of the United States, therefore, be it enacted," &c.

Mr. JOHNSON, of Ky. objected to the preamble; but was in favor of the bill. It was not the practice of Congress to state in a bill the reason for its passage. He spoke at large of the share which females take in all the anxieties, cares, and perils, of their husbands, and sustained the principle that no greater incentive to a performance of his duty, could be offered to a brave man, than the knowledge that, in case of his death, his family would become the objects of the care of Government.

Mr. HARRISON withdrew his amendment.

Mr. BERRIEN offered another, of a similar nature, to come in after the words Major General Brown, as follows: Whose death is supposed to have been caused by a disease contracted while in the service of the United States, on the Niagara Frontier. He hoped the gentleman from Kentucky would not object to this, as it did not assume the fact that the death of General Brown was so caused. He offered the amendment because there might be gentlemen who would vote for the bill, and yet were desirous of limiting similar grants to cases of death, in consequence of diseases contracted in the service.

Mr. COBB said, that he objected in a particular manner to the amendment, because its object seemed to be to create a precedent, on which future applications were to be made. It would, therefore, establish a principle to which he was hostile. Now, sir, said Mr. C. if gentlemen have made up their minds to give to Mrs. Brown 5,500 dollars, let them do so. I shall willingly be taken to task for not going with them. He could not bring his mind to accede to the bill, and this amendment made it still more objectionable.

Mr. NOBLE made a few additional remarks, most of which were inaudible to the reporter.

Mr. BERRIEN withdrew his amendment.

The question was then taken on engrossing the bill; and the yeas and nays having been ordered on motion of Mr. CHANDLER, it was decided in the affirmative, by the following vote:

YEAS—Messrs. Barnard, Barton, Bateman, Berrien, Boulogny, Chambers, Chase, Eaton, Harrison, Hayne, Johnston, of Kentucky, Johnson, of Louisiana, Kane, Knight, McLane, Marks, Robbins, Rowan, Ruggles, Sanford, Seymour, Silsbee, Smith, of Maryland, Thomas, Willey, Woodbury.—26.

NAYS—Messrs. Bell, Benton, Branch, Chandler, Cobb, Dickerson, Ellis, Foot, King, Macon, Noble, Parris, Tazewell, Tyler, White, Williams.—16.

Mr. WOODBURY moved to take up the bill for the relief of certain survivors of the Revolution; which being agreed to, Mr. W. moved to amend the bill by adding two sections, to make provision for an annuity equivalent to half pay for life.

MARCH 27, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

Mr. W. made some statements as to the effect of the amendments, and, on his motion, they were ordered to be printed, and the bill was postponed and made the order of the day for Monday.

#### GRADUATION OF THE PUBLIC LANDS.

On motion of Mr. BENTON, the bill to graduate the prices of public lands was taken up, the amendment offered by Mr. HENDRICKS still pending. The yeas and nays were ordered on that question, on motion of Mr. MCKINLEY.

Mr. JOHNSTON, of Louisiana, spoke, at considerable length, in favor of the amendment.

Mr. BENTON briefly replied to some of the arguments of Mr. JOHNSTON.

Mr. DICKERSON, of New Jersey, observed that it had been his intention to attempt an answer to most of the arguments urged a few days since, by the Senator from Indiana, [Mr. HENDRICKS] in favor of his amendment to the bill for graduating the price of public lands, but in consequence of present indisposition, should confine himself to one or two points.

The original bill introduced by the Senator from Missouri, [Mr. BERRON] proposes to graduate the price of public lands, so that after the 4th of July next, they may be sold for one dollar per acre; in one year thereafter, at seventy-five cents per acre; in one year thereafter, at fifty cents per acre; and one year thereafter, at twenty-five cents per acre; and, that the land which shall remain unsold for one year after having been offered at twenty-five cents per acre, shall be ceded to the States in which such lands may lie.

The Senator from Indiana [Mr. HENDRICKS] proposes by his amendment to cede at once these lands to the States.

Of the two plans, I certainly prefer the latter, inasmuch as we should effect by it immediately and without further expense to the United States, what would be as fully effected by the slow process of graduating and offering for sale these lands for four or five years at a very great expense to the United States, and without the least benefit to the new States. On the contrary it will retard the sale of lands in those States, inasmuch as no man will give a dollar per acre for land in 1830, which in '31 he can have for three-fourths of that price, or fifty cents for land in '32, which the next year he can have for twenty-five cents per acre; in fact, none of the lands would be sold, if this bill should pass, till they can be had for twenty-five cents per acre. At which price they would not be worth holding by the United States. I am, therefore, said Mr. D., of opinion that we had better cede the lands at once to the States, agreeably to the amendment, than adopt the system of graduating the prices of land agreeably to the bill. But as we are not reduced to the alternative of either accepting the bill or the amendment, I am against both.

The gentleman from Indiana [Mr. HENDRICKS] grounds the claim of the new States to all the lands within their boundaries, upon the generality of the expression in the laws admitting them into the Union, that they are admitted upon an equal footing with the original States in all respects whatever. He asserts that "the equality, sovereignty, and independence of the new States, require that these States should have the free and full control of the public lands within their boundaries," that "the idea of State sovereignty, equality, and independence, included her right to her public domain." "That in seventeen States, the soil belonged to the States themselves." That without these lands the new States "are little else than vassals and tributaries to the power of this Union;" that their condition "is one of abject and humiliating dependence, inconsistent with their rights of sovereignty and equality."

VOL. IV—34

By the ordinance of Congress of the year 1780, States to be formed of ceded territory were to be admitted as members of the Federal Union, and have the same rights of sovereignty, freedom, and independence, as the other States. By the ordinance of 1784, they were to be admitted by their delegates in Congress, on an equal footing with the original States. By the ordinance of 1787, they are to be admitted on an equal footing with the original States in all respects whatever. In all these ordinances the right of the United States to the soil in the new States is expressly recognized, and it is expressly provided that these States shall not interfere with the primary disposal of the soil by Congress.

The different terms mentioned in these ordinances were precisely what was expressed in the first, that the new States, when admitted, should have the same rights of sovereignty, freedom, and independence, as the other States. Vermont was admitted in the year 1791, as a new and entire member of the United States. Kentucky was admitted in 1792, as a new and entire member of the United States. Tennessee was admitted in 1796, on an equal footing with the original States in all respects whatever. The States since admitted, have been admitted on the same terms; although the terms of admission are different, it will not be pretended that there is the slightest difference in effect, or that Tennessee and the States since admitted, have any rights, privileges, or advantages, not granted to Ohio and Kentucky. The expression that the new States are to be admitted on an equal footing with the original States in all respects whatever, does not imply that they are to be equal with the original States; that they are to be equally old, rich, or extensive. They are to be equal to the old States, as the old States are equal to one another, as Delaware is equal to Virginia, or New Jersey to New York. They are to be admitted upon equal footing; that is, an equal basis with the old States—and what is that basis? It is, as expressed in the ordinance of the year 1780, the possession of the same rights of sovereignty, freedom, and independence as the other States. But the gentleman contends that States without the right of soil, as asked for by the amendment to the bill, are deprived of the first attribute of sovereignty; that seventeen of the States, that is, the thirteen old States and four of the new, possesses this right. How far is the gentleman warranted by facts?

The Legislature of Pennsylvania, in the year 1779, passed an act vesting in that State the right of the Penn family to the lands within their boundaries, for which they allowed that family one hundred and thirty thousand pounds sterling—which was paid to them, and the transfer was considered a purchase. Before that time the State held no lands, except by purchase or grant from the proprietaries, and yet Pennsylvania was not more sovereign or independent after, than she was before that purchase.

Massachusetts held lands to a great extent in the State of New York, yet New York considered herself an independent and sovereign State.

Massachusetts now owns a considerable portion of the soil of the State of Maine, yet Maine considers herself as sovereign and independent as Massachusetts. Is Congress to purchase up the Massachusetts title to lands in Maine, as we purchased up the Indian title to the lands in the Western States, and cede the same to Maine, that she may be on an equal footing in all respects whatever with the original States?

How far the other Atlantic States are owners of the soil within their boundaries, I am not informed, except as to New Jersey, which never owned an acre of her soil except by purchase.

The population of this State during the Revolutionary war was rated at one-twentieth of the whole; her contribution to the expense of carrying on that war was more

SENATE.]

*Kenyon College.*

[MARCH 28, 1828.]

than a twentieth part, for she was found to be a creditor State, while the debtor States have not yet paid up the balance against them. No State, according to her means, contributed more to the successful prosecution of the war, nor suffered more by the ravages of the enemy. The State at the close of the war was poor and exhausted; and has been obliged from that time to the present moment to resort to a land tax for the support of her Government. Of the immense amount of vacant or Crown lands gained by the Revolutionary war, New Jersey gained nothing, except an interest in the lands ceded by certain States, as property common to all the States—but even this, if the present bill pass, will be taken from her.

The whole soil of New Jersey belonged to proprietors, who were purchasers of the immediate grantees of the Duke of York. Many of these proprietors, ever since the Revolutionary war, continued to reside in England; as the Penn family, the Earl of Perth, General Reid, and others, owning nearly an eighth part of all the unlocated lands in East Jersey, nearly four hundred thousand acres of which, in that part of the State, have been sold since the war of the Revolution. About twenty years ago, the proprietors in England sold out to citizens of the United States, chiefly of New York. Large tracts of unlocated lands are still left in the State, which, when purchased, must be paid for, in part, to people residing out of the State, who contribute in no way to the benefit of the State: for their lands have never been taxed, nor has any attempt ever been made to tax them.

New Jersey has never applied to have the proprietary right to her soil extinguished. New Jersey has never considered herself as a vassal, or as tributary to the proprietors, or to the power of this Union. She has never considered her condition as one of abject and humiliating dependence, inconsistent with her rights of sovereignty and equality. On the contrary, she has considered herself as sovereign, free, and independent, as any State in the Union, in all respects whatever.

Yet how much better would it have been for New Jersey that her soil had belonged to the United States. In that case she would have been a part owner with her sister States. She would probably, as in some of the new States, have had a thirty-sixth part of her land for the purposes of education; five per cent. on the sales of her land for roads; two thousand five hundred acres for a seat of Government; and twenty-three thousand acres for a seminary of learning.

While the gentleman from Indiana is endeavoring to make the new States equal to the old States in all respects whatever, I should be glad if he would endeavor to make New Jersey equal to the new States in all respects whatever. If we are bound, from principles of justice, to cede these lands to the new States, we are equally bound to refund the moneys received on the sales of land in these States. To Ohio we ought to pay about sixteen millions of dollars, to other States smaller sums.

The Senator from Louisiana [Mr. JOHNSON] is mistaken, if he calculates, as he seems to do, that a reduction in the price of public lands will lead to any considerable sales of the poor land of his State: while there are many millions of acres of fertile lands to which this reduction of price will extend, the poor lands will not be purchased. If the price were reduced to twenty-five cents per acre, the poor man could buy a quarter section, worth but a quarter of a dollar per acre, for forty dollars; but if he could precisely as well purchase for his forty dollars a quarter section of good land worth two hundred dollars, or one dollar and twenty-five cents the acre, he would certainly prefer the latter, and the poor land would remain, as it now does, unsold, for want of buyers.

If we are not bound to cede these lands to the new States, as property which has been unjustly detained

from them, is there any other consideration that should urge us to the measure? None, while the new States are vastly more prosperous than the old States are, or ever were. By a statistical statement I have lately seen, I find that Ohio has added more than a sixth part to her population in four years—that is, about seventeen per cent. in that time; and that Alabama has nearly doubled her population in seven years. The history of mankind furnishes no parallel with this. Although the other new States have not been equally prosperous, yet their population has increased beyond any thing known in the old States, and by draining those States of their population as well as their wealth.

Messrs. SMITH, of Maryland, MACON, and NOBLE, followed, at length, in opposition to the amendment offered by Mr. HENDRICKS.

FRIDAY, MARCH 28, 1828.

## KENYON COLLEGE.

The bill granting a township of land for the benefit of Kenyon College, in the State of Ohio, having been taken up, in Committee of the Whole, Mr. CHANDLER moved to amend the bill, by providing for a similar grant for the benefit of Waterville and Bowdoin Colleges, in the State of Maine.

Mr. KANE said that the bill under consideration had been reported upon the petition of the Trustees of Kenyon College, accompanied by a resolution of the Legislature of the State of Ohio, unanimously adopted by that body, enforcing the application. As strong [said Mr. K.] as was the claim of the petitioners, thus respectfully recommended to a favorable hearing, there were other inducements to be found, in the circumstances of the origin of this institution, and of its progress to its present interesting attitude, which had operated more powerfully upon his mind. A few years ago, a reverend gentleman, now in this city, in his travels, which had been extensive, through the Western country, discovering that the means for education were not commensurate with the wants of the rapidly increasing population of that great region of country, conceived the design of establishing a seminary of learning, in some convenient position, upon a plan as extensively useful, as the cheapness of the means of subsistence could possibly admit of. It was hardly necessary for him to remind the Senate, that, in no country could the substantial of life be more cheaply obtained than in the State of Ohio. He believed it practicable, and experience had shewn his belief to have been well founded, to reduce the expenses of an education at a regular College within the competency of the great body of the farmers of the country, and of men in ordinary circumstances, of other pursuits in life, to educate their progeny. With views thus benevolent, this pious and learned man [Bishop Chase] proceeded to Europe, and obtained from well-disposed and wealthy individuals there, thirty thousand dollars, to be applied to this object. From his own countrymen, he had obtained an additional sum of twenty-five thousand dollars. With such part of those funds as was not, by the donors, designated for particular professorships, a large tract of land had been purchased, in a central and healthy position in Ohio, and the title thereto had been vested in a corporation, which had perpetual succession. Buildings had been erected to a limited extent. Larger and more commodious edifices had been partly built, and must await the further aid of individuals, or of the Government, for their completion.

Mr. K. said, he held in his hands a statement, subject to the inspection of any Senator, shewing a faithful and economical disbursement of the funds received. In this situation, the worthy gentleman he had named applied to the Legislature of Ohio for assistance. It was well



MARCH 28, 1828.]

Kenyon College.

[SENATE.]

known that that State was engaged in a great and expensive work, in opening a canal to connect the waters of the Ohio River with the Northern Lakes, which required all the disposable funds, and that she was not the owner of a foot of land to give away. That Legislature had done all that was in their power to do, in earnestly recommending the cause of this infant seminary to the favorable attention of Congress. The question then was, should this appeal be made in vain? Congress had made similar grants, to several institutions, for the instruction of the deaf and dumb; and the constitutional power of the Government over such subjects, need not be discussed. But, said Mr. K., if this question of power be involved, it will not be difficult to place the subject in a point of view, which not only shows the right, but which makes it the duty of the Government to make the grant. The right to "dispose of" the public lands, for the common benefit, embraces the power of devising the means of making such disposition available, and of making the purchase of lands more desirable. What stronger inducement could be held out to persons desirous to emigrate and purchase lands, than a knowledge of the fact, that the means of education were amply provided for in the country containing the lands? An individual had, by unwaried exertions, collected, in a foreign country, and in the Eastern States, a large sum of money, and had expended it in permanent and useful improvements, in a State wherein the Federal Government was by far the largest proprietor of the soil. He had thus contributed materially to the value of the national interests in that State. He had, and was continuing to do much to make Ohio a desirable State to move to and reside in; because he was largely contributing to the conveniences of education. Would any Senator present, owning as much vacant land, in any country, as the Government held in Ohio, hesitate to contribute a just proportion towards the expenses of so desirable a purpose? Nay, sir, would he not cheerfully enter into a contract, beforehand, with any person who would engage to do as much to improve his property, as Bishop Chase had done to render desirable the public lands in Ohio, to grant him a township of the land? Mr. K. said, he had heard some apprehensions suggested on account of a supposed connexion between this institution and a particular religion; no such fears ought to be indulged in. It was true that the present head of this institution was an Episcopalian Bishop. The Corporation was not limited to the instruction of youths in any particular religious creeds, and was no further Episcopalian than would be the Government or Constitution of this country, should, at any time, the President of the United States happen to belong to that denomination of Christians. The whole Western country was greatly interested in the successful issue of this application. The new States had not the means of endowing colleges, and would not have, until much of the public domain should become the property of individuals, and thereby become subject to taxation. The grants heretofore made by Congress for the purpose, could not be made available, to a sufficient extent, for many years to come. The United States were the landlords of the soil; and he insisted that the high obligations of a Government, thus situated, could not be discharged, but by liberal and efficient grants for purposes of education.

Mr. RUGGLES said, as he had presented the petition upon which this bill was reported, it would, perhaps, be expected of him, that he should say something in explanation of its object. The President and Trustees of Kenyon College, have, by their memorial, respectfully asked of Congress to grant them a township of land, to aid their efforts in rearing and building up a seminary of learning, which has been commenced under the most favorable auspices, and is now in a state of great forwardness. The funds which have been already acquired for this object,

have been raised by the President alone, [Bishop Chase] who has spared no pains, and omitted no exertions, within his power, to carry into effect this design. His great devotion to the success of this institution, for several years past, has led him to make great sacrifices of property, comfort, and happiness, to attain his object. He has succeeded beyond the most sanguine anticipations of his friends, and even beyond his own most ardent expectations. The donations already made, in Europe and in this country, amount to fifty-five thousand dollars, all of which are to be exclusively applied to the support of this institution. He now asks Congress to grant one township of the wild and unappropriated lands within the State of Ohio, to further assist him in the prosecution of this praiseworthy and patriotic undertaking. Mr. R. said, he hoped the application would not be made in vain—he sincerely believed, that, when the Senate took into consideration the great and unparalleled exertion of this distinguished individual, in the cause of humanity, of morals, and of learning, they would not withhold the small assistance asked for.

Mr. R. said, the college, for which this donation was asked, is situated in the county of Knox, within a few miles of the centre of the State. A tract of eight thousand acres of land, very rich and fertile, has been purchased by a portion of the funds acquired, and on this tract the buildings of the college have been commenced. Its central position will furnish equal facilities to the inhabitants of every part of the State. This college has been incorporated by an act of the Legislature of Ohio, and the usual privileges have been conferred upon it. From the rapid progress already made in the buildings, its entire completion will be effected in a very short period of time.

Mr. R. remarked, that he could not but advocate the present bill with great earnestness, not only from his own conviction of its importance and necessity, but from other and higher considerations, which he considered imperative upon him. So deep an interest did the Legislature of Ohio feel in the success of this institution, that, at its present session, resolutions were passed by that body, with great unanimity, instructing their Senators, and requesting their Representatives, in Congress, to use their best endeavors to procure the passage of a law granting a township of land for this purpose. Under the influence of these instructions, and supported by the just weight and character of so respectable a body of men as composed that Legislature, he could not but expect success in the present application. Why has the Legislature instructed their Senators and Representatives upon this subject? Why has it not granted the necessary aid itself? The reason is a plain and obvious one. Ohio is not the owner of any public land. She has not an acre to give. The Congress of the United States possess, and have power to dispose of, all the public lands within the limits of the State. This application is then made to Congress, as the great landholder there, to contribute a portion of its funds for the purposes of education; to unite with those who have made donations to this object, for the benefit of the present generation, and for posterity.

There is always an interest created in the public mind to know something of those who devote their lives, and their best days, for the benefit of others, for the service of mankind. Mr. R. said he would make a plain statement to the Senate, of the great and extraordinary exertions of this distinguished individual, to build up this College, and, when it is considered that he has done so much, it cannot be thought inexpedient for Congress to do something. The president of this institution is at present the Bishop of Ohio. He was, formerly, an Episcopal Clergyman, settled as a preacher in the city of Hartford, Connecticut, by one of the most respectable and wealthy congregations in that portion of the Union. Had he been satisfied with a competent support



SENATE.]

Kenyon College.

[MARCH 28, 1828.]

through life, and desirous of living at ease, in pleasant and accomplished society, he would have remained with his congregation. But his mind was of a higher order; he was desirous of becoming more extensively useful to his fellow citizens, and of enlarging the sphere of his benevolent exertions. In obedience to these high and honorable feelings, he determined upon emigrating to the Western country. He left his situation with great regret, and similar feelings were manifested by all his friends and acquaintances at their separation. It is about ten years since he established himself in Ohio. His professional duties required him, for several successive years, to travel into every part of the State, and, almost, to every county within the limits of the State. Here he collected the dispersed and scattered members of his society, and organized them into churches. It was a work of great labor, and required his constant and unremitting exertions. While thus engaged, he became extensively acquainted with the citizens of Ohio, and of the situation and condition of the rising generation. He saw, with deep regret, the great deficiency that existed in the means of education; and having connected his destinies with the People of the West, he resolved to exert all his energies to collect funds and establish a college for the purpose of instructing the youth of the country. It was a task of no ordinary character; it required perseverance and firmness of purpose, which but few possess. He commenced the work, and has triumphed.

In the prosecution of his object, the President of this institution, a few years since, visited England, for the purpose of soliciting contributions to enable him to build his college. He had been there but a short time before a great interest was excited in his favor, and many of the most distinguished personages of that country contributed largely. Lord Kenyon, whose name the college bears, took an active and decided part, and a similar feeling and sentiment were created in others. From those generous benefactors of learning and science he received thirty thousand dollars in money, books, and other articles necessary for such an establishment. These funds, so generously contributed beyond the Atlantic, laid the foundation of this institution. Nor have our own citizens in the United States, been less mindful of the great interests of education. More than twenty-five thousand dollars have been subscribed by the People of this country. The generous and the patriotic have every where lent their aid, and upwards of fifty-five thousand dollars have already been realized. This money has been applied to the purchase of land, to the erection of the necessary buildings, and placed in productive funds for the support of Professorships. One other fact ought to be mentioned. While the gentleman to whom reference has so often been had, was in England, many persons were desirous of making him some presents—of conferring upon him some distinct favors—all of which he declined receiving, lest an imputation might rest upon him that his object in visiting that country was for his own private benefit, and not that of the institution. He requested that all those presents, intended for himself, might be given to the cause in which he was engaged—they reluctantly yielded to his request, and gave them the direction he required.

One great and prominent object of the President of this institution, has been to reduce the expenses of education, and bring it within the reach of all classes of society, to the most humble as well as the most wealthy. It must be admitted, that some of the best talents of the country are to be found in the lowly cottages of the poor. Every effort, therefore, to furnish facilities to this class of our population to obtain an education, is of essential importance to the community. The whole expenses of one year's board, tuition, and washing, do not exceed sixty dollars. This is no visionary calculation. Three years'

experience has demonstrated the truth of this fact. Numerous applications for the admission of students, from different States in the Union, have been rejected, for the want of accommodations. When this college shall have been completed on the present plan, it will be sufficiently large for the reception of five or six hundred students.

Mr. R. said he thought it was his duty to give this brief history of the commencement and progress of this institution, that the Senate might distinctly understand its claims, and the grounds upon which the appropriation was asked. The zeal and perseverance with which this work has been prosecuted, is highly creditable to its founder and patron. The judicious application of the funds already acquired, will furnish sufficient evidence to the Senate, that any grant they may be disposed to make will be faithfully and honestly devoted to the cause of literature and science. On this point, Mr. R. said, he believed no doubt was entertained by the Senate—none had been expressed. In making these remarks, and advocating the present appropriation for Kenyon College, it is not intended to undervalue other colleges, which have been established in Ohio. They are highly respectable seminaries, and have been conducted in such manner as to reflect the highest credit upon their officers, and upon the State. But yet there is room for others, and an honorable competition among them will produce the most salutary effects upon the community, increase the means of education, and enlarge the sphere of science. With this view of the subject, Mr. R. said, he would leave the question with the Senate, under a firm conviction that they will be disposed to pass this bill.

Mr. BRANCH opposed the bill, on the ground, as he was understood, that it was a sectional institution.

Mr. PARRIS made a few remarks in support of the amendment.

Mr. HARRISON said, that the bill was, in his opinion, founded upon important principles. The great landlords of the country were bound to do something for the benefit of those who had settled their domain; and he was surprised at the objection offered by the gentleman from North Carolina, [Mr. BRANCH.] He had said, that large grants of land had already been made for the purposes of education in the Western States. But this was not the case. It was true, that it was part of the contract upon which the new States were admitted into the Union, that a township of land should be given for every million of acres. This was the foundation of two colleges now established in Ohio. This land was not given, as is supposed by the gentleman from North Carolina, but resulted from a bargain made with individuals, and greatly contributed to the settlement of the public lands. The State of Ohio now comes forward, and asks Congress for that which any other State, under like circumstances, might be expected to ask for, and which, it is but reasonable to hope, will be granted. The principle has been well established. Even the Crown of England, before the Revolution, made grants of land for similar purposes. The State of Virginia did the same by Kentucky, then a dependency of that State; and Massachusetts, while Maine appertained to her, gave a quantity of land for the establishment of Colleges. When the lands were granted for schools in Ohio, there was not a single white inhabitant in that State. Congress gave this small portion of their possessions for the purpose of accelerating the sale of the public lands; and the plan had great effect. It was a bargain in which the Government were great gainers; for it was a strong inducement to settlers to take up new land, when they were secure in a provision for the education of their children. It was now asked, to give a small portion of land to establish firmly a respectable seminary in that State, and he hoped the request would not be denied. In reply to the remark of the gentleman from North Carolina, as to the cheapness of education in Ohio, he would

March 28, 1828.]

Kenyon College.

[SENATE.]

remark, that it was cheap in the lower part of the State, but not uniformly so, from the want of facilities. He would say but one word as to the proposition of the gentleman from Maine. He was never disposed to reject a proposition, without a full investigation of its merits. And, when the gentleman from Maine should bring forward a proposition for a similar donation to that State, he would promise to give it a dispassionate examination, whatever might be his vote upon it? or, when a similar proposition came from any other State, he would give it the same attention. The application, in this instance, was not from an individual, but from the Legislature of the State of Ohio, which he thought gave it a claim to much additional weight. The State of Maine was differently situated. She had already received donations of large quantities of land, for the purposes of education. Their colleges and schools were organized and flourishing; and he thought, therefore, that a proposition for a donation of land to that State ought not to be brought in to interfere with the passage of the present bill, which was based on other circumstances and considerations.

Mr. CHANDLER observed, that the gentleman from Ohio laid considerable stress on the fact, that certain wild lands had been granted to the State of Maine, for the benefit of schools. And how did she obtain them? She fought for them—and more, she fought for, and assisted to conquer, the same lands of which the gentleman from Ohio speaks. And when the lands are to be given away, the lands which constituted a fund for the general benefit—was it to be considered so very extraordinary, for the State of Maine to ask for a share in the donation? He certainly did not perceive that it was unreasonable to make the motion which he had presented.

Mr. KANE said, that the bill was extremely embarrassed by the amendment offered by the gentleman from Maine, and more especially coming from a Senator from the State. When the other States surrendered their wild lands to the General Government, Massachusetts retained hers, and when the State of Maine was admitted into the Union, Massachusetts divided the wild lands with her. So that this proposition shews that, not content with her share of Massachusetts' lands, she now asks for a share of the lands formerly owned by Virginia. The demand, he thought, an unfair and unjust one; and he hoped the amendment would not prevail.

Mr. PARRIS said, that, in reply to the suggestions of the gentleman from North Carolina, he would state, that both the Colleges in Maine, to which a grant is proposed by the amendment, are chartered institutions? each being under the control of a Board of Trustees, perpetual in its duration, in which are vested all the lands, and other property, belonging, or in any way appertaining, thereto. They are not incorporated as sectarian institutions, no particular religious creed being required, by charter or by law, as a necessary qualification for their Presidents, Professors, or other officers. Gentlemen of different religious sentiments constitute their Boards of Trustees, and students of every religious denomination are indiscriminately admitted. A donation, therefore, granted under such circumstances, would not enure for the benefit of any particular individual or religious sect, or even exclusively for the State, but for all who may hereafter have occasion to resort thither for the benefit of instruction. The intimation of the Senator from Ohio, that the amendment has been offered for the purpose of embarrassing the progress of the bill, is most assuredly erroneous. The Senate could find another, and undoubtedly a sufficient reason for the proposition to amend. The public lands have become a fund, upon which all who are seeking for grants, either for charitable, benevolent, or local purposes, seem anxious to draw. Applications for these lands, for such objects, have been increasing from year to year, until now the proposition to relinquish the

whole, for the benefit of the States in which they are situated, has been distinctly submitted, and elaborately advocated. It should be recollected, that the public lands are the common property of the nation, purchased by the joint funds, or conquered by the joint efforts, of all who composed the Confederacy at the time of their acquisition. It is not wonderful, then, that Members from other States, which have derived no special benefit from these lands; for whose Institutions or improvements not an acre has ever been applied, should ask for some small, inconsiderable grants, for similar purposes, within their own States. This consideration, Mr. P. believed, had influenced his colleague to propose the amendment, and it was with no small degree of surprise, that he perceived the opposition to that amendment arose, principally, from the friends of the bill. Gentlemen have compared the claims of Ohio with those of Maine; and, because, on the division of Massachusetts, her public lands were equally assigned to the two portions originally constituting that State, have drawn conclusions unfavorable to the proposed amendment. What bearing that argument can have upon the question, is not easily perceived. The public lands of Massachusetts were the common property of her whole population. A portion of that population is formed into a separate community, and, being legally and equitably entitled thereto, receive a proportion of the public funds, equal to its proportion of population. This new community has also a common interest with all the other States, in the public property of the Union. And can this interest be in any degree affected by the arrangements with Massachusetts? Most certainly not. As well might it be urged that no part of the public revenue should be expended in Maine, or munitions of war be deposited therein for her defence, because a portion of the personal property, including ordnance and military stores, which she had heretofore owned in common with another State, has been assigned to her in severalty.

If the Senator from Ohio had turned his attention to another view of this case—if he had taken into consideration other facts, which seem to have a bearing upon the question, he might well have come to a different conclusion. It ought not to be forgotten, especially in discussing this amendment, that one thirty-sixth part of all the public lands in the State of Ohio have already been granted for the use of schools therein, in addition to what has been given, from time to time, for the endowment of Colleges and Academies. And what has Maine ever had from the public lands or the public Treasury, for literary purposes? Not a dollar. While large grants have been made for various purposes to other States—for opening roads, constructing canals, educating the deaf and dumb, and other objects—the moment any effort is made to let in a State, which has shared nothing from this fund, what are we told, and that, too, by those who have been large participants, and are still soliciting more? Stand aside, your claims are still to be deferred, as of inferior merit. It is urged, as an argument in favor of this grant, that its effect will be to reduce the expense of education in the West, and that the benefit will accrue to those of that region who cannot now avail themselves of the advantages of a public education, for want of the necessary means. The same reason applies, with equal force, in favor of the proposed amendment, and another institution in Maine founded more particularly for the instruction of those designed for mechanical and agricultural employments, might, with great propriety, have been included. It is no less important in the East, than in the West, that the expense of education should be reduced; and if in the latter, in consequence of a milder climate or more productive soil, the expense of subsistence is less, it certainly takes nothing from the force of the argument in favor of the former.

Much consequence is attached to this application, because it is recommended by the State Legislature; and

SENATE.]

Kenyon College.

[MARCH 28, 1828.]

from the circumstance that no similar application has been made from other States, the erroneous inference is drawn, that other Colleges do not need assistance. Such is far from being the fact. One of the institutions named in the amendment, and that the most flourishing and best endowed in the State, has been struggling, in vain, for years, to raise funds sufficient even for the erection of a chapel. In the other, additional Professorships are highly necessary. Both would have long since offered their petitions, supported by unquestionable proof of necessity, if they had been informed that grants were to be made for such purposes.

It is, indeed, an easy mode of satisfying an applicant, for a State Legislature, when indisposed or unable to yield the assistance prayed for, to endorse an application to Congress, and thereby secure to it extraordinary consideration. But let it be generally understood that the influence of such application is to be irresistible, and where is the State that will not immediately apply? The two other Colleges in Ohio will at once ask for grants, under the same imposing influence, and so will every College in the country.

These observations, Mr. P. said, had been drawn from him with reluctance. But, considering the quarter from which the opposition to his colleague's amendment arose, he should have thought himself inexcessably negligent of his duty, were he to have remained silent. He was not opposed to the application for Kenyon College. He held in high estimation the learned and worthy individual, by whose laudable exertions that institution had been founded. No man stood higher for purity of character, or philanthropic efforts. But the path which the worthy Bishop has trodden, was long since explored by one of the literary patriarchs of New England. The exertions, and, it may be truly added, the sufferings, of the founder of Dartmouth College, in New Hampshire, in promoting the establishment of that ancient institution, have never been surpassed. The founder of Kenyon College, the Wheelock of the West, has but followed in his steps. There are no circumstances operating in favor of a grant to the College in Ohio, that may not be urged, with equal force, in favor of Dartmouth College, and many other similar institutions in the Union.

The proposition of the Legislature of Maryland, to set apart a portion of the public lands for the purposes of education in all the States, Mr. P. had always thought correct. It had received the sanction of the Legislature of the State to which he belonged, and, he hoped, would eventually be successful. But, what say the Senators from Ohio? Substantially this: Encumber not the bill with any proposition for a like grant to Maine. Talk not of a general distribution now. Pass this bill, and, upon the question of a general distribution, "although we will not promise to carry a single vote in its favor from the new States, we will give it our dispassionate consideration." Would not that "dispassionate consideration" be quite as likely to lead to equitable results, if the bill for the relief of Kenyon College should be merged in the general proposition?

Mr. FOOT said, he did not rise for the purpose of entering into the discussion of this subject; but merely for the purpose of either correcting the statement of the Senator from Ohio, [Mr. HARRISON] in relation to donations of land, made, as he says, by "the Crown, to every Literary institution established in the Colonies," or, to enquire of the Senator where the State of Connecticut can find the lands given by the Crown to Yale College? Sir, if the Senator can inform us where these lands can be found, he will confer on that institution and on the State, a very great favor. Sir, Yale College has attained an eminence which has never been attained by any institution in this, or perhaps in any other country, with funds so limited as are the funds of this College. But, sir, it cannot be ne-

cessary for me to eulogize this institution. She has, at this moment, too many sons within these walls, to make any eulogy from me either necessary or proper.

Mr. HARRISON made a few remarks, in which he alluded to the Colleges in Virginia; but the reporter could not distinctly hear them, on account of the noise in the gallery.

Mr. TYLER would not have risen, but for the reference made by the gentleman from Ohio, [Mr. HARRISON] to William and Mary College, and the distinction attempted to be drawn in favor of Kenyon College, to the prejudice of similar institutions in Virginia. Extensive grants, it was true, had been made to William and Mary, by the King of England, yet it rested also on the basis of private donations. But William and Mary was not the only literary institution in that State, which was indebted to private donations. The College of Hampden Sidney, which had been for many years highly prosperous, had been reared entirely from the subscriptions of individuals, never having received, as he believed, one dollar from the exchequer of the State. The same remark was equally true in regard to Washington College; and, as to the University of Virginia, although it had received considerable endowments at the hands of the Legislature, yet it also had received important aid from the contributions of individuals. If the right existed to make grants of the nature contemplated by the bill, he could not admit that any distinction existed, either in principle or policy, between the case of Kenyon College and those which he had named. If any one State in the Union had stronger claims than any other on the public lands, surely it would not be denied that Virginia was that State. She had surrendered an extensive empire, out of which had been carved important States. Those States might be justly considered to be her daughters, for whose benefit she had surrendered her lands— whilst she had placed herself somewhat in the situation of King Lear. But he did not ask an appropriation of a portion of the public lands to the Colleges of Virginia. He did not believe that Congress had any right to make such appropriation, either to them or to any other literary institution. On the contrary, he protested against the passage of the bill under consideration, because he believed there was a total absence of such power in Congress.

It might be considered that the proposition before the Senate was of little consequence. He did not think so. Immensely important consequences often flowed from apparently trifling causes. The proposition made by Mr. Madison, when he was a member of Congress, to cause a survey to be made of a post road from Maine to Georgia; a proposition which, at the time, scarcely attracted the attention of the public, had been made the basis of the system of roads and canals. All the advocates of that system planted themselves upon that precedent, with an air of triumph. The sympathies of Congress had been appealed to on behalf of the deaf and dumb, and hand had been given. That was already quoted as a precedent justifying the passage of this bill. He thought that, if the present bill passed, the Government might fairly be considered as having acted upon a new doctrine pregnant with consequences the most fatal in their character to the sovereignty of the States. If Congress had the right to endow a college, it had an equal right to establish primary schools of instruction; and a system reared upon this principle would address itself as strongly to the interests of the States, as any other which had been acted upon. Nor were his fears upon this subject wholly imaginary. The President, in his first message, had thought proper to recommend the establishment of a National University; and, acting upon the principle in extenso, a proposition, he believed, had been made in the House of Representatives shortly thereafter, to establish primary schools throughout the Union. Were gentlemen prepared to set

MARCH 28, 1828.]

Kenyon College.

[SENATE.]

a precedent which would be carried to such conclusions? He wanted to know of what value the State Governments could be, if this Government took into its hands the supervision of the highways and the education of children?

Virginia made her donations of lands for objects specified in the grant; the most important of which was the extinguishment of the public debt. The lands were to be disposed of for that purpose. That compact was made anterior to the adoption of the present Constitution, and is equally obligatory with it. Congress had no more right to expunge that condition or stipulation, than to strike from the Constitution itself any one of its features. The right to give lands or to appropriate money from the Treasury, were equivalent, and he objected to both alike.

He had risen merely for the purpose of giving the explanation which he had given in relation to the literary institutions of the State from which he came, and while up, he could not avoid calling the attention of the Senate to the nature and tendency of the bill.

Mr. BENTON objected to clogging the bill with a new provision at that stage, after it had undergone all the ordinary forms, and had been discussed in Committee of the Whole, and was ripe for final decision. He objected, also, to running parallels between the claims of different States, and striking a balance which was to be liquidated by legislative acts. He conceived that every bill ought to depend upon its own merits, and not upon its associations, and that the one in question (for the benefit of the Kenyon College) ought to be left to run its course, free from the companionship of the way passengers which might attempt to join company with it. This bill was for an object, specific, notorious, and recommended by the favorable request of the Legislature of Ohio. A legislative request from a sovereign State ought, at least, to stand for something. The new States, he admitted, appeared, almost too frequently for their own dignity, at the bar of Congress, in the character of petitioners; but this case was not subject to that remark. It was an application in behalf of a literary institution, which had made its way, from small beginnings, to a point of eminent usefulness, and that chiefly by the great exertions of a single individual, the pious and learned prelate, Bishop Chase. The fact that the institution had been able to command so high a testimonial of regard from the Legislature of the State in which it was placed, would be conclusive, that it merited the friendly consideration of Congress. The amount of aid asked was not considerable, whether we regarded the ability of the donor or the meritorious nature of the donation. The United States had more land than she could sell for any terms, even the lowest. The township requested would make no diminution which could be felt or known. The benefit of it would accrue to future as well as to existing generations, to the people of any part of the Union as well as Ohio. Students may go there from any State, and receive the benefits of education on terms of unexampled moderation. If the new States, and Ohio among others, were the owners of all the vacant soil within their limits, it might be proper for them to sustain their institutions upon their own resources; but as the fact was, all the vacant soil belonging to the Federal Government, paying no taxes, bearing no share of the public burthens, there was certainly a moral obligation on this great landlord, an absentee in the worst sense of the word, to contribute to the advancement of their public object, whether for the improvement of the mind or the country, or otherwise. He knew it might be said that the United States had made an appropriation of land for schools; but he considered all such appropriations greatly overbalanced in this case, by the fifteen millions of dollars which Ohio had paid for public lands, by the taxes which she had lost, and by the increased value which the industry and capital of her citizens had cast upon the public lands. Mr. B. concluded with saying, that he

need not descant upon the value of education in a free country. He would barely say, that the preservation of our republican institutions must depend as much upon the intelligence as upon the virtue of its citizens.

Mr. BRANCH said a few words, and moved to recommit the bill, with instructions.

Mr. CHANDLER said, that his object in making the motion was to bring the question before the Senate, to determine how far they would go. If his amendment were rejected, he should vote against the bill.

Mr. RUGGLES said, that Kenyon College was an incorporated institution, and this donation was for the benefit of the corporation. He went into a detail of facts, to show that it was not a sectarian institution. He believed it was common for all colleges to be more particularly under some denomination, but it did not necessarily follow that there was any thing exclusive in the establishment. He hoped the bill would be allowed to progress unincumbered. He had no objection to providing for the State of Maine; but if the motion was persisted in, the bill would be lost. As to the idea of the gentleman from Maine, [Mr. PARRIS] that his State had a fair title to a share of the lands of Ohio, because Maine had assisted to conquer them, he would observe that it was an erroneous conclusion, as Ohio claimed as citizens a large number of the heroes of the Revolution; and it would be recollected, that, when the bill for the relief of the Revolutionary officers was under discussion, Ohio was found to have her full share. The lands were conquered, and the independence of the country established by all the States, generally: nor could any State claim the merit of the achievements of the Revolution above another.

Mr. CHANDLER made a few remarks which were not heard.

On motion of Mr. RUGGLES, the yeas and nays were ordered on the motion of Mr. CHANDLER.

Mr. McLANE said he rose to request the gentleman from North Carolina to withdraw his motion, as he (Mr. McL.) would propose another, which would, he thought, meet the views of the gentleman from North Carolina.

Mr. BRANCH withdrew his motion to recommit.

Mr. McLANE said that he was desirous of so modifying the bill, as to make it more comprehensive, so that, if it were proper to pass it all, it might embrace other objects than the particular institution provided for. He was unwilling that the bill should proceed in its present shape. It involved a subject of great magnitude, and proposed going further than we had ever gone before. Hitherto we had confined our donations of public lands to institutions for the education of the deaf and dumb. To be sure these were institutions of a peculiar character, as well as it regarded the mode of instruction, as the unfortunate objects of their care; and on these accounts stood in need of aid, which might not be had from individual resources. On this ground he had hitherto stood, but this bill proposed to travel beyond that, and appropriate the public lands for the founding and endowment of an ordinary college. He did not know that he should be opposed to such appropriations, if the policy could be extended to all the States, and in such a manner as to promote the objects of education in each. He was unwilling to confine the favor to a single institution, in a particular State, without a prospect of extending its advantages to others. The whole subject was one of great importance, and he thought it incumbent on us to weigh it well before we acted definitively in any particular case. He thought we could not make this grant to Ohio and refuse it to other States. The land was alike the property of the whole Union, though the gentleman from Ohio [Mr. HARRISON] seemed to consider it the exclusive property of the new States. It had been acquired by the common funds, and for the common benefit of the whole, and if it were now to be given for the purposes of education, there

SENATE.]

Kenyon College.

[MARCH 28, 1838.]

was no reason why all the parts should not share equally. He saw nothing in this particular institution which entitled it to peculiar favor; he thought, too, when this policy was adopted, that it would be proper to give to such State its proper proportion of the land, to be applied as in its own judgment might be proper to the several institutions within its limits. Mr. McL. would, therefore, move to recommit the bill to the Committee on Public Lands, with instructions to inquire into the expediency of making donations of land to each of the States, for the support of colleges within those States.

Mr. BARTON opposed the bill. The State of Ohio, in his opinion, had no special claim to this donation; and that State had already received its full share of land for the purposes of education. He thought, if the lands were to be applied in this way, they ought to be applied equally to all the States in the Union. There were an hundred institutions in the country with equal claims upon Congress.

Mr. RUGGLES opposed the motion of Mr. McLANE. If the bill went back to the committee, it would be too late to act upon it this session. If, on the other hand, this bill were passed this year, the gentleman from Delaware might bring forward his proposition at the next session. He hoped the bill would not be carried out of the Senate by a motion to recommit. Mr. R. concluded with some remarks in answer to those of Mr. BARTON, which were not distinctly heard.

Mr. HARRISON replied to the remarks of Messrs. McLANE and PARRIS.

Mr. CHAMBERS said, the proposition to make a distribution of a portion of the public lands amongst the States, for the purposes of education, originated in Maryland, and a very able argument in support of it was put forth by the Legislature of that State, which received great consideration from Congress. He had always concurred in the view of the subject taken in that argument, and would go as far as any one to give it practical effect. He should, nevertheless, oppose the reference, with the instructions proposed, because, in the first place, he did not believe there would be time to act on the subject during the present Session, with any prospect of concluding it, and, if not finally acted upon, the experiment now suggested might prejudice, rather than advance, its ultimate success: whereas, by passing this bill in its present form, no additional difficulty was opposed to the adoption of the general system. He was much gratified to hear a favorable opinion expressed of that system by so many members, and would indulge the anticipation that it would continue to grow in favor.

There was another motive, which would, of itself, induce him to oppose the motion to recommit. The bill was introduced, in pursuance of the suggestion of one of the States, in the shape of a direct appeal to Congress in favor of this institution. The Senators from that State had expressed a decided wish to obtain a decision on this appeal, without connecting with it any other subject. They deemed this course most courteous and decorous to the State of Ohio, and he thought it but reasonable to indulge them.

While on the floor, Mr. C. said, he could not refuse himself the occasion to say a word in reply to the remarks of the honorable gentleman from Virginia, [Mr. TYLER.] That honorable gentleman had thought it proper to say, that he perceived in this bill the execution, in part, of the system announced in the message of the President to the Congress of 1825, and to which the honorable gentleman takes exception.

In that message, the President recommended to the attention of Congress the propriety of establishing and encouraging a National University. In doing so, the President had but adopted and repeated the declarations of anxious solicitude which had been expressed by those

who had previously occupied the station he now fills, and whose earnest recommendation of the same favorite object, had not, he believed, made them the subject of the censure which is implied in the recommendation of an unconstitutional measure. This object was peculiarly and earnestly urged by General Washington, as well as by his successors.

The honorable gentleman could perceive in this bill, not only the consummation of the purpose suggested by the President's message, but another, even yet more at war with the constitutional restraints on the power of this Government, "the establishment of Primary Schools." But whence arises the apprehension that Congress is about to establish primary schools, or schools of any kind? There is not one word in this bill which connects Kenyon College with the General Government.

[The Chair here interposed, and said, it would not be in order to discuss the merits of the bill on the present motion, which was to recommit, with instructions, and the remarks of the Senator must be confined to that motion.]

Mr. C. asked, if it was not in order to discuss the merits or the effects of the measure which would be reported, if the committee should adopt the affirmative of the proposition contained in the motion submitted?

The VICE PRESIDENT said it was in order so to do.

Mr. CHAMBERS said, he should, then, contend, that the proposition submitted by the honorable gentleman from Delaware, [Mr. McLANE,] was equally exposed to the objections urged by the honorable gentleman from Virginia, against the bill in its present form.]

Mr. CHAMBERS then resumed his remarks. The only principle contained in this bill, which, by possibility, can involve a constitutional question, is, whether the Congress of the United States has power to grant the public lands? From the earliest history of the Government to the present moment—including the present Session—this right has been exercised and acquired in Grants have been made to the new States; to canal companies; to road companies; and to companies or associations for the relief of the deaf and dumb. If a grant can be made to a State, it is difficult to perceive the distinction which would prevent a grant to an incorporated company; and if to one character of corporate societies, he was at a loss to conjecture how the Constitution could be supposed to forbid a donation to another corporate society. The question was altogether one of expediency. Congress had required, from those who had asked a grant of public lands, satisfactory evidence that the object to which the grant was to be applied was meritorious in itself; that the grant was necessary to effect the object; and that the accomplishment of it was calculated to give greater value to the adjacent lands owned by the Government.

In this case, the College is designed to accomplish an object admitted, on all hands, to be desirable in the highest degree—the diffusion of useful knowledge, amongst the youth of the country, even those of contracted and limited pecuniary means, and without regard to political or religious divisions. The benefits of the institution are not to be (as it has been suggested) in any degree confined to individuals of one religious sect, nor are its operations to be made conducive to the formation of the religious creed of its pupils. It has been incorporated by the State of Ohio, and recommended, by the unanimous vote of the Legislature of that State, to our especial patronage, as the recipient of our bounty in the precise mode now proposed in the bill. The proceeds of this grant will be applied to the erection of buildings and improvements, and the accommodation of an increased population, which will necessarily lead to an enhanced value of the adjacent public lands. In what, then, does this grant differ from those heretofore made, in respect

MARCH 28, 1828.]

Kenyon College.

[SENATE.]

to any constitutional principle? or how does it involve any question of establishing primary schools, or any other schools? The Government is to have no interest in, or control over, the institution: its affairs are to be conducted by the trustees, who, by its charter, preside over it; they are not created by the Government, or in the smallest degree amenable to it; nor are their operations, in the slightest respect, subject to its supervision.

It was not his intention to go into the merits of the bill. That duty he cheerfully confided to those who had taken more active interest in the subject. His only design had been to show that the measure was free from the imputed charge of conflicting with the Constitution.

Mr. HAYNE said that this bill had been considered, by the Senator from Ohio, as making an appeal to the good feelings of the Senate—and another gentleman had gone so far as to say, that, to vote for it, would only be an act of proper courtesy to those at whose instance it had been introduced. Such is the guise, Mr. President, under which a measure is ushered into this House which involves one of the most important principles that could possibly be submitted to our consideration; and which, should it be sanctioned, will establish a precedent, that cannot be followed up to its legitimate consequences, without undermining the very foundations of the Federal Government. Sir, in matters of mere courtesy and good feeling, I should be disposed to go as far as any gentleman here; and towards the new States, I have never cherished any sentiments but those of kindness. But, when it is proposed to extend the jurisdiction of this Government to the subject of education, within the limits of the several States—when we are called upon to stretch the Constitution, so as to embrace that large class of subjects which appertain to the improvement of the moral and intellectual condition of the People within those States—are we to be told that the decision of a question of such immense magnitude depends entirely upon the courtesy and good feeling of this House? Gentlemen insist that we must confine our inquiries strictly to this bill, which merely proposes to grant a township of land to a College in Ohio. But why do so, sir? Is it because gentlemen are unwilling to have exposed to open view the magnitude of the question involved in it? Is it because they apprehend that the grant of a single township to Ohio will be considered a small matter, while a similar provision for every State in the Union would excite the vigilance, and alarm the fears, of those who look with distrust on all extensions of the powers of the Federal Government, and especially over subjects which peculiarly belong to the individual States? But, sir, can any gentleman wink so hard as not to see that this bill does, in truth, involve the question, whether the Federal Government shall take the subject of education into its own hands, and appropriate the national funds to that object? I put it to the candor of the Senators of Ohio to say, if this bill should pass, will they—can they—refuse a similar grant to Missouri or Kentucky, or to any of the new States? And when education shall be amply provided for, by grants of the public property in all of the new States, will they refuse similar grants to “the good Old Thirteen?” Can they refuse it to Virginia, who generously and magnanimously surrendered, without price, the very domain out of which this grant is to be made, and who surrendered it, too, on the express condition that it should be applied to the equal benefit of all the States? Grant it to Virginia, and surely it cannot be denied to any other State in the Union. Will either of the Senators from Ohio now rise in his place and tell us, that he will vote against any such proposition? I know they will not. Such a declaration would be the death-warrant of this bill. Then, Mr. President, I am justified in assuming, (what is in truth beyond a question,) that the passage of this bill must, of necessity, eventually lead to the grant

of at least 25,000 acres of the public lands to every State in the Union, for the purposes of education. The question is therefore now fairly brought up, whether it is constitutional and expedient for the Government of the United States to take this subject under their care. I am in favor of the motion made by the Senator from Delaware, [Mr. M'LANE], to re-commit the bill, with instructions to inquire into the expediency of making a similar grant to every State in the Union, because it looks the subject fairly in the face, and presents the true question, which we are now called upon to decide; and because, if we are to make a grant to any one State, I am clearly in favor of making similar grants to all.

But, sir, I have no hesitation, whatever, in entering, at this stage of the business, my protest against the extension of the jurisdiction, and the appropriation of the funds of the Federal Government, to purposes of education within the several States. I know that all measures for the promotion of benevolent objects find an advocate in the bosoms of most men, and that the idea that the national funds should be appropriated to the improvement of the condition of the People, (whether by cutting roads and canals, enlarging the boundaries of science, or cultivating the minds and morals of the community,) is one very apt to be cherished by all those benevolent persons, who, when a good end is to be accomplished, never trouble themselves with an examination into the evils which may grow out of the measures adopted for its accomplishment. To such men, the bare suggestion that the Constitution opposes a bar to the prosecution of any just or benevolent scheme, is regarded as a profanation of the sacred character of that instrument. But, sir, we, who, though charged with the duty “of seeing that the Republic sustains no detriment,” find ourselves restrained within the limits of a strictly delegated authority; who perceive, and feel, and are compelled to acknowledge, that the liberties of this country can only be preserved by a strict adherence to the Constitution; we, who know that, to extend the jurisdiction of the Federal Government over matters clearly reserved to the States, will finally overthrow this beautiful fabric of Government, which now stands the admiration of the world; we, sir, in the exercise of our high and sacred trust, cannot be influenced by any considerations but the preservation of the liberties entrusted to our care. It is our duty, sir, to exert a vigilant control over every department of this Government, and to resist every temptation to overleap the bounds of our authority. Sir, I am not more firmly convinced of the unparalleled excellence of our institutions, than that they must be of short duration, if this Government shall long continue to exercise jurisdiction over matters which belong to the States. By the very form and structure of our Government, the jurisdiction over all matters of a domestic or local nature is reserved exclusively to the States. To the Federal Government belong those powers which concern the foreign relations of the country—such as the question of peace and war, our commercial relations, and others of a similar character. While this great division is strictly adhered to, and good faith is observed on both sides, harmony will exist—but, when the Federal Government shall undertake, with its patronage, its influence, and its revenue, to invade the States—to interfere with, to regulate, and to control, their domestic concerns—then will begin that mighty struggle, the issue of which will decide whether this shall become a great consolidated Government, (with all power centered here,) or continue a Confederacy of free and independent States. It will be a struggle between liberty and despotism: for, surely, no man can be so infatuated as not to perceive that the destruction of the sovereignty of the States must inevitably lead to despotism here. But, sir, it is not my purpose to enter into the discussion of the constitutional questions involved in this bill. My



SENATE.]

Kenyon College.

[MARCH 28, 1828.]

purpose is merely to rouse the attention of the Senate to the importance of this question—to put them on their guard against suffering what I must consider as an alarming extension of the powers of the Federal Government, to creep into our legislation, in the humble and imposing garb of a charitable donation to a literary institution. Sir, this Government has already gone too far in assuming jurisdiction over subjects which either do not belong to them at all, or which they could only exercise under limitations which have been wholly disregarded. Let us look for a moment at the powers which Congress have already assumed, as well as the extent of that which we are now called upon to exert. The Federal Government has taken under its charge the whole subject of Internal Improvements within the several States, without restriction or limitation. We are now surveying the country, from Maine to Georgia, and from the Atlantic to the Mississippi, nay, beyond the Mississippi, to the very frontiers of Mexico, with a view to the establishment of a magnificent system of Internal Improvement. We have already appropriated millions of dollars, and millions of acres of land, to these objects, and have already actually surveyed the routes of roads and canals, which it would take the whole revenue of the country, for twenty years, to construct, and yet the surveys are not completed. Roads and canals for military and commercial purposes, and for the transportation of the mail, have been laid out in every direction. But these, we are told, are all national. Sir, I should really be glad to know what gentlemen mean by a national road or canal. If those only are national, in which every State has an interest, then, certainly, very few of that description have yet been surveyed; and if all are national in which any portion of the people have any interest, then all are of this character. In the latitude assumed on this subject, it is certain that the power of the Federal Government is limited only by its will, and may be exerted to the extent of the whole resources of the country; and it will, I fear, be found, in its exercise, to be a power not to unite, but “to divide the States, by roads and canals.” Having assumed to yourselves unlimited jurisdiction over internal improvements, your next step was to take under your care the subject of charities. Townships of land have been granted to Kentucky, Connecticut, and other States, for the benefit of the deaf and dumb. This has been done, because these unhappy persons were unfortunate. But are not lunatics equally unfortunate? Is there a form of human misery better calculated to excite all the sympathies of our nature, than a family of helpless children, left in a state of orphanage, without the means of support? Are the aged and the sick, and the destitute of every class and condition, to be excluded from your bounty, if misfortune alone is to be the ground of your interference? Sir, it is clear that, on the same principle on which you have undertaken to provide, out of the national funds, for the deaf and dumb, you may take all the charities of the country into your own hands, and build up a system of national poor laws as oppressive as that of Great Britain. But now we are called upon to take another most important step. We are to make a grant to private persons, to enable them to establish a college. It is not a grant to the State of Ohio, but to a corporation, consisting only of a few private individuals. A great deal has been said of the benevolent character and distinguished talents of the right reverend gentleman who is at the head of Kenyon College; and the excellence of the system adopted at that institution has been highly eulogized. Sir, I accede to all that has been said on these points. But, if you make a grant to one college in Ohio, will you not be called upon, and can you refuse, to make it to others? And when you have passed through all the respectable colleges in the United States, must you not take up the common schools, and provide also for them? In short, at what point are you

to stop? It is to my mind perfectly clear, that, if you pass this bill, you may, on the same principle, be called upon to provide for all the literary and scientific institutions in the Union. Sir, if the subject-matter is fairly within your jurisdiction, it will be better to adopt a grand system, at once, for the advancement of education in every State of the Union. My objection rests on the ground of your having, under the Constitution, nothing at all to do with the subject.

The gentleman from Ohio has alluded to a circumstance connected with the Kenyon College, which, to my apprehension, seems very much to strengthen the objections to this bill. He tells us that large contributions have been raised in England, among the members of the Church to which the venerable Bishop at the head of this institution belongs, and that we ought not to suffer such generous contributions to fail for want of our co-operation. Sir, in this circumstance I find conclusive evidence of the fact, that this is to be a sectarian college. I do not mean to use that word in an offensive sense; I mean merely that the institution is to be under the peculiar care of professors of particular religious principles. The gentleman from Ohio may be right, when he says that sectarian colleges always succeed best. My objection is against any connexion being established between the United States and such institutions. The Federal Government is prohibited, by the Constitution, from any interference in religious concerns. It is our true policy, and a fundamental principle of our Government, to permit no connexion between Church and State. Sir, if you establish an Episcopal College out of the national funds, can you refuse to do as much for the Presbyterians, the Baptists, the Methodists, or Catholics? It appears to me we will be under peculiar obligations to make a similar appropriation for the Catholics in Ohio, unless you mean to take part against the members of that Church; for it was but the other day I read an extract from an English paper, giving, as a reason why members of the established Church in Great Britain should advance funds in aid of Kenyon College, “in the new Diocese of Ohio,” that the Pope contributed funds for the advancement of Popery there. Sir, the Congress of the United States should have nothing to do with matters of this sort. If we are to go on in the course we have pursued for some time past, I know not what subject of legislation will be practically reserved to the States. If to all the subjects for the action of the Federal Government, fairly deducible from the Constitution, you are to add the superintendence and control over internal improvements, charities, education, and religion; and if, after having exhausted those, you are to set about “the organization of the whole labor and capital of the country,” (as recommended by one of the high officers of the Government,) what, I again ask, emphatically, will be left to the States? Without going at large into the subject, at this time, I must be permitted to express my firm and settled conviction, that the liberties of this People depend on the preservation of the sovereignty and independence of the States. This is our only safeguard, and the only bond of our Union. But the gentleman on the other side insists that this is not a grant of the national funds, but only of the public lands, to an object to which they are properly applicable, and to which the 16th section, in every township, has already been actually applied. I answer that these lands are the property of the United States, and it is not easy to conceive that we have a right to apply our real estate to objects to which we could not lawfully appropriate money. These lands are the common property of the whole nation, and no more applicable to schools in Ohio, than to schools in the other States; and, in relation to the 16th section reserved in each township for schools, we were told, the other day, by the gentleman from Alabama, and no doubt correctly, that these were substantially sold by the United States,



MARCH 31, 1828.]

Vaccination.

[SENATE.]

for the purpose of being applied by the inhabitants of each township to the establishment of common schools. The township being laid out with the reservation of the 16th section, to be vested in the inhabitants, for schools, it might well be considered that they became the purchasers of the same for these purposes. In conclusion, Mr. President, I would say that we must not be led away, in this case, by the small amount or peculiar nature of the grant we are called upon to make, to forget the principles involved in this question. This is precisely the form in which abuses creep into the State. They usually come in a shape so small and unobtrusive, so imposing, so interesting, that it is difficult to resist them; once introduced, they soon grow to a giant's stature.

With these views, he was in favor of the motion of the gentleman from Delaware. But he wished that the committee should be instructed to inquire into the constitutionality, as well as the expediency, of granting lands in this manner. If the committee and the Senate should decide that it was both constitutional and expedient to make these donations, then they would pass the bill. He therefore moved that the motion be amended, by the insertion of the words "constitutionality" before "expediency."

Mr. McLANE observed, that he supposed that the inquiry desired by the gentleman from South Carolina was included in his first motion. If a measure was not constitutional, it could not be expedient. He was willing to accept the modification of his motion, not considering that, in doing so, he adopted any opinion which had been expressed by the gentleman from South Carolina.

Mr. BARTON made a few remarks.

Mr. HAYNE observed, that, under the impression that an inquiry into the expediency of the measure would cover, also, its constitutionality, he would withdraw his motion for amendment.

Mr. KNIGHT suggested that the motion ought to be amended so as to include schools as well as colleges. In some States there were schools, but no colleges.

Mr. McLANE then modified his motion, so as to embrace colleges, or public institutions for education.

The question on recommitting being then put, it was decided in the negative, on a division, 18 to 21.

The question was then taken on the amendment offered by Mr. CHANDLER, which was rejected.

On motion of Mr. HARRISON, the bill was further amended, by restricting the location of the lands to the State of Ohio.

The bill was then reported to the Senate; when

Mr. COBB renewed the motion to recommit, with instructions, and moved that the question be taken by yeas and nays, which were ordered.

Mr. RUGGLES briefly opposed the motion for recommitment.

Mr. MACON said, that it was of little consequence whether the bill passed with or without the amendment. Either way, it would demonstrate that, whenever a door was once opened, they never shut it. It began with the deaf and dumb, and it is going on, so that, before long, it will embrace every thing. I don't like to hear members talk about the Constitution, said Mr. M. It is useless. I have taken my leave of it some years ago. This donation is for a college established by a meritorious individual. But, if we look to the merits of individuals, where shall we stop? Is this the only establishment in the United States which merits assistance? Yale College has always been highly spoken of, and that has as good a claim as this. I do not know whether this is a State institution, or whether the States manage these establishments in the North and West—but, in the South, the State puts them up and supplies the funds. If you begin with this institution, where will you end? Do you not believe that it will open a door for the entrance, with

a petition, of every State in the Union? It will bring the States to Congress, where they never ought to come. These things appear small in the beginning, but they grow in consequence as they go on. As to the desire for education, it is universal; there is not a man in the United States who has as much knowledge as he covets. The argument that education is a blessing, has never been denied. But was it to be managed by Congress? As they went on to increase the powers of the National Legislature, they made it more unwieldy, and increased the friction of the machinery. All the States would ask for assistance, if it was given to one. There was formerly a college in Maryland, and it was burnt down, and all the property was destroyed, but the land; and they had never been able to put it up again; but it remains as it was. Whether this was to be a sectarian college or not, he did not know; but he was against the donation, on all considerations, as setting a bad example.

The question being then taken on the motion to recommit, it was decided in the negative.

The question on engrossing then occurred, and the yeas and nays having been ordered, on motion of Mr. TYLER, it was decided affirmatively.

So the bill was ordered to be engrossed for a third reading; and, on the 31st of March, it was read a third time, PASSED, and sent to the House of Representatives for concurrence.

On motion of Mr. BERRIEN, it was ordered that, when the Senate adjourn, it adjourn to Monday next.

MONDAY, MARCH 31, 1828.

#### VACCINATION.

On motion of Mr. BATEMAN, the Senate proceeded to the consideration of the bill "to encourage vaccination."

Mr. BATEMAN remarked, that it was probably within the recollection of every member of the Senate, that a law, similar to the bill under consideration, was formerly passed by Congress. It was enacted in 1813, and the country enjoyed the benefit of it until 1822, when it was abruptly repealed, in a moment of excitement, produced by an unfortunate occurrence in North Carolina. It is now proposed to re-enact that law, with two modifications, the most important of which is a provision for two agents instead of one. The question presented by the bill, said Mr. B. is simple, and needs not many words in explanation. It requires the agents to furnish, to any citizen of the United States, whenever it may be applied for, through the medium of the Post Office, the genuine vaccine matter, and it confers the franking privilege on letters or packages to or from the agents, containing vaccine matter, or in any way relating to the subject of vaccination, to the extent of one ounce in weight. The privilege is thus specially restrained, and has all the guards usually employed to prevent an abuse of it. The importance of vaccination as a preventive of the small pox will be generally, if not universally, conceded; and the great benefits which have been derived, and would again result from such an agency, are the designation of persons from whom, in case of emergency, the infection may be obtained, and the security that it will be genuine. When the small pox prevails in any of the large cities, cases of it frequently happen in the country, where the best security against its contagious influence is an immediate resort to vaccination, which, when speedily employed on those in the neighborhood liable to the small pox, never fails at once to stop the progress of that formidable disease. It is in cases of this sort, and very many such have been witnessed, that the advantage of such an agency as is contemplated by this bill, is most conspicuous, by affording a facility for the application of the only appropriate remedy. I have understood, and believe, that the

SENATE.]

Vaccination.

[March 31, 1828]

former agent never failed to furnish the genuine matter when applied to for it, one instance only excepted; and that the invariable effect was speedy extirpation of the original disease, unless where it became epidemic in the large cities, in which cases a systematic concert of operation becomes necessary. It is true that the variolous or small pox matter was sent into North Carolina, instead of the vaccine, which had been applied for. A degree of mystery still hangs over that transaction. It is known that the agent, Dr. Smith, was extremely cautious in the administration of his office, and the result of an investigation by a committee of the House of Representatives, during the last Congress, renders it almost certain, highly probable at least, that some mischievous and wicked person had access to the letter in which the vaccine matter had been put up, and substituted therefor a variolous scab. Of the very numerous supplies of the matter, this is the only instance of any mistake, and distressing indeed as it was, ought not to weigh down the many great benefits conferred by the law, which was probably the means of saving many lives. The only favor now asked of Congress in return for so much promised good, is the release of postage on the correspondence growing out of the agency—a dispensation which is granted to seven or eight thousand Deputy Postmasters, and which cannot affect the revenues of the Post Office Department, to any extent worthy of being named. Mr. B. observed, that, if any objections were urged to the bill, he would endeavor to obviate them.

Mr. HARRISON said we had been alarmed here for several days with the appearance of the varioloid. The disorder was much milder than the small pox. The medical societies in Europe had ascertained that, out of some hundreds not vaccinated, eighty-five died of the small pox. Congress, with a view to promote vaccination, gave to Doctor Smith the facilities of communication, by mail, which are now proposed by this bill. It might be asked, why was it necessary to resort to the mail? The answer was, that it afforded the most direct, safe, and speedy means of obtaining the vaccine matter. Were the small pox prevalent here, and were the City 300 miles distant from any place where the vaccine matter could be procured, how many persons might die before the means of security could be obtained, without the use of the mail? The unfortunate mistake which occurred in North Carolina, was, Mr. H. believed, the result of the malice of some individual whose object was to destroy Doctor Smith's reputation. It was impossible to believe that Doctor Smith would have taken the varioloid matter from the arm of a person, to be disseminated. He could have no motive for so demoniacal a deed. It would have been destructive of the whole object for which he had so many years been toiling. But, granting, what seems impossible, that Dr. Smith did mistake the varioloid for the vaccine matter, does it do away the efficacy of genuine matter, and the necessity of disseminating it? There was a prospect that the bill would effect much good. It could, at any rate, be productive of no injury. The expense would be trifling to the United States. Mr. H. had no doubt, if the Senators present were convinced that a single life in the year could be saved by the assistance required, they would most willingly vote in favor of the measure.

Mr. CHANDLER opposed the bill.

Mr. BRANCH made a few remarks.

Mr. DICKERSON did not believe the gentleman alluded to was at all in fault. The suspicion was well founded that the act complained of was done by some person with a design to injure that gentleman. But he was free to say, that, in his opinion, more mischief had resulted from that affair, than could be counterbalanced by any good which had come from making post free the letters relating to vaccination, or containing vaccine

matter. If persons were entitled to receive, post free, such letters, why not letters free respecting other diseases? His colleague's object was not only to save expense in the transportation of the matter, but to enable the People to know where they could find the matter. Was not sufficient notoriety to be obtained in the ordinary way? Besides, it seemed that those cities where the matter was most easily to be had, suffered most from the small pox. His colleague had stated that 720 persons had perished in New York, Philadelphia, and Baltimore; showing that vaccination was most neglected where it was most attainable. He should oppose the extension of the right of franking for the purposes contemplated in the bill.

Mr. BATEMAN replied by stating, that, if this application emanated from, or had any special connexion with any vaccine society, he was unaware of it. Such an institution may exist in Maryland; but if so, its operations were probably chiefly confined to that State. He went for the whole of the United States, to every corner of which, however remote or sequestered, he wished to extend the facilities which the bill provided. It was indeed the country, and those portions of it most remote from the large cities, to which it would be most useful. In the country, the matter could not well be preserved through the Summer; and it was of the utmost importance to practitioners, remote from the cities, to know where, and of whom, they could at all times obtain matter on which they might safely depend. Mr. B. thought the benefits, which resulted from the former law, had been undervalued, by those who opposed the bill. It was a fact, believed to be well established, that the assiduity of the Agent, favored by the co-operation of the Faculty, at one time, extirpated the small pox from the United States, so that, for several months preceding the Fall of 1821, not a case of it was known to exist within our limits. In the Fall of 1821, it was unhappily imported into Baltimore from Liverpool; from the seeds of which it continued to spread wider and wider, for several years, so that, in the year 1824, no less than 720 individuals died of the disease in the three cities, of New York, Philadelphia, and Baltimore, and it still prevails in the country. It must be recollected that the Agency law was repealed early in the year 1822. Mr. B. said, that it appeared to him that his colleague [Mr. D.] had not observed his usual caution when he ventured an opinion that the distress produced by the North Carolina catastrophe, would outweigh a large share of the benefit which had been produced by the law. It was difficult, he knew, to estimate rightly the value of preventive remedies. In this case the prevention of the distress resulting from disease and death in the most appalling form, he did not doubt had been very great. As to the charge of postage, which the gentleman from Maine seemed to imagine it was one of the purposes of the physicians to avoid, it was of too little consequence to enter into the account. The great object to be effected was, a sure source from which to obtain supplies of the virus in time of need, and not the avoidance of a trifling charge for postage.

Mr. DICKERSON considered the Society entitled to credit for what public good they had done, but thought the Senate should extend the privilege of franking with great jealousy, even to its officers. The Bible, and other Societies, consider themselves equally entitled to the privilege of free communication. Privileges of this kind should not be partially granted. Why not extend this privilege to other diseases, or why confine it to vaccine inoculation? Mr. D. thought the dissemination of vaccine inoculation sufficiently extensive, throughout the States, without any farther interference of Congress.

The question was then taken on ordering the bill to a third reading, and decided in the negative. So the bill was rejected.

MARCH 31, 1828.]

French Colonial Trade.

[SENATE.]

## FRENCH COLONIAL TRADE.

The bill to regulate intercourse with the islands of Martinique and Guadeloupe, was read a second time.

Mr. WOODBURY rose, and said it was unnecessary for him, at this time, to offer any thing beyond a brief explanation of the origin and operation of this bill. It will be recollected, said he, that, in 1825, the British Government, by an Order in Council, opened many of the ports in their West India colonies to all the world, on certain specified terms. Those terms it is not important to enumerate, except that the measure was required to be met by other nations, within a particular time, by commercial regulations of a liberal and reciprocal character. The history of the attempt by this Senate to reciprocate the measure, is fresh in the remembrance of all, and the consequences as well as the causes of the failure of that attempt need not now be repeated. But the French Government early seized upon the opportunity offered by the British order, to extend the commerce of her dependencies, and met it by the French ordinance of February, 1826. That ordinance has recently been placed on the tables of all the members of this House; and its provisions, equalizing the duties on tonnage to vessels of all nations that enter Guadeloupe and Martinique, and imposing a very low tariff on many important articles of export from this country to those islands, are now familiar to all.

The present bill is intended to reciprocate, in a friendly spirit, the provisions of the ordinance. Mr. W. said he could conceive of no objection to its passage, unless gentlemen should apprehend that some important cause, during the last two years, has prevented any steps being taken to meet the ordinance, which ought still to prevent any; or that the bill goes further in its indulgences than the ordinance.

As to the first supposed objection, Mr. W. remarked that he held in his hand a communication from the Department of State, in answer to inquiries by the Committee, and which would be read, if any member desired it, assigning certain reasons for the delay. It appeared by this communication that the ordinance was presented to this Government, by the resident French Minister, as early as June, 1826. It is stated that no special demand was then made, as to what should be done in relation to it; that the President doubted his power to meet it by proclamation under our statute of January, 1824, concerning the removal of discriminating duties; that its publication was noticed in some American newspaper, by the State Department, soon after it was received, though, Mr. W. said, it had not been his fortune to see it republished in any of the Northern commercial papers, or in those printed at the Seat of Government; and that nothing since had been done, or had publicly transpired, concerning the ordinance, till, on a resolution of the vigilant Senator from Maryland, it was communicated to this body. All know, that, after having been thus communicated, it had been referred to the Committee on Commerce, and they seeing no reason why the ordinance should not be promptly met, by a grant of similar privileges to the commerce of those islands, had reported the present bill.

The committee deemed it necessary to act speedily, as the long delay to reciprocate the measure had given rise to a report which, he trusted, would not be verified, that the privileges, so far as regards American vessels, had been, or were about to be, withdrawn. They deemed the trade also of sufficient importance to this country to require early and sedulous attention from the constituted authorities, in its preservation and improvement.

The exports to those islands, with some to Cayenne, on the continent, for two other small West India Islands, belonging to France, which were little more than naked rocks, amounted to almost a million of dollars worth annually. They consisted of our domestic products entirely, except forty or fifty thousand dollars of teas and pepper;

and among those domestic products were included many staple articles, such as rice, tobacco, and Indian corn. Nearly one-fourth of the whole exports was lumber; almost one-fifth fish; and the amount of the others, including the articles first named, perhaps it was not necessary to detail.

The returns for these cargoes were likewise of an important character. More than two-thirds of the whole value consisted of molasses, and was in quantity equal to one-sixteenth of the whole importation of the article into the United States. Almost \$200,000 was specie and bullion, and the residue sugar, cocoa, coffee, and other smaller articles of little amount.

The manner in which the liberality of the ordinance of February, 1826, has been, or may now be met, may affect the whole of this trade; because, like the trade of the British West Indies, it may, by inattention and delay on our part, become prohibited, or subjected to discriminating duties of the most burthensome character.

The present bill proposes to make an ample and just return for the privileges that ordinance confers; to throw open all our ports to French vessels from the islands of Guadeloupe and Martinique, bringing cargoes, the growth or produce of those islands, on payment of the same duties as American vessels with like cargoes. The bill is thus more extensive in its terms than the ordinance, as it is not confined to vessels owned only in those islands, nor to French vessels sailing from particular ports in those islands—nor is it limited to particular articles of importation, excluding, virtually, like the ordinance, other articles not enumerated; because the ports there opened are probably all where custom-houses are established; because few vessels are owned in those islands which could enter into this trade; and because, save pork and flour, perhaps no articles of importance are wholly excluded from admission. In legislation of this kind, bottomed on free and friendly principles, it is better to exceed than fall short of other nations in the exercise of a catholic spirit. In a Government like ours, which boasts of its liberality and justice, the utmost vigilance should be employed to practice all we profess. The principle of the bill is to us all-essential. Nobody will dread any injurious operation of it to our real interest as well as character, when they advert to the fact, that all the importations here, from those islands, except about \$25,000 worth, and all the exports, but about \$72,000 worth, are transported in our own vessels. Hence, the privileges granted by the bill will extend only to the small portion of the trade carried on in French vessels. In respect to that portion, we may well be liberal, not only on account of its smallness, but because, though some of our articles are excluded, the duties on those admitted are much less than the duties imposed by us on the articles from Guadeloupe and Martinique. Gentlemen, on turning to the ordinance, will see that lumber pays only 4 per cent., tobacco but 7 per cent., live stock 10 per cent., Indian corn 2 francs the hectolitre, and on rice and salt fish 7 per cent. As the kilogramme is something over two pounds avoirdupois, the duty on rice is probably less than 20 per cent.; while on our part, the importations, such as molasses, sugar, and coffee, pay at least from fifty to seventy-five per cent., and thus leave the whole terms of exchange by no means disadvantageous to this country. The proviso enables the President at any time to withhold the privileges of this act, if those of the ordinance appear to have been revoked. Such, in brief, is the origin, and such will be the operation of the present bill, and, without further explanation, it is hoped that the Senate will, with cheerfulness and unanimity, agree to its passage.

Mr. BRANCH said, the facts disclosed by the Chairman of the Committee on Commerce were certainly of an extraordinary character. It appears that the President of the United States has been in possession of information deeply affecting our commercial relations with the French

[SENATE.]

*French Colonial Trade.*

[MARCH 31, 1828.]

West India Islands, as early as the month of June, 1826, which information has been withheld from Congress, for the reasons set forth in Mr. Clay's letter to the honorable chairman. One of which reasons is, that the French ordinance of February, 1826, although officially communicated to the State Department in the month of June of the same year, was published in some one or two newspapers in this country. It, however, does not appear that the ordinance was known to those most deeply interested in the trade; all now admit the value of the information, and the indispensable necessity of immediate legislation on our part.

The chairman had not informed the Senate whether the reasons assigned were satisfactory to the committee. This, however, was unnecessary; for it is but too apparent that no satisfactory reason has been offered, or probably could be. Be it as it may, the subject is one of deep interest to the people of this country, and particularly to a portion of those he represented.

It was clearly our duty to have met the views of France promptly, and placed the trade of the two countries on terms of perfect equality. This Congress would have been as ready to have done at the last session as at this, had they known what the President then knew, or what they now know.

Mr. B. said that he would, for the moment, repress the feelings which such conduct, on the part of our rulers, was calculated to excite, under the hope that some person might be found able to give a more satisfactory reason in extenuation of the policy pursued by our Government.

Mr. SILSHEE said, that the bill under consideration received his approbation in committee, and would receive the support of his vote in the Senate. He considered the ordinance of France as a measure adopted by that Government with a view to its own interest, and without reference to the accommodation of other Powers. The decree itself shews this, by the omission in it of such provisions as are found in the acts of our own, and every other Government, which are contemplated to be met by, or to depend on, the acts of another party. It is a temporary act, said Mr. S., revokable at the pleasure of the French Government, and must have been so considered by this Government, to whom it was not then even suggested that a corresponding act on our part was required or expected. The supposition that a knowledge of the existence of this decree had been kept a secret in the Department of State, Mr. S. said, was erroneous. Although he had not heard of this decree himself, until since the commencement of the present session of Congress, and, under an apprehension that its existence might not be generally known, he had forwarded several copies of it to commercial sections of the country, yet he did not do this with any expectation of giving information to those who are usually engaged in trade to those islands, as he could not believe them to have been so long ignorant of it; for these voyages are made every few months, and, if the rates of duties, or privileges of trade, were essentially altered by this decree, no master or owner of a vessel, which had been at those islands since it took effect, could be so regardless of their interest as not to have a full knowledge of it. Mr. S. said that, very soon after hearing of this decree, he found that it had been published in several newspapers; one of which publications he had seen in a Baltimore paper (he believed it was the *Commercial and Daily Advertiser*) of the 26th of June, 1826, extracted from the *Norfolk Beacon* of the 24th June, which publication was made over the name of the French Consul, and gave all the particulars of the decree. The date of this publication, Mr. S. believed, was the very day on which it was received by our Government; so that they could have given no more publicity to it than they must have seen had been already done by an officer of the French Government.

Mr. S. said he knew it was the practice of the Government to publish our own laws, or those of a leading character; but he did not know whether it was, or was not, their practice to publish those of foreign Governments; he had, however, understood that such was not their practice; at any rate, it could not have been necessary in this case, seeing that it had already been done by an officer of the Government from which the act had emanated. Mr. S. said the Senator from New Hampshire had misapprehended the amount of duty on rice, in stating it to be 7 per cent. He would find it to be 7 francs per 100 kilogrammes, which is equal to 65½ cents per hundred weight, or about 20 to 25 per cent. on its prime cost; but, whatever may be the rates of duties, they are to be the same on importations in our vessels, as in those of France, which should satisfy us on this point. [Mr. S. here enumerated the kind and amount of the several articles exported to these colonies the last year, giving an aggregate amount of 900,000 dollars.] Mr. S. suggested to the Senate (without offering any amendment) that the proviso of the bill did not authorize the President to annul it, while any one of the privileges granted by the decree existed, or while any one of the articles enumerated in it, were admitted into the French islands.

Mr. WOODBURY remarked that he had inadvertently stated the duty on rice at 7 per cent. At 7 francs the hundred kilogrammes, it would amount to from 18 to 20 per cent.

Mr. BRANCH rejoined, that, with the highest respect for the gentleman from Massachusetts, [Mr. SIMMONS] he very much questioned whether the Senator himself was satisfied with the reasons assigned for the suppression of this truly important information. For he now considers it to be our duty to pass the bill on your table, and thus place the trade of the two countries on the basis of equality. Had the gentleman been in possession of this information at the last session, would he not have considered it to have been his duty to have advocated the passage of a similar law then? Most assuredly he would; for all must admit that, if it is right and necessary to legislate now, it was equally so then. Why, then, has this ordinance, this new tariff of duties on the trade with Guadeloupe and Martinique, been withheld from the American Congress? Mr. President, the cause is but too apparent. Believe me, sir, the People of this country are too intelligent to be blinded in this way; a short retrospect will enable them to understand the policy and views of those at the head of our Government, and properly to appreciate their motives. The disclosure was calculated to reflect on themselves, and to throw their own conduct into discredit. Mr. Clay says that the French ordinance was published in some one or two of the newspapers of this country in 1826, which, however, no person that we know of, or the committee, could find, ever saw, or can now find. Admit it, however, to be true, is it a sufficient reason why the President of the United States should not have officially communicated the intelligence to both Houses of Congress? Is this the proper course for the Chief Magistrate to pursue? For an officer, whose constitutional and sworn duty it is to give all proper information, from time to time, to the Congress of the United States? No, sir, this cannot have been the true reason for withholding the facts from Congress. It is a mere subterfuge, disreputable to the American character. They have, by their own showing, said Mr. B., acted in a manner which merits the severe reprobation of the People of this country.

Mr. TAZEVELL would suggest to the Chairman of the Committee on Commerce, [Mr. WOODBURY] who introduced the bill, of which he entirely approved, whether there was not some hazard that this bill, in its present shape, would repeal the construction which the Executive had given to the law regulating the commercial in-

MARCH 31, 1828.]

*French Colonial Trade.*

[SENATE.]

tercourse between this country and France herself. The Senate had seen, from a communication made by the Secretary of State, that, in the exercise of the discretion vested in the Treasury Department, on the arrival of some French vessels from France, via Martinique, doubts arose whether they were to be regarded as coming from France or from Martinique. There was a wide difference as to the duties to be paid in either case; but the proper officer of the customs had been directed to consider them as coming from France; thus placing them in the most favorable situation. Suppose, said Mr. T., a vessel bound from France to Martinique, with a cargo of claret, sells, on her arrival there, a part of her cargo, and with the balance arrives in the United States, will she, if this bill passes, be regarded any longer as a vessel from France or from Martinique? Might not the passage of this bill be regarded as confirming the Executive construction, and so subject such vessels to greater duties than are now imposed on our own vessels under similar circumstances, and thus subject our navigation to greater losses than any benefits to be derived from the bill would produce? Mr. T. thought the bill had better be so amended as to guard against such a possible result.

Mr. WOODBURY said that if the Senate saw fit to modify the bill so as to embrace the proposition of the gentleman from Virginia, there could be no objection to it; although the operation of the terms of the convention between this country and France, which struck off one-fourth of the discriminating duty each year, rendered it a matter of no great importance.

Mr. HAYNE said, he rose merely to put a question to the chairman of the committee; he wished to know whether the French ordinance had not been repealed or modified? He would be glad to know if the committee had investigated the subject, and whether they were in possession of such information as would enable the chairman to state what was the fact in this respect. It was to him a matter of much regret, that a bill of this nature had not been passed a year ago, though he well knew that Congress had no information of the subject which would have enabled them to act. His constituents, he knew, had no such information. It was unfortunate that the Executive had not communicated the French ordinance to Congress. It would have been highly interesting to the people of the South, as the trade in rice alone would have been extremely valuable to them. It had been stated that, in consequence of the delay on the part of the American Government, in reciprocating the French ordinance, it had actually been repealed. Mr. H. wanted information on this subject.

Mr. WOODBURY, in answer to the gentleman from South Carolina, would give all the information in his power. He had a letter, as before observed, from the Secretary of State, which he would ask of the Secretary to read, by which it appeared that no information of any change in the French ordinance had reached the Department of State; and that application had been made to the French Chargé on that subject, who also had received no information of that kind.

[The Secretary here read the letter from the Secretary of State.]

Mr. W. would also remark that the second letter from the Secretary relates to a decision of our Government, as to French vessels touching at Guadeloupe and Martinique, on their voyage to this country; treating them as if coming directly from France; and that information had been received from Mr. Brown, our Minister in France, that the French Government has adopted the same construction as to the circuitous voyage of our vessels that we have concerning theirs.

Mr. TAZEVELL had no doubt of the correctness of the construction given to the convention with France by our Government, but, he said, if the passage of this bill

will put French vessels coming from Martinique and Guadeloupe on a different footing than they were before, what would be the effect upon vessels coming to this country from either of those colonies, which vessels were originally from France, and had on board a cargo, or part of it, taken in in France? He might be wrong, but he merely threw out these suggestions, that gentlemen might avoid repealing, unintentionally, the construction given by the Executive to the law giving effect to the convention with France.

Mr. SMITH, of Maryland, moved to amend the bill, by inserting, in the fifth line, after the word "Islands," the words "or of France." The object of this amendment, Mr. S. said was apparent. He had understood that French vessels coming from France, via Martinique and Guadeloupe, have been admitted into our ports on the terms of the convention; and this being the case, why, said he, leave the matter to construction? Why not word your law so that it may be expressed? If the bill passes, and goes out to the world in its present shape, it will be considered that vessels coming here from the French colonies, originally from France, will be subject to alien duties; and France will then have cause to complain. Why not, said Mr. S., make the matter so plain as to be understood by every body? France, said he, employs very few colonial vessels: her colonial trade is principally carried on by vessels coming from old France, and touching at their colonies for cargoes, which they bring to our Southern ports. The French trade is very important to us; it had quadrupled itself since the convention was entered into. That convention, said Mr. S., was very odious to the French merchants, particularly to those of Bordeaux; for he believed himself warranted in asserting that, since our vessels had been admitted into the ports of France, on the same tonnage duties as French vessels, nine-tenths of the trade was in our hands. Sir, said Mr. S., a new administration has come into power in France: we do not know what their views are; but we do know that the views of Villele were of the most liberal kind. He was going on gradually to place the trade of the whole world on terms of the most fair and perfect reciprocity. He did not know, as he had just observed, what might be the policy of the new French Ministry but the merchants of Bordeaux were using every exertion to abrogate the convention. They say, that, since it was entered into, the Americans monopolize the whole trade.

Of all countries, said Mr. S., I wish to conciliate France. She is important to us in a political point of view—important to us in a commercial point of view. Our exchanges with her are highly advantageous, as she takes from us our cotton, tobacco, rice, and other staples, and, in return, we get from her many articles much cheaper than we can get them from England. From the view he had taken of the subject, he could not but hope that his amendment might prevail.

Why, said he, leave that to construction, which we can make express? Why not make our law such, that France may be perfectly satisfied?

Mr. McLANE said, that he was not very decided in his objections to the amendment, but he considered it not altogether consistent with the bill, and rather a departure from practice; and on those grounds he should be gratified if the mover would withdraw it. The bill was not framed with a view to the direct trade; and no provision that they could insert would affect the convention between this country and France. This bill is solely applied to the regulation of the colonial trade. The arrangement which was to be made by this amendment in relation to the direct trade, was, he considered, settled by treaty. Whether vessels coming from France, and touching at the colonies, should be admitted here, was not the question under discussion. The Government has

SENATE.]

*French Colonial Trade.*

[MARCH 31, 1828.]

already decided that their construction of the convention is favorable to their admission. On that subject, therefore, nothing could be done, and nothing was needed. It was already settled by treaty. If the French have this right, Congress could not prevent it. If they have not, it ought not to be given to them, and Congress ought not to interfere. Suppose that France were to put a different construction on the convention to-morrow, by which this privilege, granted to them by our Government, should be denied to us in return? We should then be bound by our law. We could not then control any unexpected act of the French Government, because we should have tied up the hands of our Executive by this bill. At present, the construction of the convention by our Government, was, that, if a vessel leaves part of her cargo at the islands, she may come here with the remainder, and her voyage is not considered as broken. But, if she takes in a new cargo, her voyage is broken, and she is not allowed to come here under the terms of the convention. If, however, the amendment were to be adopted, she may do so. Hence, the provisions of this bill, so amended, would interfere with the terms on which the direct trade has been settled between the two countries. He, Mr. McL., thought it would be unwise to do this. We were proceeding gradually in the adjustment of our trade with France, with whom we now have a fair understanding. He thought, therefore, that nothing ought to be done which would confuse or interfere with that perfect arrangement of the intercourse on fair and reciprocal principles. These were briefly the views which induced him to wish that the amendment might not be adopted.

Mr. WOODBURY had no objection to introduce into the bill the amendment of the gentleman from Maryland, if it could be believed necessary. It would not, in all probability, apply to half a dozen cases a year; and, moreover, he thought that the convention would now be sufficient, under the construction given to it, to provide for such part of the cargo of French vessels as may come from France, and the bill to such part as may come from the colonies. While, if the amendment was in fact adopted, it would extend the operation of the bill from the colonies to France proper, and lessen the present duties on both tonnage and cargoes coming from the mother country.

Mr. SILSBEE said, that the bill, as reported by the Committee not only fully reciprocated all that was granted by the French decree, but went even a little further. That decree did not permit the importation into Martinique and Guadaloupe, of all our products, but an enumerated list of them, from which flour and some other articles were excluded; whereas the bill now under consideration permits the importation into this country, from those Colonies, of any and all their produce which may be permitted to be brought here from thence, in their vessels. The amendment of the Senator from Maryland will authorize the importation from thence, of any of the produce and manufactures of France which may have been previously deposited there, which will be giving to these Colonies, and without equivalent, greater privileges than are enjoyed either by France or England, under the existing treaties with them. The produce of these French Colonies cannot be imported into this country from France, yet, if this amendment prevails, the produce and manufactures of France may be imported from these Colonies; this was, Mr. S. believed, what never had been done by this Government, except under treaty stipulation and for a fair equivalent. Mr. S. said, that he had understood that our trade with France was probably now the subject of negotiation between the two Governments; and, said Mr. S. would it be wise or sound policy to interpose a measure like this, and thereby derange the progress of negotiations? It has just been said that a leading object with France, in her trade with this country, is to get her

produce and manufactures into this country on favorable terms: if this be the case, the proposed amendment would give to the French Government a great advantage in negotiations which may now be pending. It might give to France all that she wanted. And it was certainly bad policy, when we were endeavouring to make an advantageous arrangement, to make such an offer in advance, without knowing whether any equivalent would be received for it. France may say, we have already a right of introducing our produce and manufactures into the United States, through the Colonies, and therefore do not wish to negotiate on that subject. The possibility of interrupting an arrangement which could be made so much more satisfactorily by treaty than by legislation, ought to be avoided.

Mr. SMITH, of Md. said, that the argument of the gentleman from Delaware had considerable weight. The gentleman from Massachusetts says, that, if we adopt this amendment, we shall give up something which might otherwise obtain an equivalent. There seems to be a conflict of opinion between the two gentlemen, in this respect.

Mr. SILSBEE said, there was no conflict of opinion. We allow French vessels the carrying trade, circuitously. They have it by treaty. And, if we give it them, by this bill, they will have it in a two-fold manner. It had been construed by our Government that the Convention allowed French vessels to come here, from France, by way of the Colonies, and bring such parts of their original cargoes from France as had not been landed in the Colonies. This amendment went so much farther, as to allow them to bring from the Colonies such of the productions and manufactures of France as had been landed in the Colonies, which Mr. S. trusted would not be sanctioned by the Senate.

Mr. JOHNSTON, of Louisiana, said the amendment of the gentleman from Maryland is unnecessary, and is confounding two things, which are entirely distinct in their nature. The bill was carefully prepared by the Committee, with a perfect knowledge of the whole subject, and it embraces every thing proper to meet the terms of the French Ordinance.

The direct trade between this country and France is regulated by a Convention, and it has been settled that the vessels of either may touch at any colonial or foreign port for information, without a deviation from the direct voyage. But, if a French vessel touches at the colonies, and breaks bulk, it is a deviation, because the French Colonies are excluded from the operation of the Convention; but this trade will fall within the operation of this bill. It is, therefore, unnecessary to connect what properly belongs to the construction of the Convention, with the regulations of the Colonial Trade.

This ordinance is temporary in its character—it is revocable at the will of the sovereign; and we have had no evidence that it was intended to be permanent. There can be no indisposition in this Government to reciprocate the terms of it. But the gentleman from Maryland is entirely mistaken in his views of France, in passing this regulation. Navigation is not the object of France. She knows that she cannot contend with us. It is trade—the exchange of productions, to which she looks. The gentleman says we have nine-tenths of the carrying trade since the operation of the convention; and then says, France had the interest of her navigation in view, in passing the ordinance, which is to equalize the duties. It is true, as the gentleman says—the trade has vastly increased; and it is this increasing trade—not navigation—that induced her to promulgate this ordinance. France, feeling that we have some advantages in navigation, requires of us other commercial advantages, as an equivalent; and now the gentleman urges the passage of this bill, as an object of great importance, to conciliate the shipping interest of

MARCH 31, 1828.]

*French Colonial Trade.*

[SENATE.]

France. Sir, France wants our markets. Her object is, to get from us what she wants, in exchange for what she can give us. She knows, that the moment the duties are equalized, our national advantages will give us the carrying. She finds her advantage and her equivalent in the valuable and increasing trade. The shipping interest will not be conciliated by this bill. What can they anticipate from the operation of a principle which the gentleman says they are dissatisfied with, and which, he adds, gives us nine-tenths of the carrying trade?

Mr. SMITH, of Maryland, said, if the gentleman would desist, he would withdraw his amendment.

Mr. JOHNSTON said, that the amendment was of little consequence. He had risen to reply to the gentleman who had preceded him.

The CHAIR said the amendment was under consideration, and the gentleman would confine himself to it.

Mr. JOHNSTON said, he was aware that the amendment was under discussion—but it was impossible to speak to the amendment, or to reply to the gentleman from Maryland, without taking the bill into consideration.

The CHAIR again remarked, that the amendment was before the Senate, and said that, if the gentleman from Louisiana would give way, the mover would withdraw it.

Mr. JOHNSTON said, he was not sensible of being out of order. He had risen chiefly to reply to the gentleman from North Carolina, who had been indulged in very free remarks upon the conduct of the Administration. Mr. JOHNSTON then gave way, and took his seat.

The CHAIR said, the order of debate had been rigidly adhered to, until the gentleman from Louisiana rose. He hoped the Senate would sustain him in keeping order.

The amendment was then withdrawn, and the question on ordering to be engrossed, being stated by the chair,

Mr. JOHNSTON again took the floor, and said, I presume the bill is now open for discussion. There is no difference of opinion with regard to the bill; but the occasion has been seized on to assail the conduct of a co-ordinate branch of the Government. It is easy to make general charges of gross negligence, and to employ rude and offensive language, without knowing what has been done by the President, what are the existing relations of the two countries, or waiting for any explanation. He is charged with neglect, gross neglect, of the public interest, and even his motives are impugned, in not submitting this subject to Congress, although the regulation of the whole commerce and navigation of the two countries is now under advisement, with a view to a definitive treaty. I am not at liberty to expose here, even for his defence, the state of our relations. I may say that some time before the equalization of duties took effect, a correspondence was opened on the part of France, to discuss the terms, and adjust the principles of a permanent arrangement, embracing all the interests of both. The events which have occurred in France, the change of Ministry, and some differences of opinion, and remaining prejudices, have unexpectedly delayed the completion of the object so much desired by all parties; but the delay has occurred on their part, not on ours. She has not complained of neglect or inattention. She is not dissatisfied. She knows our terms and our principles; it requires only her concurrence; but she is not yet ready to enter into the definitive treaty; and several minor points, though of great importance, must be settled at the same time. It may appear, hereafter, that the President, instead of charges of gross neglect, has deserved the thanks of the country.

He is charged with our foreign relations, and I have no doubt is as anxious and as honest in the pursuit of the public interest as we are. He has every motive to conduct our affairs with the greatest care and ability, and to

bring them to a speedy and successful issue. We cannot see the difficulties which the negotiation presents, or the causes which embarrass or suspend it. We must repose confidence where the Constitution has reposed power. If this subject has not been submitted to Congress, it is because it was thought that the whole question of our relations would, before this time, have been adjusted by treaty, and because this particular subject has not given rise to the least difficulty, and did not require a separate arrangement.

I will endeavor to place this subject fairly before the Senate, and to reply to the objections and charges which have been made.

A treaty was made with France, in June, 1822, to go into operation the 1st of October, of that year, to regulate the commerce of the two countries. It is said in the preamble, to be "a temporary Convention," "leading to a more permanent and comprehensive arrangement." A discrimination is made between the vessels of the two countries. The articles of the United States, carried in American vessels, were to pay an additional duty, not exceeding twenty francs per ton of merchandise, over and above the duties paid on like articles of the United States imported in French vessels; and articles of France, imported into the United States in French vessels, were to pay not exceeding three dollars and seventy-five cents per ton of merchandise, over and above what was paid by American vessels. This temporary Convention was to be in force for two years, and after that time, until the conclusion of a definitive treaty, or until one of the parties had declared its intention (for six months) to renounce it. It was moreover stipulated, that, if the treaty was continued after the two years, these additional discriminating duties should be diminished one fourth every year, until they were equalized. This Convention was made temporary, in order to enable France to try the experiment of the equalization of duties upon her commerce and navigation; so that, when the effect was seen, she might make a permanent arrangement. This Convention did not include the French Colonies.

This ordinance of the King of France, for the regulation of the Colonies, is a general law, not made with particular reference to us, but passed about eight months after the British act of Parliament, and no doubt in consequence of their opening their Colonial ports—either with a view to meet the terms of the British act, or to place themselves upon an equality. These British and French Colonies are in direct competition with each other; they produce the same articles, seek the same markets, and require the same supplies. If Great Britain, therefore, had placed herself in a better situation, by the removal of duties, it seemed to follow, as a necessary consequence, that France must do the same. This ordinance was intended to place her colonies upon that equality. It was not communicated to our Minister in Paris; it was not made the ground of any application when presented here. It was handed to us in June, 1826, as something which might be acceptable. This ordinance is in its nature temporary, liable to be changed at any time, and there has been no pledge to us that it is permanent. But, if it was their intention to regulate, upon equal and fixed principles, the Colonial trade, they knew that our Minister was at all times authorized to make a Convention, either temporary or definitive, embracing either the whole trade or the Colonial trade. They knew that the Secretary of State was at all times ready to extend the terms of the temporary convention with France to the Colonies—but they are not yet prepared to make any permanent arrangement on the subject. In the mean time, France has been investigating the effect and operation of the reciprocity established by the convention; she has not yet proposed to treat definitively, perhaps in consequence of the changes that have taken place there; and when she



SENATE.]

*French Colonial Trade.*

[MARCH 31, 1828.]

does, the whole subject will be regulated by treaty. As she has permitted this ordinance to stand for some time, and has declared no intention to change it, and as she appears willing, for the present, to acquiesce in the terms of the convention, and is not ready to treat permanently on the Colonial trade, it appears very proper to meet the terms of the ordinance, by an act of Congress, giving the power to the President to revoke the act when they revoke the ordinance.

On the 27th March, 1827, after the adjournment of Congress, the French Minister, in discussing another subject, referred to this Ordinance as an evidence of the liberal spirit of his Government; and although he did not demand of us any act in relation to the Colonies, yet the President would have acted in conformity with our general principles, if he had had the power; but the act of 1824 did not confer that power. Immediately after, to wit, in May last, a correspondence was opened with regard to the Convention, in which the views of the French Government are disclosed, and in which we express a willingness to receive and discuss, in a friendly spirit, any overture she may choose to make. The equalization of duties under the Convention took place in October last. We stand ready to renew the Convention, and to extend its terms to the Colonies. Expecting something to be done definitive with regard to the regulation of our commerce, the President, having full power to arrange the whole subject by treaty, has not recommended it to Congress. Both parties have it now in their power to put an end to the Convention in six months, and this ordinance may be revoked at any time. Is it not better that such great interests, involving a trade of ten millions a year, should be permanently fixed by a definitive Convention, than left in this unsettled state? But, as France is not yet prepared, it may be well to pass this law, although the gentlemen are entirely mistaken with regard to the effect of it upon French navigation, as well as the interest they suppose the French Government take in it.

The gentleman from Maryland misconceives the views and interests of France. He supposes her object to be the removal of the discriminating duties, to obtain a fair portion of the carrying trade; while we all know that she has reluctantly consented to the graduated reduction and final abolition of the duties, as an experiment, in order to prepare for a permanent arrangement. She feels her inability to compete with us in navigation. She declares that her inequality is such, that it operates as a virtual surrender of the carrying trade to us. She founds upon this fact, a claim which she has long urged, for other equivalents favoring her commerce. France, as well as England) wants our markets—they are highly important, if not indispensable to them. They have both consented to a free trade, upon terms of reciprocity; that is, an equalization of duties upon the vessels and cargoes of both countries. We do four-fifths of this carrying trade. It is a question with both, how far they can give up the interests of navigation to their other great interests. France, in passing this ordinance, was not moved by the advantages of her navigation. We have paid heretofore the discriminating duty in the colonies, and yet, under that disadvantage, we had four-fifths of the carrying trade. Does the gentleman suppose, that, now it is removed, we shall have any less, or that French vessels will have more? Or does he imagine that this ordinance originated in any views to her navigation? France saw that she required a million of dollars a year for the necessary supplies of her colonies, which she could obtain no where else so cheap. She saw, that, under the discrimination, we carried those supplies to her, and that the only operation of it was to increase so much the price of provisions and lumber to the colonists. It did not affect us. Her object is to sell, in the United States, the productions of her colonies; and it is trade (the ex-

change of productions) which she desires by the ordinance—not the navigation. If navigation had been her object, she would at once have asked for the removal of our duties. The gentleman says, that, since the equalization of duties under the convention, the trade has greatly increased.

That is true; and it is because it does increase her trade, (which is the great object of rivalry with commercial nations,) that she consents to adopt a policy which she feels injurious to another great interest. It is her equivalent. It is a question between her great interests, all of which she is anxious to protect and foster. Her agriculture and manufactures are both interested in the trade with this country. We take her wines and silks; we have discriminated in favor of the latter article. We have a valuable and increasing trade in her productions—and if we do obtain a larger share of the navigation, from particular causes, she obtains a fair equivalent. The whole navigation employed with Gaudaloupe and Martinique does not exceed 75,000 tons. This bill will not produce any sensible effect upon the French navigation. It has not excited the least solicitude; and if the gentlemen had not, in their own peculiar language, dragged this ordinance to light, we should never have heard of it from them. The whole subject would have been embraced by the definitive arrangement, and our commerce placed upon fixed principles.

The gentlemen have seized upon this occasion to charge upon the Administration gross neglect of the public interest, and from which, they tell us, will result the entire loss of the trade. It is said, the ordinance was not printed, and has not been met, and that it is revoked, &c. &c. I have explained what I understand to be the motives of the French Government in passing the ordinance, and the views and intentions of our Government. The Constitution has vested the President with the power of all diplomatic intercourse, and he is the official organ of the Government in all negotiations, and is responsible for the performance of his duties. Our affairs with France, so far as regards commerce, are on the most amicable footing—both are desirous of establishing their relations upon equal and just principles; and, while they are discussing the terms of a permanent and definitive arrangement of the whole subject, we interfere in a separate branch of the discussion, without knowing the claims of France upon us, or the terms or equivalents which she demands, and arm her with additional motives and arguments to adhere to her pretensions. She will not fail to see, and to avail herself of, any benefit she may derive from the feeling she may see displayed here.

The ordinance was published by order of the French Consul, both in Norfolk and Baltimore, and was it necessary for the Government to order its republication? The subject would have been brought before Congress at the last session, but that France evidenced a disposition to discuss it, preparatory to a final arrangement, which it was not doubted would result in a definitive and permanent adjustment of all the points depending between the two countries, in a form more acceptable to France.

Mr. HARRISON said, that, as there appeared to be some difference in opinion between commercial gentlemen, as to the operation of the amendment, it would be better to lay the bill on the table, in order that they might have a right reflection before the matter was finally acted on.

Mr. HAYNE had but one or two remarks to make. He should suppose that the very fact of our being about to pass this law now, furnished a sufficient reason why we should have passed it a year ago, if we had then possessed the information we have now. The gentleman from Louisiana says, that the French Government, in issuing this ordinance, had acted with regard, only, to its own in-

MARCH 31, 1828.]

*French Colonial Trade.*

[SENATE.]

terests; but, said Mr. H. can there be a doubt that the duties on American produce, carried into the French islands in American vessels, have been reduced in a manner highly favorable to us? Can it be doubted, that such reduction of duties on American tonnage was calculated to benefit the American farmer and ship-owner? And, farther, can there be a doubt, if we do not reciprocate, that we will be holding out an inducement to the French Government to rescind the ordinance? He must say, that it was unfortunate—he would use no harsher term, in this debate, than unfortunate—that this matter had not been laid before Congress by the Executive, and that a bill, meeting the liberal views of the French Government, had not been passed a year ago. He took it to be the true, he might say, the settled policy of this country, to reciprocate every act of foreign Governments, which had a tendency to put our commercial intercourse on a more liberal footing. This we had done, in some instances, by treaties, and in others by legislation. He took it for granted, that the French Government, in issuing this ordinance, had been influenced by a due regard to their own interests, but it by no means followed that they would adhere to the policy of imposing low duties on our produce, if we persevered in imposing high duties upon theirs. There was no fact in this case to shew (as the gentleman from Louisiana had contended) that the French ordinance was merely temporary, or that it was not expected of us to reciprocate it. If it has continued unrepealed to this day, notwithstanding our omission to take the smallest notice of it, we might well regard it as a permanent regulation; but if it had been temporary, the reason would only be strengthened, why we should have reciprocated it without delay.

Mr. H. said, he had no doubt, that, under this ordinance, a valuable and increasing trade would have been carried on to the French Islands, if its existence had been known to the People at large. The specific duties upon Rice would not, according to his calculation, have amounted to more than from 15 to 25 per cent. *ad valorem*—a duty much lower than was paid elsewhere, on that article. He still hoped, if the French Government continued to leave this trade open, that the Rice Planter would be benefited by it. And, (if it was not already too late,) he had no doubt that the passage of this bill would have a decided influence in producing this happy result.

Mr. JOHNSTON, of Louisiana, said, the gentleman had not done justice to his argument. I said the ordinance was revokable at pleasure, but if the French Government wished to make it permanent, we were at all times ready to fix the Colonial trade on the same terms as the Convention. The expectation that a definitive treaty would have been signed before this time, the negotiation of which had been opened by the French Minister, which would have embraced the regulation of the whole subject, had prevented the reference of this particular point to Congress. But as some delay has occurred, and as France acquiesces, in the mean time, in the Convention, and continues the ordinance, I think we had better meet the terms of it, more especially as the subject is now before us. But it will not have the slightest effect upon French navigation, or increase the extent of our trade with the Colonies. They require about a million a year in provisions and lumber. The trade is limited to a supply of the articles which we are permitted to carry for their yearly consumption. The removal of the discriminating duty will not increase their wants, nor affect the amount of the trade, nor enhance the price of the articles.

Mr. WOODBURY hoped that the question would be taken to-night; no diversity of opinion prevailed, he believed, as to the merits of the bill; and to preserve the present privileges of the ordinance, it might be essential to meet them the present session. As to the nature of the ordinance itself, if he thought, with the gentleman from

Louisiana, that it was of so changeable and transient a character, he surely would be unwilling to pass the bill at all. But, so far from this, that gentleman, if he examined and reflected a moment longer, would see that the ordinance was not a temporary one by the Governor of the French Islands, but made by the King of France, who, as regards the Colonies, can regulate their commerce as perfectly as the whole Government at home can the Government of France proper. An ordinance like this, by him, has the same force and permanency as an act of Congress has here.

Beside the structure of the Government indicating this, the ordinance itself, in the preamble, declares that it is made "to extend and facilitate their commercial regulations in every thing that is not contrary to the interests of the mother country," and thus manifesting, beyond doubt, that its provisions were meant to be durable. In the 14th article, it virtually inhibits all those temporary ordinances by the Colonial Governors, except as to flour alone; and as to that, allows them only "when-ever imperious and extraordinary circumstances" shall require more relaxation. Mr. W. said he did not choose, on this occasion, to enter into any political controversy, as to the course which had been pursued by the Cabinet in relation to this ordinance; but it was his duty to give the Senate all the facts within his knowledge. So far, then, from the impression of the member from Louisiana being correct, that nothing had ever been expected by the French Government, or its representative here, in return or in consequence of this ordinance—he would ask the indulgence of the Senate, to read a single sentence from a letter of the French Minister to the Secretary of State, dated in March, 1827. After referring to this ordinance, and the liberal temper shown by it, on the part of France, he observes, "I must find, in this disposition, a motive on which to ground my claim to a reciprocity in favor of French vessels coming from the colonies."

Mr. TAZEVELL said he should not vote for this bill, but for the proviso which it contained. This would enable the Executive to meet the contingency of the French Government repealing its ordinance. He had information, upon which he entirely relied, that, at this very moment such a contingency had probably occurred. Should this prove to be the case, it was necessary that our regulations should conform to those established by France in reference to this subject; and the power to produce such a conformity on our part, was given to the Executive by this proviso.

The event, which the intelligence he had referred to, rendered so probable, (a change of the policy of France since the promulgation of this ordinance,) had occasioned him to reflect upon the causes which might have contributed to its production; and amongst these causes he could see none so probable, as the inattention of the United States during so long a period, to meet the overtures made to us by France in this ordinance. The history of the transaction, as he understood it, was this:

In the Summer of 1823, Great Britain, not having concluded any satisfactory arrangement with the United States, in relation to her colonial trade, passed a law, whereby the ports of her colonies were closed, after a certain day, to any nation who did not reciprocate with her the provisions of that law, and opening them to any nation who should do so. The Executive of the United States, although in possession of this act of Parliament, failed to submit it to Congress, as he ought to have done. In consequence of this, the time limited by the act expired without any reciprocal aid being passed by us. Great Britain then finding herself in a different situation from that which she had before occupied in relation to the United States, gave effect to her own statute, and her West Indian ports were so closed to the vessels of the United States.

SENATE.]

*French Colonial Trade.*

[MARCH 31, 1828.]

France acted with more discretion; and, in February, 1826, adopted this ordinance, by which the British act of Parliament is reciprocated by her. The effect of this ordinance, however, is, to open the ports therein mentioned to the vessels of any nation. The United States, therefore, might have entitled themselves to its benefits as well as any other Power. To enable, as well as to induce them to do so, in June, 1826, the Baron de Mareuil, the French Minister at Washington, communicated this ordinance to our Government. This Minister, afterwards, expressed to our Secretary of State a wish, which the Chairman of the Committee of Commerce has read from the despatch containing it, that the liberal provisions of this ordinance should be reciprocated by us.

But the President of the United States, although warned of the consequences of improper delay, in the memorable example to which reference has been made, omitted to communicate this ordinance to Congress, either at the session which commenced in 1826, or at the present session—nor was the important intelligence which this ordinance contains ever communicated to the People of the United States, until the document itself was dragged from the port folio of the Secretary of State, by the resolutions offered by the Senator from Maryland, demanding information in relation to this subject.

Such is the history of this transaction. From this, it will appear, that, if France, after the official communications she has made, and after waiting for nearly two years for an act of reciprocity on our part, has already regarded, or shall hereafter consider, the silence of this Government as evidence of an indisposition to reciprocate her policy, and shall therefore change that policy as to the United States, we must ascribe any injury that may result to us from such a change, to the gross neglect of our own Executive. He might be considered, perhaps, as using strong language, but he thought the evidence before the Senate abundantly justified what he had said, that nothing but the most inexcusable negligence could have produced the state of things which he believed now existed.

It had been said, by way of apology for the delay of the Executive, in not communicating this act of the French Government, that it was but a mere Royal Ordinance, revocable at the will of the sovereign who uttered it, and therefore but of temporary duration. That it was not the annunciation of any principle of permanent policy on the part of France, but a mere experiment, instituted by her for her own benefit exclusively, without regard to that of the United States. Different nations, said Mr. T., regulate their commerce by different means. Here we do so by statutes enacted by Congress. In England they do so partly by acts of Parliament, and partly by orders in Council. And in France, formerly they did so only by Royal orders, which we term ordinances. In either case, however, the regulation is effected by the proper authority, and in the customary mode. It is true, a change has lately taken place in the Government of France, by which the relations of the sovereign to his subjects are varied somewhat: but this change, so far as his ancient power to regulate commerce is involved, does not extend to the colonies of France. The present King has precisely the same control over the commerce of his colonies, that was exercised by any of his predecessors; and he regulates that commerce now in the same mode in which it was regulated by Louis XVI. that is, by Royal ordinances, such as that now before the Senate. These ordinances, it is true, are revocable at the pleasure of him by whom they are ordained; and so are our statutes, and the acts of the British Parliament. But, when any of these do not define the time during which they are to remain in force, the mere fact that they may be abrogated by the power which created them, does not justify us in considering them as temporary regulations. Whatever may be the principles they announced, these must be re-

garded as permanent principles. Like most other acts of municipal power, they are doubtless intended only for the benefit of the People upon whom they are to act. The interest of France and the United States, may, however, chance to coincide in some particulars, as in this case; and when they do so, it is but a poor apology the Executive offers to the People of the United States, when he says, that France, by her ordinance, intended to promote her own interest, and not ours, and therefore he did not communicate such an act to Congress.

It has been said, again, that this ordinance was not promulgated by the Executive, because its substance had been published by the French Consul in one of our newspapers, (the Norfolk Beacon) from whence it had been copied into some other Gazette, printed in Baltimore; and therefore, the Executive had a right to suppose that the fact of the existence, and contents of this ordinance were generally known. Mr. T. said, he could not deny the fact of such a publication being made in the Norfolk Beacon, because, although a resident of the town, where this little paper was published, he very seldom saw it; and it was among the last sources to which he should think of applying for information for important events like this. Without meaning to contradict those, however, who asserted that such a publication had been there made, he would observe, that all those in Norfolk who were most interested in this trade, were as ignorant of the fact as he was himself. That the Senator from Maryland [Mr. SMITH] had stated, that the merchants of Baltimore, as well as himself, were uninformed of such a publication, although it is stated to have been transferred from the Norfolk paper to some other in Baltimore. That the Chairman of the Committee of Commerce [Mr. WOODBURY] had informed the Senate, that, after diligent inquiry, made both in Philadelphia and New York, no intelligence of such a publication having been made, in either of those great cities, have been obtained; and that the Senator from Massachusetts [Mr. SILSBEE] who had informed the Senate of the existence of such a publication, and who was himself a merchant of high standing, and extensive information, had also stated, that even he had never heard of such a publication, or of the facts which it is said to announce, until he came here during the present session. Grant, then, this fact of publication as it is stated—can any one believe, that the publication of the substance of an important foreign ordinance, made by some subordinate foreign agent, in a little provincial newspaper, published in a corner of the United States, and of very limited circulation, even in the place where it is published, which publication has not been afterwards generally diffused through the best part of our commercial world, can constitute any excuse for the Executive, in not communicating to Congress an authentic copy of an important foreign ordinance, which he had received directly from the Minister of the nation that had adopted it, with a request that its provisions should be reciprocated by our own legislative enactments?

It has been said, that the subject was not of sufficient importance to require such a communication to be made. The annual amount of the trade upon which this ordinance may act, which is not less than a million of dollars, and is increasing; in the speed in which the Senate began to act upon the subject, so soon as they had extracted the requisite information from the bureau of State, and the unanimity with which this bill will pass into a law; all combine to prove, that the subject is one of high importance; and should the benefits which are expected to result from this measure be lost, by the culpable neglect of the Executive, in not sooner giving us this information, the importance of the subject will then, perhaps, be seen in its true light. How we lost the trade with the British West India Colonies we all know. This loss rendered that with the French Islands of much more importance

APRIL 1, 1828.]

Western Collection Districts.

[SENATE.]

than it was before. And should we now be deprived of this, too, by the same means, those who are interested in the trade (and all are so interested) will not, and ought not, to be satisfied with the authors of such mischiefs.

Mr. JOHNSTON, of Louisiana, said, the gentleman from Virginia labors under an error with regard to the revocation of the French ordinance. The gentleman says, he received a letter from a respectable mercantile house in Norfolk, which informed him that this ordinance had been revoked, and adds, (I presume an inference of his own mind) "in consequence of our Government not having met the terms of this ordinance." The gentleman has done me the favor to shew me the letter; it stated that they had heard that the ordinance was revoked, but it did not state, in consequence of not having been reciprocated by our Government. I immediately applied to the French Minister; he said he had no such information; that none such had been received by the Consul; and that the report was without foundation. I applied to the Department of State; I was informed that no such information had been received from our Minister in Paris, or the Consuls in the Islands. The information is, no doubt, erroneous. If it was true, will the gentleman urge that as a reason for the passage of a bill to meet the terms of an ordinance after it is revoked? Suppose it was revoked, we should only pay the duty as before, which, at most, is only a tax on those who consume the articles.

Now, with regard to the printing of this ordinance, one gentleman says, he cannot learn that it has been printed; another holds it up, and says, it was printed in a small paper at Norfolk; and the gentleman who lives in that city, says he never heard of it. The gentleman from Maryland declares that he never saw it, and that a respectable merchant of Baltimore informs him that he never heard of it. Now it happens that this ordinance was published in both of those cities; and would the gentlemen have been more likely to have seen this ordinance if it had been published there by order of the Government? The truth is, it was not considered of sufficient importance to be extensively republished; it did not attract attention, or even excite conversation. But, could any merchant engaged in that trade be ignorant of the fact, that there were no discriminating duties?

One word more of explanation with regard to the printing. The Secretary of State had ordered a translation of the ordinance; the clerk brought him a translation, already published in the newspapers, by order of the French Consul. He, therefore, considered it unnecessary to order its publication.

I regret that the zeal of gentlemen has dragged this subject before the Senate. Whatever they may think, the sentiments uttered here will have an effect upon the negotiation. The interference was unnecessary and uncalled for. The bill ought now to pass, but I regret the discussion. The remarks of the gentleman from Maryland may be true, but I think it injudicious to express them here; they will make an impression elsewhere, and strengthen the pretensions of France.

It is undoubtedly true, as the gentleman says, the shipping interest in France was opposed, from their early prejudices, to the removal of the discriminating duties under the Convention, and they may resist, but without effect, the renewal of the treaty. But this bill will not satisfy them. It is a question between her great interests. She wants the trade—the market of this country, and our raw materials; and it is a question of the shipping interest against all the other interests: and, besides, the system of discrimination will not give the carrying trade to her ships. She loses nothing by the abolition of duties, and gains immensely in her commerce.

The gentleman says the trade has greatly increased. That is true; and France knows and feels that it is the

value of this increasing trade, that constitutes the real motive for the Convention; and it is her equivalent for any advantage we may have in the navigation. We have a trade of ten millions, which both parties are desirous to extend—we have discriminated in favor of their silks—we may probably reduce the duties on wines; they will, perhaps do the same in favor of our cottons, and enlarge considerably the list of articles to be received from us in the Colonies—especially, pork, bacon, lard, and perhaps flour. The most amicable dispositions exist between the two countries, and every thing will be done to equalize the advantages. When the terms of a definitive treaty can be discussed, a Convention mutually beneficial, embracing the Colonies, and every great interest, will be concluded.

Sir, in passing this ordinance, France had not her navigation in view. If she had asked it, we should, at any time, have reciprocated it. But the President thought the whole points in discussion would have been, before this time, fully and finally settled.

I see no neglect in the publication—no necessity for laying the subject before Congress; which he had the power to adjust in a much better mode, and expected to have concluded in a manner more acceptable to France herself.

Mr. SMITH, of Maryland, said he should have taken the same ground as the gentleman from Virginia [Mr. TAZEWELL] had he not been anticipated by him. The French law might have been published in Baltimore, though he assured the gentleman he had never heard of it. He had written to his friend, Mr. McKim, of Baltimore, as active and intelligent a merchant as could be found any where, and he was answered, that he [Mr. McKim] was equally ignorant of the existence of the French law.

Mr. MACON said, that the publication of the French ordinance at Norfolk and at Baltimore did not give it that credit to which it would have been entitled had it been published here, in papers which have extensive circulation, and which are authorized to publish the laws of the United States; especially had it been said that the information was communicated by the Department of State. It was natural to suppose that at the obscurity of the papers in which it was published, rendered the information doubtful.

[The question being then taken on engrossing the bill for a third reading, it was determined in the affirmative; and the next day the bill was read the third time, passed, and sent to the House of Representatives for concurrence.]

TUESDAY, APRIL 1, 1828.

## WESTERN COLLECTION DISTRICTS.

The bill to authorize the collection of customs in Louisville, in Kentucky, Pittsburg, Pennsylvania, and Cincinnati, Ohio, was read a second time, and explained by Mr. WOODBURY.

Mr. EATON moved to insert Nashville, Tennessee. Agreed to.

Mr. HARRISON moved to insert, in the place of 150 dollars, (the salary of the surveyor at each of the ports,) 300 dollars. Rejected.

The bill was then reported to the Senate.

Mr. FOOT said, this bill proposed an entirely new system. On the arrival of vessels at New Orleans, the cargoes must be discharged; and it was a question with him whether it would not lead to impositions on the customs. If it was guarded in this respect, he had no objection to the bill.

Mr. SILSBEE said, it was true, the bill proposed a new system. It was hard, however, that the merchants of the interior should be obliged to pay to agents in New

Orleans a per centage on the importation of goods which they might as well import for themselves. There would be no danger that the bill would cause frauds on the revenue. The merchant was to have his bond at New Orleans, previous to the arrival of the goods. The Government would thus be secure, and the only question was, whether the sureties were good.

Mr. FOOT said it would certainly be an accommodation to the merchants of the interior. The same inconvenience was experienced by the merchants of Connecticut, who paid their bonds at New York, instead of their own ports. But he thought it the policy of the Government, that the duties should be paid where the cargoes were broken. The merchants of Connecticut would be pleased with a similar provision, but they never supposed that the Government would run the risk of encouraging smuggling by such a change. If, however, there would be no danger of such a result, he had no objection to the bill.

Mr. SILSBEE said, that all goods under this bill would be bonded in New Orleans, and the duties would be paid there.

Mr. FOOT remarked, that his only objection applied to the breaking of the cargoes at New Orleans, by which smuggling and fraud might be introduced.

Mr. JOHNSON, of Kentucky, spoke at some length in support of the bill. He did not think that it would alter the revenue law in any particular.

Mr. SMITH, of Maryland, saw no reason to suppose that this bill would increase smuggling. The surveyors, he thought, should be men of respectability, and they could not be engaged for the salary of 150 dollars. He therefore moved that the sum of 250 dollars be substituted; which was agreed to, 18 to 12.

The bill was further briefly discussed by Messrs. WOODBURY and FOOT; when it was ordered to be engrossed for a third reading.

#### GRADUATION OF THE PUBLIC LANDS.

The unfinished business of Friday was then taken up, being the bill to graduate the prices of public lands, Mr. HENDRICKS' amendment still pending.

Mr. JOHNSON, of Kentucky, said that nothing but a deep conviction of the importance of the subject now before them, could justify him in occupying the time of the Senate, after the luminous remarks of the Senator who introduced the bill, [Mr. BAXTON] and others who have so ably supported it. The great object of legislation is the happiness of the People; and a measure calculated to give every man a home of his own, and without diminishing the resources of his neighbor, should find an advocate in every patriot and philanthropist. It is a measure, said Mr. J., which is calculated to strengthen the sentiment which unites the citizen to his Government and to his country. The interest which it involves is not merely local. The most needy from every State in the Union will enjoy its benefits; and my own constituents being contiguous to the States and Territories in which these lands lie, have a claim on my efforts to advocate the measure. It is not from a desire to be heard, for it is with great reluctance that I venture to tax your patience, but it is in the discharge of that claim that I presume to give my views; not in detail, but in some general remarks, which I hope may be the less tedious upon a subject so exhausted, and yet so inexhaustible.

If I mistake not, about eight States and Territories have memorialized Congress, by their Legislatures, upon the subject of this graduation in the price of the public lands; and, in addition to those, numerous petitions have been presented from the citizens of several of these States, calling for the same measure. The deep solicitude thus manifested by so respectable a portion of this confederacy, calls for a rigid investigation of the subject. The interest which this proposition has excited, is *prima*

*facie* evidence of its correctness. I am aware that it has been imputed to selfishness on the part of the new States and Territories. There is scarcely a measure of the Government, however national in its character, but what is more immediately interesting to one particular section of the country than to another; and the charge of selfishness would lie with equal propriety against that section. If a harbor is fortified, or even a light-house erected, the vicinity of its location is more immediately benefitted by it, than places remote from its establishment; yet the measure is national, and no person envies the neighborhood that receives more immediate benefit, nor charges its representative with selfishness in advocating the measure. Upon the most thorough investigation which I have been able to give of this subject; in viewing its bearings upon the whole country; in regarding its intrinsic merits, and the universal diffusion of its benefits, I am compelled to pronounce it a national measure, divested of the character of selfishness.

This Government, for upwards of forty years, has been the proprietor of extensive domains; and during the same period, these domains have every year occupied much of the time of Congress. For the disposal of these lands, Congress have, at different times, adopted three different systems. The first exposed the lands to sale for one dollar per acre, payable in certificates of stock of the national debt. This system continued for about fifteen years, and was abandoned. It had been resorted to as a convenient method of sinking the national debt, but proved abortive. The next system was that of credit. The minimum price was fixed at two dollars per acre; and, on the payment of one-fourth of the purchase money, a credit was given upon the residuary of two, three, and four years, without interest, and extended to five years with interest. Under this system debts were incurred by individuals to the Government, which increased from year to year, till they amounted to the enormous sum of twenty millions of dollars. It was then perfectly obvious that the payment of this large amount within five years, was utterly impossible; and an attempt to enforce it would ruin thousands of families of the most meritorious, because the most industrious and enterprising of our citizens, and without benefitting the public. Relief was very properly provided, by permitting each one to retain what he had actually paid for, and relinquish the remainder. The defects of the system having been thus demonstrated, it was abandoned. The present system was then adopted, which reduces the minimum price of the public lands to one dollar and twenty-five cents per acre, and requires the money to be paid in hand. The operation of this system, though more beneficial than either of the others, is still defective. It leaves many families destitute of a home, because, without land on which to raise the means, they are unable to purchase at the present rate, while so many millions of acres lie waste, inviting them to labor, and promising them an ample reward.

The bill before us proposes to graduate the price, as to reduce it after next November to one dollar per acre; after a lapse of two years from that time, to seventy-five cents; and thus continuing a reduction of twenty-five cents every two years, till it shall sink to twenty-five cents per acre; and then to give to the actual settler the privilege of purchasing a quarter section of one hundred and sixty acres for eight dollars. After this, it proposes to relinquish the remainder to the State in which it shall lie.

About 140,000,000 of acres of public lands have been surveyed and offered at public sale. About 20,000,000 of acres have been purchased, and about the same quantity has been appropriated to military bounties, benevolent institutions, and purposes of education; leaving 100,000,000 now in the market, equal to about sixty acres to every family in the United States. Some of these

APRIL 1, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

lands have been in the market forty years; some twenty, and all for several years. During this lapse of time, every purchaser has made his selection of the most valuable tracts; and what now remain are the cullings of the original domains, the whole of which have been offered at public sale, and from which four-tenths have been taken by choice of the purchasers. The public having thus received the advantage which the fertility of select portions of public lands could afford, and individuals able to purchase, having made their selection, the sales are become sluggish on account of the refuse being held at the same price. The proposition is now to graduate the price of the refuse lands according to their value, and the ability of the less opulent, though not less meritorious citizen, to provide for himself and family a home and a support.

We have a virtuous and industrious population among us, who are willing to cultivate these lands, if they may be permitted to call their labors their own; and if the wealth and resources of the nation in any degree consist in the improvements of the country, only speak the word, and they will raise the nation to opulence unexampled. The forest will bow to the husbandman, and your wilderness will smile like Eden. Their habits urge them to the work, and a waste domain, almost boundless, invites them to its banquet. The laboring poor, in a country like ours, constitute the strength and glory of the nation. We must accommodate our measures to the peculiar genius of our citizens, and not follow the polluted footsteps of despotic Governments. It is not with us as with them, where the poor may be reduced to a dependence upon the lord of the manor, and bow submissively to his pleasure, because he gives him leave to toil. An American may be poor, but he cannot be servile. He may be without property, but you cannot deprive him of his independence. We have too long followed bad example, in a course calculated to break his spirit, if the spirit of an American could be broken. We have seen him immured in prison for his misfortune; but the barbarous practice has only demonstrated the proposition, that an American soul is above degradation. Place him in the most abject circumstances, and he will still be your equal, and make the consciousness of it reciprocal. We have no monied aristocracy in our country; and the perpetual revolution of property, where entailments are not tolerated, is a certain pledge that we never shall. The poor of one generation are the rich of the next generation. Families wax and wane as certain as the moon. It then becomes the interest of every person to provide for the comfort of the poor. In so doing, the most opulent are providing for their own posterity; and while we retain affection for our offspring, we shall glory in the idea that poverty cannot degrade. It is a certain guarantee for their independence, under every reverse of fortune. If God, the poor man's friend, has given him a noble mind, and placed him in circumstances under which its independence cannot be broken, the same beneficent providence has provided us the means of making him happy, by the same act which will at once give strength and riches to the nation. Adopt the measure now proposed, and there is not a man in the Union so poor but that he may cultivate his own land, and plant his family upon his own domain.

The most inflexible virtue is found among the most penurious of our citizens. When luxury has enervated both the physical and moral powers of the voluptuary; when our cities become the nurseries of corruption, virtue will still find a welcome abode in the hearts of our industrious yeomanry. On them depend the integrity of our Government and the permanency of our institutions. Policy and justice unite in pleading their cause. They constitute a barrier against foreign invaders and domestic usurpers, alike formidable to both. In aristocratic Governments the nobility must be provided for; and when

a commoner is ennobled, an estate is settled upon the title to support its dignity. Here, every American is a nobleman. Every man is born a peer. His nobility is more permanent than wealth. It consists of independence of mind; and, to support his dignity, is only to maintain that independence. Place within his power the means of obtaining a propriety in that land which his own honest hands will cultivate, he asks no greater wealth than what his industry will acquire. His residence will be permanently fixed. His attachment to his country will be strengthened. His temptations to vice will be fewer and weaker. He will feel it more his interest to be a patriotic citizen and a useful man. He will develop the latent resources of the country, and disclose ample stores of treasures before concealed. His family will be happy, and his children will rise to industry and virtue. If we expect to survive our liberties, we may indeed reserve our public domains for the endowment of future dukedoms; but, for myself, I make no calculation for such an event; and, except for such an event, I can scarcely conceive the object of retaining these lands. If we expect future generations to enjoy them, the present generation are willing to improve them for the future. I would now ask, can the Government make a better disposition of them? If we desire an increase of national wealth, this measure will gain it in the highest degree. If we would increase the happiness of the nation, this measure will carry felicity into the families of thousands. If we could strengthen that patriotism which Americans already feel above any other people, this measure will effect the object. While every man, under his own vine and fig tree, will enjoy the fruit of his labor, you will scarcely find a fugitive in our country. If national strength is an object, experience proves, that, where a propriety in the soil is combined with all the charms of liberty, a people will prove unconquerable.

We have now, west of the Alleghany mountains, a population of about 3,000,000 inhabitants, and their character for every excellence that can grace a free and independent people, may challenge a comparison with any equal population on the face of the whole earth. It is chiefly composed of emigrants from the old States, bringing with them all the virtues of their fathers and their brethren, and remaining uncontaminated by the effeminacy of luxury or the splendors of wealth. In the late war they proved themselves worthy of their ancestors, and of the country which they so gallantly defended; and they are this day, as I trust they will long remain, an example of the blessings of that state in which each man is the proprietor of the spot which he inhabits. Give the facilities which this measure provides, and you will perpetuate these blessings. Nor can I conceive a reason why we should refuse, unless it is that the wilderness may remain a wilderness, and its latent treasure undisclosed.

It may be objected that the measure will induce emigration from the older States. On this point I would ask the father, with his fifty acres converted into a garden for the comfortable support of a numerous family, if he would wish to confine all his children to his own little spot, by depriving them of superior advantages in another State? Would he not rather have a prospect of independence before them? The evils of emigration are ideal. Its evils have never yet appeared; nor have its ideal evils been defined. I would ask any gentleman to point them out; to put his finger on the map, and mark the place, either in the old State or in the new, which has been injured by emigration. Man is naturally inclined to cleave to the spot which gave him birth, till he can improve his condition by changing it; and, when emigration will increase his happiness, it is an advantage and not an injury. As the population of the old States multiplies, they who cannot procure a comfortable settlement at home, find it in the new. A population, which would otherwise be-



SENATE.]

*Graduation of the Public Lands.*

[APRIL 1, 1828]

come penurious and fugitive, are settled in the enjoyment of competency; and thus the tide of emigration becomes as beneficial to the old States as to the emigrants themselves. It also strengthens the interest which each section of the Union feels for the prosperity of the whole. It perpetuates the ties of consanguinity; a pledge of union that will remain secure, when clashing interests and discordant passions might otherwise threaten its dissolution.

In every old State there will be a kind of floating population, depressed by misfortune, without a home, and without employment. Many of these seek a subsistence in the Army or Navy, and many become vagabonds in a land of freedom and plenty. For this crying evil the measure before us provides a happy remedy. If you prefer for your posterity the life of the independent farmer to that of the fugitive and the vagabond, or to that of the private soldier or the sailor, adopt this measure, and you place the fortune of industry within his reach.

It has been objected that a reduction of the price will encourage speculation; that capitalists will monopolize immense domains, to the exclusion of the industrious poor. This objection has been so ably considered, and so conclusively answered by the Senator from Illinois, [Mr. KANE] that I need not dwell upon it. His arguments must, I think, have carried conviction to every dispassionate mind where doubts were before entertained. The defeat of speculators in the military bounty lands to soldiers of the late war, will admonish capitalists to beware of such speculations. Even if a wealthy speculator should venture to purchase many thousands of acres, he could not hold them up at an advanced price, because purchasers would procure what they wanted of the public, upon terms as favorable as his original purchase; and before he could turn them to any considerable account, the interest of the purchase money, and the annual taxes would double their original cost; and when no entailments exist, when no primogeniture rights are recognized by our laws, they would be so subdivided by descent among his heirs, before any considerable appreciation of their value would give him an undue ascendancy, that no possible injury could arise.

The principal objection, and I presume the only weighty objection in the minds of the gentlemen to the measure, is that of its bearing upon the finances of the country. On this point, the estimate set upon our public lands is proven, by actual demonstration, to be entirely fallacious. The statements of the Senator from Missouri, [Mr. BARRON] who has given such a lucid and unanswerable exposition of this subject, are calculated to remove this delusion. What, I would ask, have the sales of those lands done for our public coffers? They were set apart for the payment of the public debt, and their whole net proceeds have not paid one-tenth part of the interest of the national debt, from the commencement of their sales to the present day. The gross amount of receipts into the Treasury, for sales of public lands, within forty years, is about \$5,000,000 of dollars, and the expenses of surveys, sales, and contingencies of various kinds, have exceeded 30,000,000 dollars, so that the whole net proceeds are less than five millions, not far exceeding 100,000 dollars a year. If the expenses of the two Houses of Congress should be taken into the account, for the time occupied in legislating upon these lands, the printing of documents and volumes of books upon the subject, with many incidental items, not set down to this head, it is doubtful whether they have yielded one cent of clear revenue to the Government. Where, then, can be the utility or the policy of pursuing the old systems in relation to them, when by a different policy they may be made a source of happiness to thousands, and of immense benefit to the whole nation?

A prominent feature in this bill, which ought, in my humble opinion, to recommend it to universal support, is

the provision which it proposed to make in favor of the actual settler. If a person can receive land at a reduction of twenty-five cents per acre, on condition of becoming a permanent settler upon it, he will always purchase of the Government in preference to a speculator, because it will be his interest to do so. If, after all these lands have passed the order of inspection and selection, for a limited number of years, the actual settler can procure a sufficiency for a home, and a support to himself and family, at five cents an acre, as the bill proposes, the advantages will be incalculable. The country will be enriched by the industry of a class whose misfortunes will otherwise render them a burthen rather than a blessing to the country. The refuse lands, which will otherwise lie waste, only to increase the distance betwixt improvements, and so render more inconvenient all useful business, will be rendered fruitful by cultivation. The settlers will escape many temptations to vice and dissipation. They will form a bulwark of defence to the nation. Their patriotism, and the republican simplicity of their manners, will be a protection to our liberties. They and their families will be virtuous and happy. Manufacturing towns and villages will grow up spontaneously among them, equal at least to the wants of their own settlements, and requiring no other protection than what the produce of these refuse lands will be certain to afford.

Difficulties are continually presenting themselves concerning these lands. Every year much of our time is employed in legislating upon the subject. Much expense is incurred—unpleasant debate is involved, and no benefit results to the Government. We appropriate them to purposes of benevolence; to asylums for the unfortunate; to the support of schools; to the construction of roads and canals; but, in every instance, questions are involved which are calculated neither to strengthen the bond of our Union, or gratify the friendly feelings of the heart. Here we witness a clashing of local interests—there a constitutional scruple; and discussions arise which tend more to provoke the evil passions of our nature, than to foster those fraternal sentiments which it is no less our interest than our pleasure to cherish.

Our Government is composed of a confederacy of independent States, each constituting a distinct sovereignty, united by interest and affection. We are a family, consisting of twenty-four adult members, and three children, yet in their minority, with a prospect of future increase. If we view our relations upon a liberal scale, there can be no clashing of interests. The whole family is interested in the best welfare of every member; and especially the younger branches are entitled to the highest consideration of the elder. These younger sisters suffer great inconvenience from large domains of vacant lands within their borders, over which they have no control, and through which they must incur the expense of constructing roads, or suffer the want of communication betwixt different parts of their own sovereignty. They cannot tax these lands, nor avail themselves of any benefit from their existence. The payment for lands purchased have been perpetually draining from these States the little money which the industry and enterprise of their citizens have procured, and the present system is calculated to perpetuate the evil for many years to come, and to entail it upon the minor members, and upon all that are yet unborn. The imperfections of this state of things have been strongly depicted by the Senator from Indiana, [Mr. HENRICKS] and the able picture which he has drawn is a just description of the case. Though I might doubt the expediency of going the full length which he proposes, yet his accurate investigation of the subject demonstrates the necessity of providing some relief; at least of fixing a time when the inconvenience which they suffer shall have an end; and if, for years to come, they must sow in tears, I hope we shall permit them in the end to reap in joy.



APRIL 2, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

We have arrived at a period, sir, when much is expected of this Government. We have made great sacrifices to protect commerce. We have done much, and are called on to do much more, for the protection of manufactures. Agriculture is the foundation of all; and for agriculture we have done nothing. The farmer furnishes the raw material for manufactures, and supplies with food the workman who manufactures it. In proportion as agriculture prospers, our manufactures may flourish; but, without a constant improvement in our agricultural pursuits, our manufactures must dwindle. It is as necessary to our independence that we supply the raw material, and that we feed the workmen from our own soil, as that we manufacture our own apparel. Let the Government, then, in the plenitude of its bounty, remember the farmer. We ask no other aid than permission for every poor industrious man to cultivate the earth, and call that spot his own, without invading his neighbor's right; and for each State, after the Government shall have derived what benefit it can from the choicest portions of its lands, to control the remainders. Do this for agriculture, and, with its natural attendants, commerce and manufactures, it will form a three-fold cord which cannot be broken.

To relieve the States interested of the evil, to effect the object so desirable, and to dispose of this subject forever, I incline to the belief that the best interest of the country would be promoted by a division of all the public lands among the citizens of the United States, by lot; a measure which had its sanction by holy writ. When God gave to his chosen people the land of Canaan, it was disposed of according to a system devised in Heaven, and revealed to them for an inviolable mandate. No minimum price was fixed; but the gift of God was bestowed without money and without price. It was divided by lot; first in general divisions among the tribes, then among the families, and then among the individuals. The same beneficent Lord has given to us, his most favored people of modern days, "a land flowing with milk and honey." Would it not be wise in us to make his ancient law our rule, and divide this goodly land by lot? We might then call it emphatically "the lot of our inheritance." The Romans followed the example of Joshua; and one of our own republican family, Georgia, has adopted the plan. This subject, I am aware, is not now before us; but I am not certain that it would be an unwise or inexpedient method of closing this concern. Before I sit down, I must not omit to pay to the Senator from Alabama [Mr. McKINLEY] the just tribute of praise for the able speech which he delivered on this subject, for which he will not fail to reap his just reward of his constituents.

The debate was continued, briefly, by Messrs. ROWAN and MACON, and at length by Mr. HENDRICKS, who withdrew his motion to amend.

WEDNESDAY, APRIL 2, 1828.

The unfinished business of yesterday, being the bill to graduate the price of the Public Lands, was taken up.

Mr. NOBLE said the bill being now before the Senate of the United States, and for their consideration, he felt it his duty to express his views of the provisions of the bill, and his opinions of its operation, should it pass. He said that he was deprived of the same latitude of argument which his colleague had taken upon his proposed amendment to the bill, inasmuch as he had withdrawn it. He supposed, however, it would be in order to read the amendment, and refer to it in the course of his remarks.

Mr. President, said Mr. N., all Governments, as I understand, are made for the protection of the People, and to secure to them their rights. In this country, their rights are guaranteed by the articles of confederation, cessions from States, ordinances for the government of of Territories, Constitution of the United States, and of

the States, together with compacts and stipulations, entered into by the Congress of the United States, with the People of a State, and the People of a Territory, within the limits of the United States.

The moment an individual enters into the body politic, or into society regulated by law, he gives up a part of his natural rights, for the purpose of enjoying greater, as a member of the family, whether it relates to the General Government, State Government, county, city, or town corporate.

The moment any member of the society violates either the fundamental law, or the municipal regulations for the government of the society, or the rights of others, the law takes him into custody, and punishes him for his crime or misdemeanor.

The same mode, or parity of reason, applies to States, corporations, and to the whole Union. The Constitution of the Union, as well as individuals, for the public faith, must be duly observed, or we cannot exist as a nation, and preserve unimpaired, the inheritance which has been left us by those who have gone before us. In the two cases, one as to the individual, the law operates, and in relation to agents for corporations, the People must, at the polls, suppress the mischief and advance the remedy if the public faith be lost sight of. I may, this moment, be violating the public faith. The People will pass judgment.

Excitement gotten up, whether the motive be pure or impure, that prostrates the plighted faith of this Union, or the duties of the Congress of the United States, that moment the bone is broken, and the sinews of the Government is cut, and our country thrown into turmoil. No State or society of individuals can have confidence in the Congress, if they set at defiance the rights of others, and exercise power, not of right.

I beg leave to read my colleague's proposition, or amendment to the bill.

I know him to be sincere in his views, and the subject one that he has close at heart, and one that may agree with him in the State we represent. He proposes to strike out the fifth section, and insert:

SEC. —. And be it further enacted, that the preceding sections of the act shall be, and the same are hereby, made applicable to the Territories only.

SEC. —. And be it further enacted, that the public and unappropriated land within the limits of the new States shall be, and the same are hereby, ceded and relinquished in full property to the several States in which the same may lie, on condition that such States shall not, at any time hereafter, put such lands into market, at a lower minimum price than shall be established by law for the sale of the public lands in the Territories, and on condition that the Indian title to the lands within the limits of any State shall hereafter be extinguished at the expense of such State.

I think, Mr. President, the proposition of my colleague a dangerous one, and if carried into effect, would injure the new States. I shall apply, sir, my arguments and objections to the proposition, in reference to Indiana, and its effects upon that State, though the same reasons will apply in the general to all the new States.

Indiana for years past acted in the character of a State, by the action of the People of the Indiana Territory, who relieved themselves from the shackles of a territorial Government, and was admitted into this Union, in the manner pointed out by the Constitution of the United States.

To have her again fettered, by placing her in the power of twenty-three States to legislate for her, upon her interests, and within the grasp of the treaty-making power, I never can think of it, without instructions from the People of the State through their members of the legislature.

SENATE.]

*Graduation of the Public Lands.*

[APRIL 2, 1838.]

Suppose, for a moment, my colleague's amendment had passed and became a law, and Congress was to pass a law, saying that the lands in their Territory shall be sold for an enormous sum, fixing the price. Will it not be perceived at once, that although the lands were to be ceded to the States, and the States tied down to the minimum price, Congress would have the States under their hammer, and prevent the emigration and settlement of the States? The latter part of my colleague's amendment is certainly objectionable—it declares that, in the cession of the lands to the States, they are to be ceded "on condition that the Indian title to lands within the limits of any State, shall hereafter be extinguished at the expense of such State." What is meant by the expense, would be difficult to decide. Sir, "expense" should be defined before the People of a State should be placed in the humiliating condition of submitting to an onerous tax, without their consent. We all know what is meant by the word expense, literally—"cost and charges." The treaty-making power may be found in the Constitution of the United States, second article and second section, in these words: "He (meaning the President) shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." How this treaty-making power may understand the word "expense," is yet unknown. Will it be understood that the term "expense" includes costs? I will give my answer: It does include "costs" and "charges;" and the former includes price, expense, loss, and to be bought for. Should the answer, which I give be true, as to the term "expense," will it not follow that my colleague's proposition in terms, as far as I have mentioned the emphatical ones, be injurious to the new States, where the public lands are situated? The reason, in my mind, is clear, that the injury is self-evident.

His proposition first declares that the land in the new States, although to be ceded to the States, shall not be sold at a lower minimum price by the States, than the land of the United States in Territories, and the price to be fixed by Congress, before the State authorities can have one inch. If the United States refuse to pass any law in relation to their territorial lands, the settlements of the country are retarded, and the States remain worse than heretofore—even territories, as to the waste and unappropriated lands within the boundaries of the States. Secondly, his proposition is to "extinguish" the Indian "title" at the "expense" of "each State," and if the answer which I have given be true, it follows as a necessary conclusion, that "title" is claim—and to "extinguish," is to put out and destroy—and that expense includes costs, charges, price, loss, to be bought for. "Treaty" means negotiation. The subjects within the negotiation includes expense, cost, charges, title, extinguishment, and management.

If the word expense, alone, could have reference to the payment of the Commissioners, who should hold the Treaty, and all other persons employed for the object, together with the provisions to be furnished at the treaty ground, I should not be so fearful of consequences as to the second proposition of my colleague. The term expense will include blankets, clothes, scarlets, calicos, saddles, horses, and, in short, every article furnished the Indians with whom you treat.

Let me repeat, if Congress pass a law fixing the price of land in Territories, at so high a price that it cannot be bought, and the States in selling their lands are bound to conform to the law, and the States liable to the expenses of extinguishing the Indian title—in the latter case, the People of the States would be oppressed, and in the former, the settlements of the States would be defeated.

The treaty-making power is lodged where it ought to be, in the hands of the President of the United States,

and in the Senate. I have found the power in the Constitution, and there let it remain, for it never can be exercised to the injury of a State.

I am in favor of ceding the lands to the new States, in which they lie, by the consent of the States, and that the legislative authority of the States shall dispose of the lands as they may think proper, and as fast as the lands sell, the States shall pay into the Treasury of the United States, from two to four cents per acre.

Sir, the only mode to ascertain the consent of the States, is for Congress to submit propositions to them, for their free acceptance or rejection, and if finally the two contracting parties agree, the agreement is to all intents and purposes a compact, and not liable to be altered by the pleasure of Congress.

The arguments used "that the rights of soil and taxation are inseparable from the sovereignty of every independent State," I beg leave to dissent from. The sovereignty of the new States exists at this day. I hold that the soil and taxation are separable from the sovereignty. The right of domain or estate may be owned by others, within the limits of a State—possessing sovereignty, where that sovereignty cannot tax the soil. In the year 1816, the People of Indiana formed for themselves a Constitution, and was in the same year admitted into this Union, according to the provisions of the Constitution of the United States, as a free and independent State. The act of April, 1816, authorizing the People of the Indiana Territory, to elect members to the Convention, in it is to be found propositions submitted to the Convention for acceptance or rejection. The Convention accepted the propositions, and thus the two contracting parties agreed, that the State should not tax any tract of land sold by the United States, for five years, from and after the 1st of December, 1816, for any purpose whatever. In the same act, the ordinance of the 13th July, 1787, is referred to; and it declares: "The Legislatures of those new States or Districts shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands, the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents.

Sir, again the cession act of Virginia, in the year 1783, ceding the lands to the United States, uses these words: "for the benefit of the said States, Virginia inclusive, all right, title, and claim, as well of soil as of jurisdiction, which the said Commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio, to and for the uses and purposes, and on the condition of the act." I ask for what purposes? The answer is given in the act of cession, "for the common benefit of the Union."

I might cease with my remarks here as to the right of soil and taxation, being inseparable, but I will not.

In the Constitution of the United States, you will find two important provisions. The first reads: "The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State." The second reads: "All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States, under this Constitution, as under the confederation.

Sir, is it possible that the argument can be considered correct; "that the rights of soil and taxation are inseparable from the sovereignty of every independent State," unless it can be shewn from the date of the articles of

APRIL 2, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

confederation, that the cession act of Virginia, ordinance for the government of territories, and the Constitution of the United States, are frauds, and so were intended in their consummation to operate upon the sovereignty of new States to be admitted into this Union? To prove the argument, you must advance one step further, and prove the People of the territories to have been guilty of a fraud; because, under acts of Congress authorizing them to hold a Convention for the purpose of framing a Constitution, in the same acts, there are express prohibitions against the States taxing the soil of the United States, and the People by ordinances subjoined to their Constitutions, declare that the new States to be admitted, have no power to meddle with or tax the soil of the United States.

I am aware that the Senators are tired of the subject, and will not detain them on this point longer than to say a few words. The arguments of my colleague, I insist upon it, he has abandoned. The reason I assign for my assertion is this: If his argument be correct, (and I would sooner trust him than myself,) his propositions cannot be true. The moment Indiana, or any other new State, was admitted into this Union, the State possessed sovereignty; and if by virtue of the sovereignty she had a right to tax the soil belonging to the United States, the proposition to cede the lands to the new States, upon two conditions, was entirely uncalled for. The sovereignty was complete, upon the admission of the State into this Union.

Sir, if the State of Indiana had a right to tax and claim the soil within her boundaries, belonging to the United States, why make the appeal to Congress to cede? Should it be true that the lands belong to Indiana, why call upon Congress? Why not take the power into our own hands? If the arguments be correct as presented, the new States are safe, and let them proceed without delay to send out their own surveyors, abolish the land offices of the United States, drive them out of the States, and establish their own. To settle the differences between the United States, the new States, or any one of them, the judicial power of the Federal Government, in relation to public lands, is all sufficient, and that, too, without resort to arms. The new States never will be induced nor seduced to array themselves against this Union.

If any State had attempted to seize upon the public lands, under color of authority, and the controversy submitted to the Federal Courts, the decision would have been against her, as it was in the celebrated case from Ohio, when the Legislature of that State attempted to tax and drive beyond her limits the Banks of the United States, on which occasion, a distinguished lawyer, Mr. Hammond, bore a conspicuous part. The costs accruing in the controversy between the State of Ohio and the United States, I know not the amount.

For my own part, sir, I shall never legislate without the consent of those I represent, to involve them in disputes, and the payment of taxes.

Legislation is but a compromise of opinion; and if we would not tread upon each others heels too much in projects, and all unite to adhere to engagements, contracts, cession acts, ordinances, constitutions, which have been adopted, for the benefit of the whole Union, and merely content ourselves by claiming on the part of Congress to fulfil their engagements with the new States, making the roads promised, and such other objects, for the mutual benefit of all, we should discharge our duty fully, and accomplish more for the new States, and for the interest of the Union.

The bill to graduate the price of the public lands, &c. as introduced by the gentleman from Missouri, [Mr. BENTON,] and every portion of it, is worthy of consideration.

The first section of the bill provides for the graduation

of the prices of the public lands, (heretofore offered at public sale,) commencing on the 4th of July, 1828, and ending the 4th of July, 1832, for one dollar per acre to seventy-five cents per acre and fifty cents per acre, and after the latter period, at twenty-five cents per acre.

The second section goes upon the same principle of graduation in reference to the public lands, with this difference, it is confined to the lands hereafter to be offered at public sale, and after the sale, the principle applies.

The third section refers to a written permission on behalf of an individual to be obtained from the Registers of the Land Offices and Receivers of Public Money, to settle on any half quarter section of land within their respective districts which shall remain unsold for the space of one year after having been offered at fifty cents per acre; upon condition that, if the individual shall forthwith settle thereupon, and cultivate the same for five consecutive years, and being a citizen of the United States at the end of that time, the said individual upon proof of settlement, cultivation, and citizenship, shall have a patent for the half quarter section donated. This section is for the benefit of the poor.

The fourth section merely refers to the fees of land officers.

The fifth section is all important; and that it may be fully appreciated, I use the words: "And be it further enacted, that all the land which shall remain unsold for one year after having been offered at twenty-five cents per acre, shall be, and the same hereby is, ceded in full property to the States in which the same lie."

Mr. President, in a few minutes I am done with the subject, except to vote. The five sections contained in the bill, violates no one act of the Government from the date of the articles of confederation, nor the Constitution of the United States, up to the present date. All of the provisions of the bill proceed upon the ground of expediency, and for the mutual benefit of all; and every sentence is marked with consideration and profit for the whole Union.

The fifth section is peculiarly interesting to the whole Union, though, at the first blush, might not appear so, but when examined, and its effects, it will appear. The operation is this, that when the lands cease to be of little or no value, or, in other words, the refuse lands within the limits of the new States, they cease to be a common benefit for the whole Union. Should this state of things exist, the expenses of keeping up your land offices will result in the costs to the whole Union, and overrun the profits, and therefore the lands no longer be a common benefit for all. Then will be the true time for the States to operate, and open her sales of the lands as the States may direct, without being embarrassed by Congressional acts or the force of the treaty-making power. If, however, as I before observed, the Congress of the United States will submit propositions to the new States for their full acceptance or rejection, and the States consent to take the lands at a price they may agree on, I am content.

With my voice to tax the people of the new States, by the operation of the treaty-making power, without their consent, the people of Indiana must so direct me.

Some explanatory conversation took place between Messrs. NOBLE and HARRISON.

Mr. BARTON offered a substitute for the bill, to fix the price of public land at one dollar per acre, and in cases where land should have been exposed for sale five years, to allow any individual to settle upon it; and, after having occupied it for five years, to receive a certificate from the land office.

Mr. BENTON moved that the bill lie on the table until to-morrow. Agreed to.

SENATE.]

*Judicial Process.—Payment of Interest to States.*

[APRIL 3, 4, 1828.]

THURSDAY, APRIL 3, 1828.

## JUDICIAL PROCESS.

On motion of Mr. KANE, the bill to regulate judicial process in the States admitted into the Union since the year 1789, was taken up, and a substitute for the bill proposed by the Committee on the Judiciary being under consideration, a debate of great length occurred, in which Messrs. BERRIEN, ROWAN, JOHNSTON, of Louisiana, and WHITE, participated.

Mr. WHITE then moved to amend the bill by striking out the word "now" from the third section. The object of this motion was, to include the laws which might hereafter be passed by the Legislatures of the several States, in relation to final process, so that the rules relative to execution, which the States might hereafter adopt for their local courts, should be adopted in the United States' Courts.

This motion was opposed by Messrs. WEBSTER and JOHNSTON, of Louisiana, and supported by Messrs. ROWAN and WHITE. Messrs. TAZEWELL and BERRIEN also made a few remarks; when the question recurring, and the yeas and nays having been ordered, on motion of Mr. ROWAN, the motion was rejected.

Mr. BERRIEN then moved an amendment to the third section, purporting to give the power to the Judges of the Courts of the United States in the several States, to adopt any rules which may be made, from time to time, by the State Legislatures, for the regulation of the State Courts; which was discussed by Messrs. ROWAN, BERRIEN, JOHNSTON, of Louisiana, and TAZEWELL; and the question being taken, the amendment was agreed to.

The bill having been reported to the Senate, Mr. WHITE renewed his motion to amend, by striking out the word "now" from the fifth line of the third section, which was decided in the negative.

The amendment, as amended in the Committee of the Whole, having been agreed to, Mr. ROWAN moved to insert, in the 14th line of the first section, the words "in matters of form," so as to restrict the Judges of the United States' Courts from framing other rules in relation to mesne process, than such as related to matters of form.

This motion was briefly discussed by Messrs. BERRIEN, ROWAN, WEBSTER, and TAZEWELL, and was negatived.

The bill was, after further debate, finally ordered to be engrossed for a third reading.

FRIDAY, APRIL 4, 1828.

## PAYMENT OF INTEREST TO STATES.

On motion of Mr. CHAMBERS, the bill making further provision for the payment of interest on moneys expended during the late war, for the public defence, by the States of New York, Pennsylvania, Delaware, Maryland, and Virginia, was taken up.

Mr. CHAMBERS moved to amend the amendment reported by the Judiciary Committee, so as to make the payments heretofore made, applicable in the first case to the extinguishment of interest. He gave a history of the claims which the States had preferred, and contended that the law to which this bill is a supplement was intended to effect the same object which would be attained by adopting his amendment. The United States, by reimbursing the money, had adopted the principle that the debt was properly created, and by the act of Congress directing interest to be paid, had avowed the principle that the States ought not to sustain a loss by providing those means of defence which the safety of their lives and their property required, and which the United States ought to have furnished; but which the total want of means made it impossible for her to furnish. The only

just principle which applied to the case, was to indemnify the States from loss by the operation. The erroneous construction put upon the law of Congress by the Third Auditor had defeated entirely this object. In Maryland, the amount loaned to the United States was borrowed by the State, and before the reimbursement by the United States the State had paid off that loan by a transfer of United States' six per cent. stock. In some of the other States the amount loaned to the United States had been derived from the sales of stock owned by the State, and bearing an interest. In these cases the States lost the interest to the same extent as if they had borrowed the money at the given rate of interest, and had paid that interest regularly. In Pennsylvania, the State had funds in the Treasury, and by advancing it to the United States was compelled afterwards to borrow, on interest, to raise money to supply the place of it, thus experiencing the same loss in the result. The Auditor, however, felt himself bound by the letter of the act of Congress, and had not allowed interest in any case, except where the State had paid interest on the specific fund, which furnished the means of advancing to the United States, and only so long as payments were made to discharge that interest. In the case of Maryland, for illustration, (and the principle is the same in regard to the other States,) interest ceased to be allowed to her so soon as she disposed of her United States' stock, and paid off the loan, although the very act of disposing of that stock caused to her the loss of the dividends on it, equal, and rather more than equal, to the interest she claimed. Yet, the money lost being dividends, and not interest paid out of her Treasury, the Auditor did not feel authorized to pay interest beyond that period. The amendment of the committee fully provides for this mischief, and properly enacts, that, where loans or advances have been made, interest shall be paid from the time of the advance to the time of payment.

The amendment now proposed by him was intended to meet another difficulty. Reimbursement had been made by partial payments. The whole amount, in the case of Maryland, had never been reimbursed, and one-half of it would be lost in any event. But, from time to time, partial payments were made, as the Auditor became satisfied of their propriety. Mr. C. read from a statement the sums and dates. By the decisions of the Supreme Court of the United States, and by the decisions of the courts of Maryland, and, he understood, the laws of all the States concerned, whenever a payment is made in part discharge of a debt consisting of principal and interest, it is proper to apply so much of the sum paid as is equal to the interest accrued, to the extinguishment of the interest in the first place, and the residue to the discharge of part of the principal. The Treasurer of the Western Shore of Maryland had earnestly contended for this principle in the settlement of the interest account with the United States, and made an able argument on the subject. The Auditor, however, opposed the technical difficulty that the sums reimbursed were paid as principal, and could never thereafter be considered as interest, in whole or in part. The Treasurer, in his opinion, was clearly right, and the Auditor as clearly wrong. If, by an act of Congress, the payment of a claim bearing interest was directed, and, thereafter, partial payments should be made, there can be no doubt the final adjustment would be made in the mode claimed by Maryland. If directing interest to be paid to those States, Congress had, in effect, directed the adjustment to be made, as if the claim had originally been acknowledged with interest. The State, in its pecuniary transactions, pays according to this principle; and if, in discharging itself of the debt contracted in providing this very fund, partial payments had been made to its creditors, the same principle would have been applied. Citizens of the State were governed

APRIL 4, 1828.]

*Payment of Interest to States.*

[SENATE.]

by the same principle, in paying or receiving their debts. Our own laws recognize the propriety of it, and common prudence and justice require that, where one part of a debt being interest, is unprofitable, and another part being principal, is productive, the creditor should first receive payment of that portion which is unproductive, if the debtor cannot satisfy both.

He presumed the committee had intended the amendment reported by them to have this effect; but, knowing the preconceived opinions of the Auditor, from an examination of the correspondence on the subject, he considered it necessary to insert language which could admit of no doubt.

The question being taken on the amendment of Mr. C. it was decided in the affirmative—16 to 11.

Mr. TYLER moved an amendment, that the rate of interest should be the same as that paid by the States for money raised for the benefit of the United States; which was explained by Mr. TYLER, who stated that, when Virginia was called on to raise money to carry on the war, her Treasury was empty, and she resorted to loans; at that time the funds could not be obtained lower than 7 or 8 per cent. which was paid. He could not doubt for a moment that the United States would see the justice of paying the rate of interest given by the State for this money, which was expended in no prodigal spirit, but with a patriotic desire of aiding the great cause in which the country was then engaged.

Mr. WEBSTER said he had no objection to the amendment, with a limitation, so as to confine the amount of interest, over the legal rate, to the period during which it was paid. After the exigency was over, the rate of interest would be the legal rate. He, therefore, wished the amendment might be modified, so as to fix the limitation to the time during which the extra interest was paid.

Mr. TYLER agreed to the suggestion, and modified his amendment accordingly.

Mr. CHANDLER thought there ought to be but one rate of interest in all these payments. There never was, he believed, an instance in which the United States had paid more than legal interest. The moneys paid by the States had been sometimes paid advantageously, as they had applied their depreciated Bank notes to the public service.

Mr. WEBSTER observed that legal interest was different in different States. In some it was eight, in others seven, and in others six per cent. The principle on which this bill was founded, was that, when the United States applies to the States to advance money, the expense to which those States are subjected, by complying with the requisitions of the General Government, ought to be refunded.

Mr. TYLER's motion to amend was then agreed to.

Mr. HAYNE observed that a new principle seemed about to be adopted, and he thought it ought to be applied uniformly to all the States. He should, therefore, move to insert South Carolina after Virginia, so as to extend this provision of interest to that State, as well as to others.

Mr. RUGGLES said, that, when the bill for the payment of interest to the State of South Carolina was before the Senate, he had felt it to be his duty to oppose it. The law upon this subject had been for many years settled, and that bill he considered an innovation. Money had often been loaned by the States to the General Government; but no interest had been paid upon those loans; and he considered the principle on which it was withheld to be, that it was expended in the common cause, and for the public good. The proposition now before the Senate went to establish a new mode of compensation, which went even further than the bill for the relief of South Carolina, and which he thought hostile to the principle hitherto adopted by the Government. He

was opposed to this proposition; indeed, he was opposed to the whole bill, as against the course hitherto pursued by Congress, and which had been acted on for thirteen years: for a change of which he saw no good reason. He did not intend to argue that the bill proposed any thing radically wrong; but it unsettled a principle that had been long established and understood. He saw no probable end to the system which this bill would commence, as interest must be paid on all similar claims to an indefinite amount.

Mr. SMITH, of Maryland, had not understood the gentleman from South Carolina, on a former occasion, to have stated that the money advanced by that State was hired by the State for the public service, but that the money had been drawn from the State Bank. It was also stated, that the dividends on the remaining funds had been 12 per cent. Hence, he supposed, it was argued that the advances cost the State 12 per cent. or that that was the rate of interest. He did not see how the State could come in and claim per centage on the money, according to what the Bank might have made, upon it, had it not been drawn out of the vaults for the public service.

Mr. HAYNE considered that South Carolina was entitled to be placed on the same footing as the other States. He refrained from any remarks, at present, on the general principle, as they would be more appropriate in a more advanced stage of the bill.

Mr. WEBSTER observed, that the gentleman from Ohio [Mr. RUGGLES] had said that he could see no end to the system which this bill would have the effect to establish. I hope, said Mr. W., we shall never see an end of it, until all the claims of the States are settled, exactly as we would settle the claims of individuals. This bill provided for claims of peculiar merit. The loans of money on which interest was to be paid were of a different nature from incidental advances made on unexpected occurrences. Where some emergency calls for an advance on the part of a State, the principal alone would be refunded: but where the State was called upon by the General Government to borrow money, to be applied to the general defence, the case was materially different. Had the States offered these loans to the General Government, and sought in this manner to draw interest upon their funds, and raise those funds from their own resources, they would have no right to ask for more than legal interest. For instance, to take a case. If a State have stock which is worth 13 per cent. above par, and sees fit to make a loan of the proceeds of that stock to the Government, it has no claim beyond legal interest. But if the State is asked by the General Government to loan of other individuals the required money, and were necessitated, in doing so, to pay an exorbitant rate of interest, the Government was, he considered, bound to pay that rate as long as it was paid by the State, and afterwards, until the time of closing the account, to pay legal interest only. He hoped some principle would be settled on which those claims should be adjusted. It was an erroneous opinion, that because the States advanced their own funds, drawn from their Banks, that no claim for interest upon such loans was just. The funds of a State deposited in the vaults of a Bank were not dead. And he would ask, whether the loss of interest upon that money was not the same, whether drawn from a Bank or loaned from an individual? The only difference in the two cases would be the rate. It was true, it might be urged, that the State in such cases stood in different positions—in one it was the agent, in the other a party. But, said Mr. W., I never could understand why the States were not entitled to interest upon their loans. The gentleman from Ohio [Mr. RUGGLES] says that the money is expended for the common cause—the public good. Now, that is the very reason, in my mind, why

SENATE.]

*Payment of Interest to States.*

[APRIL 4, 1828.]

they should be paid out of the common funds of the General Government. The principle was the same as in case of a loan made by an individual. It was optional with the State to loan the money or not. The Government calls upon the States for these advances. One State will loan her funds, another will not. Thus far the case is the same as though individuals had been applied to. And why is not the similarity carried through to the end? Why is not the State to be treated as an individual would be? He believed it the cheapest money of which the Government had ever availed itself. It was true there might be something in the suggestion of the gentleman from Maine, that there had been instances in which the States had paid out their depreciated currency. Any incidental transaction of that nature did not affect the main question. And he wished to be informed whether there was any principle on which the Government might be exempted from the payment of interest on money borrowed by the States, at its own request. If any such principle existed, he hoped it would be stated.

Mr. COBB said that the principle on which the Government had hitherto refused to pay interest on advances of money was this: that, although a balance was due the claimant, yet the time that intervened between the existence of the debt and its being presented for payment, and on which interest would be demanded, was caused by the delay of the claimant, and not from any fault on the part of the Government. But, said Mr. C., it is well to inquire how this money was expended on which these States ask interest. Why, so it is: Virginia took the money to carry on the war. She did not borrow the money to give to the United States. But it was expended by her own officers; and, until their accounts were presented at the Department, the Government could not know what amount was due to Virginia. So it was with South Carolina. Until the State officers presented their accounts, and proved their claims, the Government could not adjust them; and, as this delay was no fault of the United States, they did not consider themselves bound to pay interest during this delay of bringing in the accounts. He believed it was the same with Maryland and the other States provided for by the bill. The United States has always been willing to pay the demands as soon as presented with sufficient vouchers. But the Senate was now about to establish a novel principle, which he warned them to avoid, as it would establish the principle of paying interest on all claims that might be presented, and which might have remained unliquidated for a series of years, which he thought was peculiarly dangerous.

Mr. SMITH, of Maryland, read some documents in relation to the claim of Amasa Stetson.

Mr. RUGGLES made a brief statement of the principle on which the Committee of Claims decided in this case.

Mr. CHAMBERS remarked, that, notwithstanding the rule adopted in settling the claim of Mr. Stetson, he hoped the claims of these States would be settled equitably. The principle on which he grounded his support of the bill, was, that in any transaction between an individual and the Government, the same rule ought to be observed as between two individuals. If this was a correct rule, why should it not apply also to transactions between the General Government and the States? In relation to Maryland, he remarked, that when these advances of money were made, they had no alternative but to submit to the ravages of our enemies, or proceed on their own funds. In that time of general panic, it was not to be supposed that the accounts of the moneys expended could be kept with the most satisfactory accuracy; and, when presented at the Department, they were found to lack that perfect order and mercantile regularity necessary for their acceptance. A large amount, therefore, of the claims, and

interest upon them, would never be received. The investigation of the accounts at the Treasury Department was the cause of the delay mentioned by the gentleman from Georgia. Certainly it did not attach to the officers of the State. As to the objection of the gentleman from Ohio, that the rule had been adopted to pay no interest on these claims, he [Mr. C.] would refer him to the act in favor of Virginia, in which the Government pledges itself to pay the sums expended, both principal and interest. We, therefore, said Mr. C., ask Congress merely to adopt that mode of adjusting the interest of these claims which the highest judicial tribunal in this country has adopted. The principle has been settled; and the remaining question is as to the form. The gentleman from Ohio had gone over the objection which it would have been proper to urge at the time of the passage of the law agreeing to pay the interest on the advances made by the States. He hoped Congress would do to the States what they were bound to do to their own citizens.

Mr. MARKS explained, at some length, the circumstances under which the money advanced by Pennsylvania had been loaned [but which we cannot give, as our reporter was unable to hear distinctly the remarks of the gentleman.] He observed that the greater part of the sums loaned by Pennsylvania were applied to the payment of the troops kept up at Presque Isle, for the defence of the shipping which was built there. The accounts had been presented in 1818, and all paid, with the exception of 13,000 dollars. He saw no reason why interest should not be paid on this loan as well as on individual advances.

The amendment offered by Mr. HAYNE was then agreed to.

Mr. KNIGHT moved to amend the bill by inserting an additional section, providing for the payment of interest on moneys advanced by Rhode Island; on which some conversation occurred between Messrs. BARNARD, KNIGHT, COBB, and CHAMBERS.

Mr. HAYNE said, that, if this was a new principle, and was to be applied to other States, he knew no reason why it should be withheld from Rhode Island. As to the objection urged by the gentleman from Georgia, [Mr. Cobb] that the money was disbursed by the State officers, he [Mr. H.] thought it strengthened the claim.

Mr. COBB said the gentleman misapprehended him. He had stated that the reason why interest was not formerly paid, was because the accounts were not brought in. It could not be expected that the United States would pay interest, until they knew what was the amount due to the States, and on which it was to be paid. The gentleman from Maryland said that two hundred and thirty thousand dollars of the claims of that State had been paid, on their being presented at the Department, with interest upon the amount. He says that there is one hundred and seventy thousand dollars which has not been adjusted; and it is on this latter sum that interest is now to be paid. And he would ask whether the Government was bound to pay interest on claims, of which the State of Maryland had not brought forward the evidence? He put the question to the Senate and to the gentleman himself.

Mr. KNIGHT said the case of Rhode Island was not the same as that of other States. In the accounts rendered against the Government interest was not charged. The amount would not be very large—being interest for about three years on one hundred and twenty thousand dollars. But, as the principle was applied to other States, he thought Rhode Island equally entitled to its benefit.

Mr. BARNARD rose to say one word to the gentleman from Georgia. The time, as he thought, when interest ought to commence on these loans, was when the sums were disbursed from the State Treasuries. It made no

APRIL 4, 1828.]

*Payment of Interest to States.*

[SENATE.]

difference whether the money was disbursed by the United States' officers or the State officers, whether for the pay of the regular troops or militia, or both. If it was the duty of the General Government to provide these funds, then undoubtedly the General Government was bound to pay the sums with interest from the time they were issued from the hands of the States. The payment of the principal was a tacit acknowledgement that the claim for interest was just and valid. The gentleman from Ohio has said that it is against the principle established by the Government. But, said Mr. B., this case seems an exception. The States applied to the Department for the interest on their advances, and they were refused; but on application to Congress, it was allowed.

Mr. SMITH, of Maryland, said the gentleman from Georgia [Mr. Cobb] seems to think this bill is to establish a new rule. On the contrary, said Mr. S., this rule has been observed ever since the passage of the Virginia acts. The Third Auditor had established an erroneous rule. He paid interest as long as the State paid it: but when they stopped, he stopped. Congress, however, had long acknowledged the principle; and it certainly could not be called a new one.

Mr. CHAMBERS read the act passed in favor of Virginia, and further supported the bill.

Mr. COBB would make a single remark in reply to the gentleman from Maryland, over the way. The conduct of the Government had uniformly been, when a State came forward with a claim, to pay the principal on the account being proved. This was the established course, and would be found to have been practised invariably in the early period of the Government. In the case of Rhode Island, that had been the course. The principal was paid, but no interest. It was so in the case of South Carolina, and so in the case of Virginia: the moment they brought forward proof that these sums were expended for the general defence, they were paid. And now the question is, whether the Government is bound to pay interest on claims not yet proved.

Mr. HAYNE said that the gentleman from Georgia had taken up the wrong theory; and, of course, the conclusion which he draws from his premises is erroneous. He had presumed that the Government was always ready to discharge the principal. This, however, was not to be presumed; because, if the General Government was ready to pay it, why did they call on the States to raise the money? The States were called on to put their hands into their Treasury and disburse this money, because the United States had not the funds required to carry on the war. History recorded the fact, that the Treasury was exhausted, and could not raise the funds. Mr. H. observed that he had a few days since read a letter to the Senate, of the Secretary of War to General Pinckney, in which the declaration was made, that the Treasury was exhausted; and that the General must take every means in his power to raise funds. But, supposing the accounts had all been paid at the time those of Rhode Island were adjusted, what, he would ask, would have become of the interest due from the time the advances were made? But the true reason why they were not then settled, was, that the Government was not able to meet them. They were able to pay the small sum due to Rhode Island, but not to pay off the whole mass at once. The gentleman from Georgia had said that the States had delayed to send in their accounts. This was not the reason why they were not paid immediately after the war. It was the accumulation of business on the hands of the Department, which it took years to settle. If, then, the States were delayed in the settlement by the General Government, there was no reason why interest should not be paid on their claims during that period of delay. There was one error running through the whole opposition to the bill. It was, that these sums of money were expended by the States

for their own immediate defence. But it was not so: for the money advanced by South Carolina went to the North and West, and assisted to defend those frontiers. The advance was made for the benefit of the whole community; and the gentleman from Massachusetts [Mr. Webster] had said, with great truth, that all sacrifices for the general good ought to be paid out of the common funds of the country. Mr. H. said he conceived the principle to be well established, that, wherever individuals or States advanced money for the use of the General Government, it was to be paid with interest from the public Treasury. It had universally been done in advances made by individuals. He admitted that it was not done where advances were made by a public officer; because it was considered that there would often be a large amount of the funds of the Government in his hands, which would balance any advances made by him. He had a few days since been induced to examine the acts as far back as the year 1770, and found that, in every instance where individuals advanced money for the use of Government, interest had been paid. He would instance one case, which was a sample of many others. It was that of Christopher Green, of Rhode Island, who, in the year '70, had advanced a sum of money for the release of certain prisoners. Immediately after the war the sum paid by him was refunded; and, in 1792, a bill to pay interest on the amount passed Congress. The justice of the principle he believed no one would doubt; and the practice had been so universal, that he thought it hardly necessary to go farther in support of the bill.

The amendment offered by Mr. KNIGHT having been modified, on motion of Mr. WOODBURY, so as to include New Hampshire, it was agreed to.

Mr. MACON said that the reason why the accounts were not settled earlier, was that the money was not paid to the officers of the United States, but to their own officers, which made it necessary to send agents to the Department to explain their vouchers. Now, because this money was expended by the State officers, a bill paying them interest must be passed; and it must be shingled up by adding all the States one by one. We are growing wiser every day. We are always going back, and finding that all that was done in former times was wrong. All former principles were erroneous. Can a Government get along in this way, continually overturning all that was done before? A decision of a case was never sufficient. Claimants came here, and got all they could; and then they came again, and got the rest. No Government could get along so. We cannot have officers enough to settle the accounts brought against us, if they must be settled over and over again. No Secretary of the Treasury can make his calculations if we go on this way; for he cannot come at any near estimate of the money that Congress will vote away, and every year unsettle what was done the year before.

The amendment, as amended, having been agreed to, the bill was reported to the Senate. And the question being put on the amendment agreed to in Committee of the Whole, Mr. CHANDLER moved to divide the question, so as to take the vote on that part embraced by the motion of Mr. TYLER, to pay to the States the same rates of interest paid by them; which was agreed to. And the yeas and nays having been ordered, on motion of Mr. CHANDLER, the question on the amendment was decided in the affirmative.

The other amendments were then agreed to; when the question being on engrossing the bill, and the yeas and nays having been ordered, on motion of Mr. COBB, it was decided in the affirmative, by the following vote:

YEAS—Messrs. Barnard, Barton, Bell, Benton, Chambers, Hayne, Johnson, of Kentucky, Johnston, of Louisiana, Knight, Marks, Ridgely, Robbins, Sanford, S. Isbee,



SENATE.]

*Duty on Salt.*

[APRIL 7, 1828.]

Smith, of Maryland, Tazewell, Tyler, Webster, White, Woodbury.—20.

NAYS—Messrs. Bateman, Branch, Chandler, Chase, Cobb, Dickerson, Ellis, Foot, Hendricks, King, Macon, Noble, Parris, Rowan, Ruggles, Seymour, Williams.—17. Adjourned to Monday.

MONDAY, APRIL 7, 1828.

## DUTY ON SALT.

Mr. HARRISON moved to take up the bill to reduce the duty on imported salt.

This motion was sustained by Mr. HAYNE, and opposed by Mr. VAN BUREN, who observed that the bill had better lie on the table; as, should it pass the Senate, the tariff bill in the other House would prevent its passage in that body.

Mr. FOOT said that this bill had received additional importance since the commencement of the present session, which made it more necessary to act upon it this year. He alluded to the fact, that the islands of the West Indies which produced salt, had been opened within a short time. He hoped, therefore, the objection of the gentleman from New York would not prevent the bill's being taken up. He thought, whether the House could act upon the bill or not, it was the duty of the Senate to proceed upon it.

Mr. MCKINLEY, also, expressed himself in favor of taking up the bill.

Mr. CHANDLER said that the best course on the part of the gentleman from New York, would be to allow the bill to be taken up, and then move its indefinite postponement, which would try the disposition of the Senate effectually.

The question being put, the bill was then considered, when Mr. VAN BUREN moved its indefinite postponement.

Mr. COBB said that the course taken by the Senator from New York appeared to him very extraordinary. This bill was brought forward at an early period of the session, and had been repeatedly postponed on account of the very gentleman from New York. And now, at a late day, when it is brought up, that gentleman moves its indefinite postponement. It was curious that this was the only bill that proposed to repeal a tax which was paid chiefly by the people of the Southern States. He could not but express his surprise at the course taken by the gentleman, nor did he think the reason given for it at all sufficient. If this bill was to be postponed to give fair weather to the tariff bill, when that bill should come into the Senate, he thought the proposition partial and unjust.

Mr. SMITH, of Maryland, said he rose merely to say that he hoped this bill might not be discussed. He believed that every Senator had made up his mind upon the subject. If, however, those opposed to the bill saw fit to express themselves, he hoped the friends of the bill would not follow their example, as the opinions of the friends of the measure were thoroughly fixed.

Mr. HARRISON observed, that he thought it would not be denied that a tax on a necessary of life, as was that to which the bill referred, which took from the poor man as much as from the rich man; which made the same demand upon the tenant of the humble cottage as upon the possessor of the splendid chateau, was in utter hostility to the principles of our Government. Which of these principles, said Mr. H., is more sacred, which more necessary for the legislator constantly to keep in view, than that which directs that, in the assessment of the public burthens, the demand should be proportioned to the ability to pay? If this principle is not regarded; if the taxes are levied upon the person, and not upon the property of the citizen; or, which is the same thing, upon the necessities of life, of which the poor man consumes

as much as the rich one, what becomes of that boasted equality which is the basis of our Government? It is in vain that you secure to your citizens their other rights, that their persons and property are inviolate, that the elective franchise is unrestricted, and the offices of Government open to all, if this principle is adopted, and acted upon to any extent. If you tax the food of the laboring man, all the liberty that will be left to him will be that of choosing his master; for, go where he may, he will still be the slave of his employer.

But, Mr. President, said Mr. H., this duty upon salt is opposed to another important principle. It is a tax, and a heavy tax, on agriculture. Upon that interest, which is more important than any other, and on which, indeed, all the others depend. Salt is largely used on every farm, but to the grazier it is essentially necessary. No one can prosecute this branch of agricultural industry, in the Western country at least, with tolerable success, unless he can procure the article at such a reasonable price as to enable him to use it freely. And the condition of his stock will always be in proportion to the quantity used. Its beneficial effects are felt in more than one way. It saves food: for, the animal which is well supplied with this article will fatten upon food of a coarser quality, and which, without it, would scarcely sustain him. It serves instead of shelter. In the cold rains of Winter, the Western grazier gives a double portion of salt to his unhoused stock, (and few are supplied with covers;) its cordial and invigorating effects upon the stomach of the animal, enabling it to resist the inclemency of the weather. It saves labor. With a good supply of salt, one or two men can keep together a herd of cattle or a flock of sheep, grazing in the wilderness, with more ease than ten can without it. So strong is the force of habit in the brute creation, as well as in their lordly master, that it will bring together the widely scattered flock and herd, precisely at the time and place where they had been accustomed to receive their ration of this necessary condiment. Let the price of this article, Mr. President, said Mr. H., be so raised as to make it difficult to be obtained by the poor, and the inhabitants of many a Western cottage will go supperless to bed. If you were to pass through that country, sir, you would see, at the hour of sunset, the little tenants of many a hut looking anxiously for the return of their solitary cow, which, having wandered far into the wilderness, would not return to supply them with their nightly wholesome beverage, but in the expectation of receiving in return, from their hands, a luxury to her as acceptable as necessary.

If I am right, then, sir, said Mr. H., in the positions I have assumed, that the duty upon salt is burdensome to the poor, oppressive on agriculture—upon what principle of our Government can it rest for support? From its mode of operation on agriculture, as well as upon individuals, it is, indeed, in principle, a Turkish tax: for it acts not upon the products of agriculture, but upon the very source of its prosperity; not upon the flocks and herds, but upon the means of multiplying them; upon the seed, rather than the harvest; the scion, rather than the tree; the very germ upon which the hopes of future fruit depend.

It may be asked, sir, how a tax of this description could ever have been laid, or submitted to, in a Government like ours? It was commenced, said Mr. H., as soon as the present Constitution went into operation, when our finances were in a most desperate condition. Being an indirect tax, the People have felt its weight without exactly understanding it. As soon, however, as the affairs of our Treasury were in such a condition as to permit it to be done, the duty was entirely removed. This happened in the year 1807. It was again imposed at the commencement of the late war, but the representatives of the agricultural interest were with great difficulty pre-

APRIL 7, 1828.]

*Duty on Salt.*

[SENATE.]

vailed upon to adopt it, and only from the understanding that it was to be considered as a war duty, to be taken off as soon as peace was restored. A very distinguished citizen of South Carolina, [Mr. Cheves] and who was at that time a leading member of Congress, has authorized me to say that such was the fact. Under various pretences, the duty has continued until this time.

Let us now, sir, said Mr. H., examine the objections which have been made to the proposed reduction. When the subject was under discussion at the last session, two were urged. First, that the revenue would be lessened to an amount which could not be spared; and, secondly, that it would break up the manufacture of the article in the country. It is easily demonstrable, that both these propositions cannot be maintained. If one is true, the other cannot be. Upon examining the returns from the Treasury, I find that the average amount of duty derived from salt, for the eleven years, commencing with 1816, and ending with 1826, is 725,804 dollars. The duty being 20 cents per bushel, and the bill proposing to take off 10 cents in two years, it follows that, if the average importation remains as it has been, the Treasury will, after the first year, lose the half of the above sum, being 362,902 dollars; but, if the consumption remains the same, the manufactures in the country cannot be injured, as they will continue to supply the same proportion as heretofore; but if, on the contrary, the reduction of the duty should be the means of introducing the imported article in such quantities as to take the place of the manufactured salt, it follows that the manufactures must be suspended; but the Treasury will suffer no loss, the increased quantity imported making up for diminished duty. I am, however, Mr. President, said Mr. H., perfectly convinced, that the proposed reduction of the duty will not have the unfavorable effect upon the manufactures which is predicted, and that it will not reduce the price of the domestic salt a single cent. I speak of that which is made in the Western country. I have in my hand, sir, said Mr. H., a statement, made at my request, by a Western merchant, of the greatest intelligence and of the fairest character. From this paper I learn that the foreign salt brought up from New Orleans to Cincinnati, in 1825 and 1826, cost the importers 1 dollar 10 cents per bushel. He makes the cost at this time 7½ cents for 50 pounds. If the reduction of duty should take place, as proposed by the bill, and as soon as the canal at Louisville shall have been completed, he estimates that it may be brought to Cincinnati for 66.7 cents per bushel of 50 lbs. As the importations cannot be made with any certainty but in the Spring, the salt then imported must remain in the warehouses until the following Winter. The loss sustained in the weight, the storage, and the interest upon the money, will not enable the importer to sell it for less than 70 cents; which is 20 cents higher than the present price of the domestic salt, and at least 30 cents higher than it can be made and sold for at a reasonable profit. From 1821 to the Fall of 1826, the price of the country salt at Cincinnati ranged from 25 cents to 40 cents. The average may be fairly estimated at 33½. Since that time it has, in consequence of a monopoly of the principal works, risen to 50 cents. This monopoly has been effected by the purchase of some of the works, and a contract made by the same individuals with the manufacturers at others, to take all the salt made at a given price. The profit made the last year by the persons who engaged in this speculation, is said to have amounted to 25 or 30,000 dollars each. This can easily be conceived, from the price they pay, and that which they receive for each bushel of salt. At the Kenhawa works, which, I believe, is the highest, they pay 18 cents per bushel for the salt of second quality, and 23 for the best. The cost of transportation from Kenhawa to Cincinnati, is from 20 to 50 cents per barrel of six bushels. The former when the waters are high,

the latter when they are low, and the navigation difficult. The price now exacted by the monopolists is 50 cents per bushel, which gives them a profit of at least 22 cents. I have already shown that, after the proposed reduction is made, and the Louisville canal completed, which will permit a continuous voyage from New Orleans to Cincinnati, that the imported salt cannot be sold for less than 70 cents. The price current of that city, of the 14th March, which I hold in my hand, states the price at that time to be from 90 cents to 1 dollar. From these facts, it is evident, sir, said Mr. H., that the proposed reduction of the duty on imported salt will not break up the Western manufactures of that article; that it will not even reduce the present exorbitant profits of monopolists; for, the imported article, at 70 cents, will never, for ordinary domestic purposes, be purchased in preference to country salt at fifty cents. What, then, it may be asked, are the benefits to be derived from the passage of this bill? It will, in the first place, prevent the monopolists from increasing, in any great degree, their present price; and, secondly, it will enable the Western people to procure the imported salt at a cheaper rate, and which is essential to the proper preparation of one of their staple commodities. The Western pork, prepared with imported salt, enters into successful competition in the Atlantic ports with that of New England. The domestic salt will not preserve it in the Southern latitudes; through which it must pass to reach a market. All that is put up with it, is subjected, at New Orleans, to the process of resalting and repacking, at an expense of 1 dollar per barrel. So notorious are these facts, that our Navy Board (as the letter of Commodore Warrington, which I have in my hand, asserts) have directed that the contractors for the supply of pork for the Navy, shall use no Western salt in putting it up. Experience having shewn, as he says, that, even when mixed in the proportion of one-third foreign and two-thirds Western salt, that the meat has been lost. The exportation of salted pork has become of immense importance to the Western people. At the season for purchasing it, large sums of money are taken to Cincinnati by dealers from the Eastern cities; the hogs purchased in the drove, and there killed and salted. But the price of the pork is always governed by the price of foreign salt; and, if the article is not to be procured, the pork will not sell at all. Such was the case in the Autumn of 1825. There was no foreign salt in the market, and the drovers were unable to sell their hogs. The present high duty upon salt is, therefore, oppressive in every way upon the farmer. It increases his expenses and lessens his products, as I have before shewn, and deprives him of a market for that which he does raise. And what are the objects to be gained for all this injury? To put a few dollars more in an overflowing Treasury, and add exorbitant profits to wealthy monopolists. Sir, said Mr. H., I have no enmity to these gentlemen; they had a right to make contracts, and employ their money as they pleased, and I must do them the justice to say, that they have acted very moderately, in fixing the price of their salt at 50 cents, when they certainly had it in their power to sell it at 62½, or even 75 cents. But it is my duty to counteract them, and counteract them I will, if it be in my power. The friends of this bill, Mr. President, said Mr. H., who are also supporters of the general protecting system, have been accused of inconsistency. But it appears to me that the charge is entirely unjust. For myself, I am a warm advocate of the tariff; but I am so only because I think it eminently beneficial to the agricultural interests. Convince me that the system, or any part of it, bears oppressively upon that interest, and I will immediately abandon it. My judgment tells me that it will be far from producing this effect. If any injury is inflicted, it will be but partial and temporary; whilst its benefits will be extensive and permanent. But the duty

SENATE.]

*Duty on Salt.*

[APRIL 7, 1828.]

upon salt is an intolerable burden upon the agriculturist now, and holds out no prospect of future advantage. Sir, said Mr. H., I could with more justice accuse the tariff-men who oppose this bill with inconsistency. One of their professed objects is to protect the wool-grower. But what farmer is there who will not tell you that a tax upon salt is a tax upon our own wool; since it is well known, that, in proportion to the quantity of salt that he uses, will be the condition and produce of his flock. I repeat, sir, that this duty is not in accordance with the spirit of our Government. In those of a despotic character, it has been borne with great impatience. Under the appellation of gabelle, it is known to have had a very powerful influence in producing the Revolution in France. It is, literally, a tax on the many, for the benefit of a few. I can see no reason why it should not be reduced.

In addition to the other objections, it is, as far as regards the Atlantic States, a very unequal burden. The domestic animals near the sea coast do not require salt. As you advance into the country, where, on account of the cost of transportation, the price is advanced, it becomes more necessary; and is absolutely indispensable to those which feed upon the rich and juicy pastures of the West. If I have considered this subject, sir, said Mr. H., principally in relation to its operation upon the Western States, it does not proceed from a disregard to the interests of those on this side of the Alleghany ridge. I would, with the greatest possible pleasure, vote to reduce, or entirely remove the duty, for the interest of the latter alone, if my own constituents were not immediately interested; for I never will consent to impose a tax that will operate unequally, if it can possibly be avoided; or convert this hall into an arena for the different sections of the Union to scramble for the advantage in assessing, on the People, the sums necessary for conducting the operations of the Government.

Mr. SANFORD said that the gentleman from Georgia seemed to think that his colleague had taken a very extraordinary course, in making the motion now before the Senate. I think, said Mr. S., differently; but my colleague is capable of defending himself, and I shall not attempt to do it. I do, however, think it rather extraordinary that the gentleman from Maryland should advise that the bill should not be discussed, because its friends have made up their minds. For my own part, I am always willing to hear discussion upon any topic of equal importance with this. It would be said, perhaps, that it was unnecessary to debate the subject, because it had been fully investigated last year, when the bill passed the Senate. But it passed last year under different circumstances from the present. Last year, and the year previous, there were large amounts of surplus in the Treasury. The reverse is now the fact. The whole surplus in the Treasury is now but 1,600,000 dollars, while, formerly, a surplus of 3,000,000 had not been found too large to cover the various purposes to which the fund was applied. The President, in his message on the opening of Congress, speaking of the present state of the finances, advises that the strictest economy be practised. Hence it was necessary to confine the appropriations not mentioned in the estimates, to the narrowest possible limits. Such, then, is the state of the revenue at this time, when we are called upon to reduce the duty on imported salt. Passing from this part of the subject, he observed, that the gentleman from Ohio, [Mr. HARRISON] declares this to be an oppressive tax upon the agriculturist. But is this so? It is not a poll tax, although it is true that it is a tax of an article necessary, for human subsistence. But every man, whether poor or rich, is equally operated upon by it. Nor was this singular in being taxed. Every article which men eat or drink is also taxed in some way. The odium that had been thrown upon this tax was a mere prejudice.

It is said, by the gentleman, that this is a war tax. Let me, said Mr. S., correct my honorable friend on this head. This duty is not a war tax. He admitted that it originated during the war, and that it was undoubtedly resorted to as one of the means for raising funds during those times of exigency. But, since that period, the duty had been levied anew, both in the tariff of 1816 and 1824. In these acts, it could only be considered as a war tax, because all taxes are laid for the purpose of paying debts contracted in the last war. If it stands on the tariff of 1824, it is clearly no war tax.

[Mr. HARRISON here rose to explain. The tax was first laid in 1812. He was perfectly aware that it had been continued in subsequent acts.]

Mr. SANFORD resumed, and went into the history of the duty and its operation; but much of this part of his remarks were inaudible to the reporter. Two-thirds of the salt consumed in the country, he remarked, was imported. The other third was manufactured here, and it appeared to him that this fact would show that the protection was a very moderate one. The gentleman from Ohio, speaking of the trade in salt in his own State, speaks of a monopoly existing in the article. This was a very offensive word—but, even supposing a monopoly to exist, the best way to prevent its effects was to create a permanent domestic supply, to compete with the foreign supply. This would ensure to the consumer a moderate price on the article. The gentleman from Ohio, said Mr. S., is not, I believe, opposed to protection altogether. He does not object to a protecting duty on wool. He is willing to adopt the system of protection on a hundred other articles, yet he excludes salt. Although he is willing to tax articles that have always been exempt from duty, he is desirous of removing a duty from this article; a duty already existing. I cannot, said Mr. S., understand those gentlemen who confine their protection to particular things. For my own part, I discard that principle. In relation to the extent of the trade, the whole number of bushels consumed in this country was 9,000,000; of which 3,500,000 bushels were manufactured in this country. There was not an article in the whole list to which the argument in favor of protection applied so strongly as to salt. As to the policy of increasing the encouragement now given to imports, whether it was expedient or not, it certainly seemed proper to retain the encouragement which already exists. It was bad policy to change the present rate of the duty, as, in all such cases, capital was sacrificed which had been invested in the manufacture. Every encouragement of any species of production led to the investment of capital, which was on a subsequent change diminished or destroyed. On these grounds, perhaps most strongly on account of the present state of the revenue, he was opposed to the bill.

Mr. ROBBINS remarked, that imported salt now paid a duty of twenty cents the bushel, reckoning 56 pounds to a bushel. This bill proposed to reduce the duty to ten cents, not immediately, but in the short period of two years. Is this, asked Mr. R., a measure expedient for the public interest? For that interest is the "touchstone" that is to decide and settle this question, and all our tariff questions. If this measure will sacrifice a particular interest of the country; if it will even hazard that sacrifice; the question comes to this—whether the common interest requires this sacrifice? It would be strange, indeed, if it was found to be a fact that the common interest of the country required the sacrifice of one of its particular interests; a fact so strange as to be altogether incredible: for the common interest, though not identical with any one interest, is identical with them all; as it is made up of them all. It would, indeed, be an anomaly in political economy, if any one should be of so strange a character as to be incompati-

APRIL 7, 1828.]

Duty on Salt.

[SENATE.]

ble with the common interest; and so incompatible, that the common interest should require its sacrifice; and it would be still more strange, if that interest should be the manufacture of an article of prime necessity.

I will assume, then, what no one will deny, that the common interest does not require the sacrifice of the domestic manufacture of salt, nor the hazard of such a sacrifice. Now, will this measure have this effect? I premise, if this is not certain—if it is only probable—even that probability is decisive against the measure: for it is incurring a risk which is not required by the public interest, and by which even that interest may suffer, and when, at best, it is but an unnecessary experiment. But I do not consider the effect as at all doubtful. It will, undoubtedly, affect this manufacture most seriously, most injuriously. But, before I go further, and attempt to deduce and exhibit the consequences of this measure upon this interest, let us pause for a moment here, and see what this interest is, which we so heedlessly strike at, and may so injuriously affect; what it may be, if continued to be fostered by this protecting duty, under which it has sprung into existence, and by which alone it can be sustained; and whether there are not considerations connected with it, which entitle it to a regard a little more favorable than is manifested by this bill.

Five millions of capital, at least, are already invested in this manufacture: for, in the single State of Massachusetts, the sea-shore salt works have a capital invested in them, as I am credibly, and, I believe correctly, informed, of upwards of two millions, and it would now have doubled that amount, but for the doubts created here of the continuance of the present protecting duty. A large amount of capital was ready to be invested, but the investment was suspended in consequence of these doubts, and never will be invested if the present duty is discontinued. Those establishments give, at present, to the proprietors a gross annual revenue of about \$200,000, profits large enough for capital to the business, but not large enough to sustain it, if these profits are reduced as this bill would reduce them. As to the interior establishments of this manufacture, in New York, in Pennsylvania, in Virginia, and in the Western States, their gross capital must, at least, be more than double that of the seaboard establishments in the single State of Massachusetts. For I find that one establishment in New York, so long ago as 1820, was giving to that State, from a moderate duty only, a nett annual revenue of upwards of \$60,000. We may then safely say, that the capital put to hazard by this measure is at least five millions of dollars.

And this manufacture is but in its infancy. It has but just surmounted the first difficulties, which are always the great difficulties to be encountered in the introduction and establishment of every new manufacture; and especially in a country to which manufactures are new. While laboring with these difficulties, the business was rather a losing business to the adventurers; in many instances the loss was serious—in some it was ruinous. But those difficulties are now all happily subdued. By the improved economy in the manufacture; by those helps which every manufacture is constantly acquiring to itself, from the suggestions of its own experience, and from that of others; and especially by those lights which science, from time to time, is shedding upon all the useful arts, and thereby contributing to their perfection; the business now has become a regular and profitable business, and will go on extending itself, if its further progress is not arrested by the success of this bill: for the field for this manufacture is unlimited, to say nothing of its interior resources, on the sea board that field is unlimited. We have fifteen hundred miles of sea coast; on every part of which this manufacture may be established to advantage; and in the South to more advan-

tage than in the North. And if this protecting duty is continued, it will be extended till it reaches that ultimate limit at which every manufacture must be bounded; the *ne plus ultra* of demand on one side, and the minimum price of a living profit on the other. It is a kind of manufacture which may be carried on with small capitals as well as with large, and with small to equal advantage. It is within the competence of every sea-shore farmer possessed of but a moderate capital, and such as most of them do possess or may command. It is a manufacture, which, in proportion to its capital, draws less upon the manual labor of the country than any other; for the sun is the great elaborator: one hour in twenty-four is sufficient for the manual labor of the largest establishment; and one hand can perform that labor in a moderate establishment. The sea-shore farmer, then, without any increase of his hired labor, and without any material interruption of that labor, may manage this concern.

Already the domestic manufacture has reduced the price of this article between 20 and 30 per cent. compared with what it was before the establishment of the manufacture; and if the manufacture goes on extending itself, that falling price will go on falling till it reaches the minimum price at which it can be made; which will bring the article to every consumer at least 50 per cent. cheaper than it was when importation alone was depended on; or than it can be, if importation alone is to be depended on. That this will be the result, will be seen, when we come to trace the operation of this bill upon this manufacture, and the consequences of this operation. At present I ask credit for the statement; content that it be retracted, if you please, if that result is not then evident.

Consider that this is one of the great natural resources of the country developing itself, and to be developed; opening a wide and profitable field to its industry and its capital; opening springs, perennial springs of national wealth and of endless fertility; and that it is a resource, which, left to itself, is of no possible profit. Not like some of our other great natural resources, which, if neglected, are not wholly unproductive: as our wild lands, for instance, which, though not cultivated, are still growing in value, from the growing numbers of our population, and the progressive advance of our settlements. But this resource lies in the brine of the ocean, and the brine in the bowels of the earth; valueless where it is, and as it is; and, in that state, must forever remain valueless; but, if developed, will be a new faculty acquired to the country; and, if fully developed, one of almost infinite power.

Consider, too, that, in this peculiar manufacture, the whole capital is fixed, and that none of it, or next to none, is floating, and employed in hiring and subsisting labor, or in purchasing the gross material; and that, if you destroy this manufacture, you annihilate this capital. Not like capital in trade, which, if excluded from one channel, still remains entire, and may be employed in another; here it is annihilated and lost; lost as completely as if it was buried in the bottom of the ocean. By one legislative breath you are about to annihilate five millions of property, as well as to preclude yourselves from a resource of countless millions in future.

Now let us look to the operation of this measure upon this manufacture and to the consequences of that operation. One effect must be, to arrest the progress of this manufacture, and prevent its further extension. Of this there can be no question; for, if mere doubts of the continuance of this protecting duty have operated to keep back capital from this employment, which is known to be the fact—when these doubts are converted into a certainty, and the duty is discontinued, will capital go to that employment? It would be idle, it

SENATE.]

*Duty on Salt.*

[APRIL 7, 1828.]

would be foolish, to expect it. Then all the residue of this great resource, of this wide and profitable field for industry and capital, is to be cut off at once, and lost to the country forever. But the mischief will not stop here; the measure will not only arrest the further progress of this manufacture; it will be, it must be, ruinous to it. For, consider the present state of things, and how that state has been produced. The domestic manufacture has deprived the foreign manufacturer, in a great degree, of this market; and, this being his great market, the consequence is, that salt, at all the foreign salt ports, has fallen to a mere drug—to less than 50 per centum below its former cost there. Now, by this measure, you will give to the foreign manufacturer a bounty of ten cents on every bushel. Then salt being to be purchased, at all the foreign salt ports, at less than half the former cost, and paying here only half the present duty, it can be imported and sold here, and at a profit, at less than it can be made here at present. Then it will be imported, and in immense quantities; all our markets will be glutted with it. Our manufacturers will struggle against the overwhelming ruin, but they will struggle in vain. They must be prostrated; their works must be abandoned. I speak with the utmost confidence as to all the sea-board establishments, and to all the interior establishments, whose salt is water borne to market; it may not be so ruinous to those more inland, and whose salt supplies an inland market; but to them it must be very injurious.

Now, when those establishments are prostrated and abandoned, what will be the consequence? Salt will begin to rise; it will rise here; it will rise abroad; it will rise till it reaches its former price; the monopoly price of the foreign monopolist; which is always the maximum price at which the thing can be sold, not the minimum price at which it can be made, as is always the case when the domestic manufacture is supported against the foreign competition. Now what will be the remedy for this state of things? It will be to re-establish the domestic manufacture. How can this be done? Only by re-establishing the protecting duty, which you are now about to repeal or reduce. Let me remark, here, that it will be much more difficult to re-establish the manufacture, by re-establishing the duty, than it has been to acquire the manufacture, by imposing the duty; for the adventurers will then know what before they did not know, that they are liable to be ruined by the instability of our legislation. It will be much, if their confidence gets the better of their fears, and they again venture their capital where it has once been lost, and may be again, from the same peril. Who would commit himself to the peril of quicksands, in which he had seen others and might find himself swallowed up and lost? Here I would invite the attention of the Senate to one topic, which, though a general one, has a direct bearing on this question, as well as on all questions of this class. If I could impress it upon others as it impresses itself upon my mind, I should flatter myself that its weight would be found most decisive in the present case.

The great difficulty in building up a State, by its policy, and especially a free State, is not so much in devising that policy, arduous as that is, as in persuading to the sacrifices incident to its adoption.

The excellence of all excellent policy is in a steady permanent adherence to its principle; without that adherence, the fruits of that policy cannot be realized; without it, the policy, however excellent in itself, ceases to be so in effect. Indeed it is the worse for that excellence: for it is in its nature costly, attended with sacrifices; but these are all to be made in the beginning. If, after these are made, the policy is departed from, all its evils have been borne, and none of its benefits have been re-

alized; it has been productive purely of evil, which might have been avoided, by the vulgar policy of letting things alone, and leaving them to their natural course.

Every scheme of great national policy looks ahead, and to another day, for its full and perfect results. If the scheme be good in itself, and it be steadily adhered to, time, in due season, will bring these forth; and these have commonly been found to exceed in magnitude every anticipation, even the most sanguine that has been formed of them. It was the maxim of adhering to a policy once adopted and begun, that laid the foundation, and insured the military greatness of Rome; it was this that laid the foundation, and has insured the commercial greatness of Great Britain; and that greatness, in both instances, far exceeded the anticipations of either People. It is a remarkable fact in the political economy of Great Britain, that, in no instance in which they have adopted a policy for acquiring a manufacture within themselves, has she receded one iota from that policy, for one moment. The consequence has been, that she never has failed to acquire and establish that manufacture, however unpromising the attempt might seem to be; and another consequence also has been, ultimately, to obtain the article manufactured at a cheaper rate, and of a better quality, than it could be imported. And the proof is, that the same article has become an article of export, and finds a ready market in all other countries of the world, not excepting that from which it had been imported, and still might be imported. The silk manufacture, for instance, originally, would look like a most unpromising attempt; in the then experience of the world, it would seem forbidden by the very nature of things; the climate, seemingly ungenial to the tree, as not being indigenous to the soil; ungenial to that tender and delicate worm, which feeds upon the tree, and produces the gross material, and which then had never been found to exist, but in warmer latitudes. Yet the attempt was made, and has succeeded. Silks are now the second article in rank in the list of their exports; they are below their cottons, which is the first article, but is above their woollens, which is the third on the list.

The principle of that policy has been this: to give to the proposed manufacture such a protecting duty, as would ultimately give to it the exclusive market of the country, and to adhere to that principle steadily and unvaryingly, from time to time, and in all times, and not to suffer that adherence to be intermitted or remitted for a moment; to suffer no revolution of parties, no transition of power from one to another; to suffer no change of men in power; to suffer no change, even of the Government itself, to make any change in this adherence. The laws of nature herself are not more steady in their operations than has been their adherence to that principle. The consequence is, that she is now the wealthiest nation existing, or that ever has existed on earth; and, in her wealth, commands the means of more physical force than ever before was wielded by any one nation. Why is it that other nations of Europe, who have seen and would emulate the success of Great Britain, and by the same means, too, have fallen so much in her rear? It is because, though they have adopted the same policy, they have not adhered to it with the same steadiness. The policy with them has been more variable and fluctuating. It has by them been more timidly taken up, more faintly pursued, and, at times, weakly abandoned. The doctrines of Adam Smith had a charm to the Continental Nations of Europe, which they never had on his own nation, the British. Their own experience refuted his reasoning; the refutation was visible—was palpable to them, in their own prosperity, produced by a practice the reverse of his theory. The success of Great Britain is an experimental proof to her, it ought to be a monumental proof to other nations, of the falsity of his doctrines. But

APRIL 7, 1828.]

*Duty on Salt.*

[SENATE.]

these nations, and especially Germany, was infatuated with these doctrines. She threw down all the restrictions, by which her own industry was protected; and threw open all her markets to the equal competition of all the world. Free trade was the cry all over that country. What was the consequence? Free trade, in a short time, paralysed and prostrated all her own manufactures; and with them, all their other interests. They all felt the blow of free trade, either directly or indirectly. Free trade was a common calamity to them all; and all went down together; and, in this prostrate condition, they lie to this hour: for, though her statesmen have long since waked from the dreams of their folly, they have found it much easier to destroy, than to rebuild what has once been destroyed. It must be so. Fluctuation in that policy by which a manufacture has been acquired, must be fatal to it; and when lost thereby, to every hope of its revival. When a manufacture is abandoned in consequence of the policy by which it was protected, that faith is gone which is necessary to induce a renewal of the adventure. What prudent man will risk capital where he sees it has been lost, and is equally expected to be so again? The ruin of former adventurers stands as a wreck upon the coast, to warn him to keep clear of its hidden dangers; and against following on in a track that had led others, and may lead him, to destruction. The question now is not whether we shall impose a duty, in order to acquire a manufacture, but, whether we shall continue a duty, in order to preserve a manufacture already acquired. If the effect of this measure shall be to destroy this manufacture, and that it will, I consider as a moral certainty, we may bid a final farewell to every hope of its future revival.

Mr. MACON said, that the Government was not the same now, as when he and the gentleman from Maryland [Mr. SMITH] first came into Congress. He thanked the gentleman from Ohio for bringing this bill forward; and would appeal to the candor of the gentleman from New York, whether the State he [Mr. MACON] represented was in a condition to bear the burden of this tax. The people did not complain, and probably sent fewer petitions to Congress than any other State; but they felt it severely. There were certain things which ought not to be taxed in any country—things that entered into the plain food of the poor and laboring classes, and which were necessary to sustain life. He had generally found, that, when the Senate did not want to pass a bill, it was argued that it would not be taken up in the other House. But that was no objection on this floor. The Senate was not to decide for the other House. When the bill came before them they should decide for themselves. This duty seemed to him in the light of stock which Congress had got out of the People, and which they were determined to hold on upon. If this bill were to pass in the Senate, and be rejected in the other House, it would make no difference in his opinion. I do not believe that the arguments of Mr. Anderson's book, quoted last year by the gentleman from New Hampshire, can be controverted. Neither do I consider that a more perfect exposition of the odiousness of this tax can be made, than was last year made by that gentleman [Mr. WOODBURY]. This article goes into every meal we eat. Not a mouthful goes down the poor man's throat, which is not seasoned with it. And why should not the duty be reduced? Because those who are engaged in the manufacture would get a less price. But, is even our food to be taxed because a few individuals own salt springs? He deprecated the principle which was fast gaining ground, of legislating partially in favor of one class of the community, which would have the effect, if not opposed, of establishing an oligarchy among us. What, said Mr. M. must unite the country? A fellow-feeling for all parts of it. If a

single citizen's rights were touched, every man ought to feel as if the case were his own. But it could not be held that, if they got a road made for the benefit of one part of the country, and neglected another, there could be a fellow-feeling between them. Sir, said Mr. M. I will appeal to the gentleman from New York [Mr. MACON here addressed himself to Mr. VAN BUREN] if he did not find every thing in ruins in the State which I represent, when he passed through it—and whether the tariff has not destroyed us? I am glad the gentleman went there; and I hope he will go again. In the war, North Carolina was very much oppressed by the loss of commerce, and other injuries. And now she is equally burthened with this protective system. The principle of protection had been carried too far. When I was young, this word, protection, had a bad sound to me; and it is quite as bad now. It seems to mean that, where there is any place highly favored by nature, more must be done for it than for any other. This duty has been truly called a "war-tax." Nobody knows better that it is so, Mr. President, than you do. And I told you, on a former occasion, that I would never vote for a bill that had salt in it. Is this Government partial? What would you say of a parent that would feed one half of his children, and let the other starve? Salt sells now, in the market towns, higher than it formerly did in the interior of the country. It has been sold for 12½ cents, and the duty is now 20 cents per bushel; and the measure in those days was good—not your 56 lbs. It is a heavy article, and the transportation of it inland makes it cost, in many places, over 50 cents per bushel. The duty of 20 cents was first put on at the commencement of the war. Part of it was afterwards taken off. But it is now 20 cents. Those who voted for it then, said they would vote against it when the war was over. It is said that it is an article which cannot be smuggled—and is that a reason why it should be taxed? Is it good reasoning to say, that, because laces and silks can be smuggled, they must not be taxed as high as an article of necessity to the poor? They don't enter into the consumption of the poor man. Sir, said Mr. M., I have always considered this system of high duties as the strife of private interest against the public good. It had been said to the South, a few years ago, "only pass our tariff bill and your cotton will rise." But it has not. I don't know that they promised us a rise on tobacco. But we were told that it would increase the consumption of cotton. How does it turn out? With every kind of protection, instead of our manufacturers underselling the foreigners, the foreigners undersell us. They go away with good prices. He saw, by a Boston paper, not long since, that the prices had not fallen. The promise was, however, that every thing should fall; and it reminds me of the maxim that, "while the grass grows the steed starves." He thought he should die before there would be any fall. Sir, I think, said Mr. M. that we are so frightened about foreign products, that we would be almost willing to starve ourselves, and go naked, rather than eat and wear them. The full intention of this system seems to be, that we are to have nothing but what is made in this country. Sir, if the Southern States had looked as sharp after their own affairs as the North have, where would the great export trade have come from? In nothing ought equality to be more strictly observed, than in taxation. But every body knows, that, if you collect in one part of the country, and expend in another, you do not deal equally. It was an old fashioned opinion, with him, that the maxim which directed that every body should be let alone, and do that which they could do best, contained a sound doctrine. Free trade and sailor's rights, was formerly the motto of our system; but now, every point must be settled by law. He had hoped that this bill would pass;

SENATE.]

*Graduation of the Public Lands.—Internal Improvements.*

[APRIL 8, 1828.]

but his hopes were now very faint. Whether it did or did not, he should always be of opinion that justice required its passage.

Mr. BRANCH made a few remarks in support of the bill.

Mr. HAYNE said, that the gentleman from New York was right as to the effect of the bill, should it pass. It would, doubtless, reduce the price; but it was questionable whether the revenue would be at all diminished. In political arithmetic, two and two did not always make four. It was well acknowledged, that, as the duty was reduced on articles of prime necessity, in the same ratio the consumption would increase. If, therefore, by the operation of this bill, the consumption of salt should be increased one third in the year, there would, as far as the revenue was concerned, be no reduction at all, and the People would be enabled to get the quantity wanted by them of this article at a much lower price.

The gentleman from New York supposes that there will be no increase of consumption, in consequence of this measure. But he is, surely, in error. Every individual would have a larger allowance, and it would be used largely in husbandry, both as manure and for fattening of cattle. And, said Mr. HAYNE, my life upon it, instead of only increasing one-third, the increase of consumption will be much larger. The gentleman was also mistaken as to the fact of this duty being originally a war tax. He thinks that it was not. But how does he reconcile his opinion to the fact, that it was laid on at the suggestion of the Committee of Ways and Means of the other House, during the war, and that it was taken off on the return of peace? It was a curious fact, that, of the whole budget reported by that Committee, laying imposts to carry on the war, but one was rejected by the House; and that was the duty on salt; and it was stated in the Senate, last year, that the members, in order to carry their point, pledged themselves that it was a war-tax only, and not intended to remain in existence in times of peace. The duty on salt, therefore, is emphatically a war-tax, and nothing else. He had no design to enter into a general argument on the bill, but rose merely to correct the Senator from New York.

Mr. SANFORD said that the renewal of the duty in 1816 proved that it was not a war measure. If so, then the duties laid on every other article, by the law of that year, came under the denomination of war-taxes.

Mr. HAYNE said, in reply, that names were not things, as could be easily demonstrated. The gentleman supposed that this is not a war-tax, because it was included in the act of 1816. But I say it is a war-tax, said Mr. H. because it originated during the war, and to carry it on.

The bill was then laid on the table.

#### GRADUATION OF THE PUBLIC LANDS.

On motion of Mr. BENTON, the bill to graduate the price of public lands was taken up; and the substitute offered by Mr. BARTON for the original bill, being under consideration—

Mr. BENTON addressed the Senate at considerable length, advocating the original bill.

TUESDAY, APRIL 8, 1828.

#### INTERNAL IMPROVEMENTS.

On motion of Mr. SMITH, of Maryland, the bill from the House making appropriations for Internal Improvement, was taken up, together with sundry amendments reported to the bill by the Committee on Finance.

The principal amendment under consideration was a proviso that the appropriation of 30,000 dollars for sur-

veys should be expended on no other surveys but those already commenced. It was explained by Mr. SMITH, of Maryland. He observed that a majority of the committee had agreed to this amendment. Surveys had already been made of certain works, and if this amendment passed no new ones would be commenced until those now in progress were completed. He had not agreed with his colleagues on the committee, in recommending this amendment; and it was for the Senate to consider whether it was expedient to deprive those States to which surveys had not been extended, of any of the benefits of this appropriation, until those were completed which were already commenced.

Mr. JOHNSTON, of Louisiana, opposed the amendment, on the ground that, now that all the larger States had been listened to, and all their plans had been completed, it was unjust to cut off those smaller or more remote States that had hitherto asked no assistance. He was also against the amendment, because the other House had fully discussed this appropriation, and had decided in its favor. From that fact, it was obvious that they would not adopt the amendment, even if it should pass the Senate.

Mr. SMITH, of Maryland, did not think the Senate had any thing to do with the decisions of the other House. He went with the gentleman from Louisiana, as to the effect of the amendment. Mr. S. then handed the Secretary a letter from the Secretary of War; which was read. He also laid on the table a statement of the different items of expenditure for surveys, and the objects on which they had been expended.

Mr. RUGGLES opposed the amendment, as a departure from the intentions of the act of 1824. He thought the best manner of employing the graduates from West Point, during a time of profound peace, was in surveying the unexplored parts of the country, and developing its resources. He thought, also, that injustice would be done by breaking off the surveys at the present time.

Mr. WEBSTER inquired as to the reasons of the committee in reporting the amendment. He understood that the chairman [Mr. SMITH] was opposed to it. He therefore desired information from some one of the gentlemen who formed the majority of the committee.

Mr. PARRIS explained at some length the views of the members of the committee, observing that the power of making surveys had not hitherto been extended beyond the scope and purpose of the act of 1824. Many surveys had been made for other than national objects, and many for the benefit of individuals or corporations. It was thought better to finish what had been begun, than to go on with any new works, before the others were completed. It was also believed, that if the numerous surveys now projected, were progressed with, it would require that the Engineer corps should be enlarged.

Mr. WEBSTER opposed the amendment at considerable length. He thought it would have been better to move to repeal the law of 1824, or to have struck out the appropriation. He was in favor of the act of 1824, and he had rejoiced in its operation. As to the complaint that these surveys had been exercised for States, for individuals, and corporations, he saw no objections to such an exercise of the power, as it mattered not whether objects of public utility were proposed by corporations, which had very often more regard to public good than to private interest. As to concluding the surveys commenced, he did not see the benefit which would arise from such a course, as the whole system was one of comparison. Many plans were presented for one work; and, until the whole subject should be brought before Congress, they could not decide upon it. He objected to the amendment, because it would withhold from those States that had not applied for assistance the benefits



APRIL 9, 1828.]

*Graduation of the Public Lands.—Internal Improvements.*

[SENATE.]

which had been felt by others. The Engineer corps could not be employed better than in exploring the country and opening its resources. He wished to see the great work go on, and that no impediments might be thrown in its way.

Mr. SMITH, of Maryland, expressed himself as hostile to the amendment. He wished the provision might be left open. The Baltimore Rail-road Company had received aid from the United States' Engineers, which was of great value; and he understood that similar aid was wanted in South Carolina. He should feel great regret were this amendment to cause it to be withheld from that State, or any other which might be in need of it.

Mr. CHANDLER thought they had better go on and complete what had been begun; but he wished, after that was done, the work might go on as usual. He, therefore, moved to amend the amendment, so that other projects might be progressed in, after those already under survey were completed, by inserting the words, "until the surveys already commenced are completed."

Mr. McLANE signified his approbation of Mr. CHANDLER's amendment; and proceeded to reply, at some length, to certain remarks of Mr. WEBSTER. He was as much an advocate of the act of 1824 as that gentleman; but he wished to confine those surveys to the limits fixed by that act—to national objects only. His object in advocating in the committee the amendment reported, was to bring back the system of surveys to its original grounds, and restrict it to its constitutional province. He considered that Congress ought not to authorize surveys of works which it was not the intention of Congress to complete. They had been carried much farther, and local objects had been surveyed which were never embraced in the law of 1824. He did not lay this fault to the Secretary of War; but members of Congress had made representations to the Secretary, on which he thought himself authorized to detail a party of Engineers to make surveys. Thus he had been deceived, and the United States' officers engaged in duties not authorized by the law under which they acted. He thought that, if a State projected a work of a local nature, and required the science of the United States' Corps of Engineers, their aid ought to be given; but then the State ought to pay the expense of it.

Mr. WEBSTER opposed the amendment offered by Mr. CHANDLER. He did not see that the amendment reported by the committee would effect the object of the gentleman from Delaware—to bring the exercise of the power of making surveys to those of objects exclusively national. It was said that many of those surveys which had been made thus far, were of a local nature, and how would the amendment, which proposed merely that they should all be completed before any others were commenced, effect that object? If all those surveys were to be completed, whether national or local, how did the amendment confine them to national works? Mr. W. spoke at some length in demonstration of the difficulty that existed in fixing upon what works were really national or local.

Mr. SMITH, of Maryland, referred to the list of works which had been surveyed, and were now in progress, (which was read by the Secretary,) and contended that it did not contain a single object which was not of a national character.

Mr. McLANE replied to Mr. WEBSTER at considerable length. He thought the gentleman had departed from the ground at first taken by him. If he had not misunderstood him, he declared his willingness to increase the number of Engineers, and to prosecute surveys of a local as well as national character.

[Here Mr. WEBSTER explained, that he had said he was willing to allow the surveys to go on as far as the law would authorize, whether for objects adopted by a State or corporation.]

Mr. McLANE continued his remarks, and went at some length into the consideration of the distinction between national and other works. He also commented in answer to the remarks of Mr. SMITH, of Maryland, upon the list of surveys, pointing out several which he maintained were not of a national character.

On motion of Mr. BENTON, the bill was laid on the table.

#### GRADUATION OF THE PUBLIC LANDS.

On motion of Mr. BENTON, the unfinished business of yesterday, being the bill to graduate the price of the public lands, was taken up; and the substitute offered by Mr. BARTON being still under consideration—

Mr. BENTON continued his speech (commenced yesterday) in support of the original bill.

About 3 o'clock, Mr. BENTON moved an adjournment, intimating that he should continue his remarks to-morrow.

WEDNESDAY, APRIL 9, 1828.

#### INTERNAL IMPROVEMENTS.

On motion of Mr. SMITH, of Md. the bill making appropriations for Internal Improvement was again taken up. The amendment of Mr. CHANDLER to the amendment proposed by the Committee on Finance, in relation to surveys, being under consideration, the question was taken and it was rejected.

The question being on the amendment proposed by the Committee on Finance.

Mr. JOHNSTON, of Lou., rose to reply to some remarks of Mr. McLANE, made in the debate of yesterday. He considered that, if the gentleman from Delaware had examined the subject with his usual accuracy, he would have found that, in the list of surveys, alluded to by him, not one of them were other than of a national character.

Mr. J. spoke at length on the difficulty of defining the terms of the bill of 1824, and of pointing out exactly the meaning of the words "national importance."—He believed that the Secretary of War had adhered strictly to the meaning of the bill, and had been correct in his construction. The list of surveys, amounting to 69, was swelled to that amount by the subdivision of the different objects. Many of those which the gentleman from Delaware looked upon as local, had been ordered by Congress, and many of them were connecting links in the great chain of national works. It was impossible that it should be known, whether a work was of great national importance, until it had been surveyed. When that was done, and the reports laid before Congress, they would be able to decide whether it was or was not proper to make appropriations for the work—in fact, whether they were objects of national importance. He believed that the act of 1824, had been strictly adhered to.

Mr. McLANE replied, and remarked, that the gentleman from Louisiana had misconceived him. He said nothing against any object proposed to be carried into effect by this bill; but, on the contrary, was in favor of its provisions. His remarks, yesterday, had been confined to surveys; and his only desire was, that they should be confined to the limits contemplated by the act of 1824. His objection was to the employment of the corps of United States' Engineers for objects entirely local. Such he considered the Rail Road in Maryland, which ran from point to point in that State. He was, as he had yesterday declared, willing that the States should have the benefit of the science of the corps; but the extra expense ought to be defrayed by the States in all such cases. The gentleman from Louisiana, and himself, perfectly agreed as to the difficulty of deciding whether an object was national or not; and they also agreed in thinking that Congress ought to decide

SENATE.]

*Internal Improvements.*

[APRIL 9, 1822.]

the question. The power of surveying a road, Mr. McL. considered to be derived from the power of making it; therefore, he did not think it the proper course to search the whole country for national objects by means of surveys, which had nothing to do with the matter, but to elucidate the practicability of the plans previously designated. As far as the law of 1824 went, he was willing to go. But he could not believe that it was even contemplated by that law, that a member of Congress, on his mere motion, should cause a survey to be made, whether of a national or local object. In making such surveys, he was fully satisfied that the act of '24 had been departed from.

Mr. JOHNSTON, of Louisiana, replied, at considerable length, and combated the opinion expressed by Mr. McLANE, as to the local value of certain objects, particularly the Rail Road in Maryland. He thought it a strange proposition, that the United States should hire out their Engineers to the States. He could not comprehend the distinction drawn by Mr. McL. between local and national works; and considered it not altogether a good argument, that, although the United States could not survey a road which they had no right to make, the corps of Engineers could be detailed to survey roads for the States of an entirely local character. The power of surveying, although derived from the power of Congress to make roads, was nevertheless exerted of necessity previous to their construction, and even before a decision in favor of their construction. It was by no means certain that surveys were to be followed up by appropriations. It was neither proper nor useful that Congress should take from the Secretary of War the direction of the surveys for the defence of the country. Each Department ought to move in its own proper sphere; and while scientific men were employed in obtaining the necessary knowledge for framing an effectual system of defence, Congress ought not to thwart their plans. He was averse to the plan of allowing all the minor works to be delayed until the greater ones were finished, as it would keep those States, in which only subordinate improvements were necessary, in the back ground for a series of years. The money expended for these objects ought to be distributed as equally as the circumstances of the country would allow. As to the conduct of the Secretary of War, he believed that he had acted with propriety, and that the discretion had better remain in his hands.

Mr. HAYNE next rose, and went at large into argument in favor of the amendment, bestowing much censure on the manner in which the discretion of the Secretary of War had been exercised in pointing out objects for survey. He had formerly been in favor of the act of 1824, and he had learnt a lesson in legislation, which he should carry to his grave. He was not then aware that the most important question in passing a law, was not "what its benefits would be, but to what extent its provisions might be abused." He was not then aware that the consideration in granting power to a public officer, was not what the effect of its legitimate exercise would be, but to what extent it might be transcended, and misapplied. He then went into a consideration of the extent to which the power of the Government to make internal improvements, had been declared by the act of 1824, and maintained, that, instead of adhering to the works designated by that law, objects of every description had been surveyed. He recollected that, at the time of the passage of that act, only a few great national objects were designated. But the system, instead of being confined to those bounds, had been extended to innumerable surveys in every part of the country, of objects, whether national or local, and promised to become interminable. Every road, every canal, was said to be national. Sixty-nine have already been

commenced, and the Secretary of War had reported thirty-eight more. For all this the Engineer Corps was incompetent: as he had been informed by a gentleman attached to it, that the completion of the surveys already commenced are sufficient to occupy the present corps, and that other works could not be begun, without an increase of the number of the corps. He saw no object in going on in this manner, but one, and that was to commit the country continually in new and unfinished projects. Thus, from year to year, the country would be in the same situation, and at the end of ten years, they would be no nearer the end of the system than at present, after having surveyed the whole face of the country. The effect of this system, he declared, would be to raise false hopes, and paralyze the exertions of the States themselves, in projecting and carrying on local improvements.

Mr. McLANE, in further reply to Mr. JOHNSTON, said, that he did not propose to hire the Engineer Corps of the United States to the States. He merely proposed, that, when they were not otherwise occupied, their services might be employed for local objects in the several States, and that then their extra expences should be defrayed by the States. It was not a new idea with him. The same course had formerly been practised, and the departure from it, in late years, was the cause of the torrent of complaint that had been brought against internal improvement. In reply to some other remarks of Mr. JOHNSTON, he observed, that no great system of internal improvement had been reported to Congress. The Secretary of War had departed entirely from the object of the law of '24; and it was the design of the Committee, in reporting the amendment, to confine the power of the Secretary within the provisions of the bill.

Mr. JOHNSTON, of Louisiana, rejoined. He could not perceive how, (Mr. J. observed,) if the United States could survey no works but such as they could go on with and complete, they could employ their Engineers in the service of the States. Such had been his meaning in his previous remarks. He replied to the observations of Mr. HAYNE. It was a complaint that the system had been carried on irregularly. It was true; but the reason was, that the friends of the system could not do otherwise. The opponents of the system prevented them. He thought the gentleman from South Carolina defined too narrowly the powers granted by the bill; and observed, that the power given to the Secretary of War to cause surveys to be made for the defence of the country, was a most vague and general power, and that the dependence must always be upon Congress to exercise its wisdom and discretion, in deciding upon what course was right. He had a list of six surveys of improvements of a national character, made before the passage of the act of '24, which had been done under the power to provide for the defence of the country. A thousand difficulties were in the way of this system. And it was impossible, under the circumstances, that it could go on any better than it had. He hoped the amendment would not be adopted, and moved that the question be taken by yeas and nays.

The question was then taken, and the following vote was given:

YEAS.—Messrs. Berrien, Branch, Chandler, Cobb, Dickerson, Eaton, Ellis, Foot, Hayne, McKinley, McLane, Macon, Parris, Rowan, Sanford, Smith, of South Carolina, Tazewell, Tyler, Van Buren, White, Woodbury.—21.

NAYS.—Messrs. Barnard, Barton, Bateman, Benton, Boulligny, Chase, Harrison, Hendricks, Johnson, of Ky. Johnston, of La. Kanc, Knight, Marks, Robbins, Rugles, Seymour, Silsbee, Smith, of Md. Thomas, Webster, Wiley.—21.

APRIL 9, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

The VICE PRESIDENT rose, and said : The Chair votes in the affirmative. The Chair has no doubt if the system is not confined to the provisions of the law of 1824, it will, and ought to run down. He then observed that this was no new opinion—that when the law was framed, he was at the head of the Department of War, and had made a report upon the subject ; and concluded by a remark which was not clearly understood by our Reporter, in which a message of the President of the United States was mentioned.

So the amendment was adopted.

#### GRADUATION OF THE PUBLIC LANDS.

The bill to graduate the price of public lands was then taken up, the substitute offered by Mr. BARTON being still under consideration.

Mr. BENTON again took the floor, and concluded his remarks.

[Here follows the speech of Mr. B. in a connected form.]

Mr. BENTON began with saying that he had meditated the subject matter of this bill for eight years, and had been at work upon it for four years. He had begun to think of it in the year 1820, when he was a private citizen in Missouri ; and had begun to give it form and effect as a legislative measure in the Spring of 1824, when he asked and obtained leave from the Senate to introduce his first bill for reducing the price of the public lands. That bill had been brought in, and with some modifications had been annually renewed ever since. It had been discussed on several occasions, but never pressed to a final vote, because he knew that, on a subject of so much magnitude, time must be allowed for public opinion to develop itself, and for the minds of Senators to consider what ought to be done. That time had been allowed. Four years had elapsed since he first brought in his bill, and two since he had made a full exposition of its merits to the Senate. Public opinion had developed itself, at least in the West, from which numerous memorials and petitions had been received in favor of the bill ; and the minds of Senators were ready to proceed from consideration to judgment, as the votes and speeches of several will prove, who were at first doubtful of the merits of the bill, and who are, now ready to declare in its favor.

Mr. B. then stated the objects of his bill to be, first to benefit the public treasury by accelerating the sales of the public lands ; and, next, to benefit the new States by procuring for them, within some reasonable time, the use of all the soil within their limits, for the purposes of settlement, taxation, and general jurisdiction. The sales, he said, were too slow at present to answer these purposes. They scarcely advanced at all, and certainly made no sensible impression on the mass of the public lands. The Federal Government held 260 millions of acres in the States and Territories, to which the Indian title had been extinguished ; about 50 millions more to which it had not been extinguished ; about 90 millions on the Upper Mississippi, between the State of Illinois and Lake Superior, and about 700 millions west of the Mississippi and east of the Rocky Mountains ; making 1,100 millions of acres of undisputed public domain, exclusive of our territorial claims and possessions in the valley of the Columbia river and on the coast of the Pacific Ocean. Of this immense mass no more than 20 millions of acres have been sold by the Federal Government in a period of 40 years ; and only 32 millions of purchase money paid into the Treasury : from which is to be deducted \$2,165,000 for the expense of surveying ; \$1,155,000 for the expenses of selling ; \$35,000 per annum for expenses of the General Land Office ; \$3,392,000 for the expense of holding Indian treaties for the extinction of Indian titles ; and annuities, chiefly permanent, amounting at present

to about \$240,000 per annum. The gain to the Treasury would be but little from such sales ; and as to the new States and Territories, a simple question in the Rule of Three would show that it would take 520 years to extinguish the Federal title within their limits, at the rate the sales had been going on for the forty years past, and about 2000 years more to complete the sales to the head of the Mississippi and to the foot of the Rocky Mountains. Having stated these results, Mr. B. suggested to the Senate that 520 years was rather too long a period for the new States to remain without the privilege of taxing and cultivating the lands within their limits ; rather too long for the public debt to remain unpaid, and for the people of the old States to continue to raise money from other sources to pay its annual interest.

Mr. B. then took up the bill, and stated the nature of its several provisions. He said that it consisted of four distinct clauses, comprised in five sections ; and that each clause presented a separate question for the consideration and decision of the Senate. The first clause applied the graduation principle to the lands which had been heretofore offered at public sale, and remained unsold at the minimum price of \$1 25 per acre ; the second clause applied the same principle to the lands hereafter to come into market ; the third clause proposed donations of small tracts to actual settlers ; and the fourth made provision for the cession of the refuse lands to the States in which they lie, for the promotion of the great cause of education and Internal Improvement.

Having stated the nature of the different clauses in his bill, Mr. B. went on to examine these clauses in the order in which they stood, and to show their practical effect upon the public lands and the public Treasury. For this purpose he took up the first clause, which applied the graduation principle to the lands now in market, and said that the proper decision of it required a knowledge, first, of the quantity, and, secondly, of the quality of the lands, to which it would apply. As the author of the bill, he felt it to be his duty to give to the Senate full and correct information upon those points, and he should do so with all the brevity and precision which the magnitude of the subject would admit of. He had been collecting this information for many years, and without pretending to the minute accuracy of a clerk stating an account, he would confine himself to round numbers, and assure the Senate that his statements would be found to be sufficiently correct and particular for all the practical purposes of the statesman and the legislator.

On the first point, he would say, that the number of acres on which the first clause of his bill would operate, was about 80 millions, and he verified this statement by showing from printed documents and manuscript memorandums, taken from the General Land Office, that the quantity of public land surveyed, was 140 millions of acres ; the quantity sold was 20 millions ; the quantity given away, reserved from sale, or not brought into market, was 40 millions ; leaving the aforesaid quantity of 80 millions of acres for the application of the first clause in his bill. So much for the quantity. On the second point, Mr. B. would say, that he had a great deal of personal knowledge of the quality of these lands. They lay in seven States and three Territories ; and of each of these, except one Territory, that of Michigan, he had a personal knowledge from travelling and visits ; and although the soil of the whole of them might be characterized as rich, yet, as the fattest animal must have bones and offal, and inferior parts, so the richest country must have its rocks, and hills, and sterile spots. This was essentially true of the States and Territories which contained the public lands ; and of the relative proportions of good and bad, those to the South possessed much the largest alloy of bad. In every State and Territory these lands had been picked ; in the forks of the Ohio and Missis-

SENATE.]

Graduation of the Public Lands.

[APRIL 9, 1828-

issippi, chiefly under the laws of the United States; and in the others, for a long time, under the bountiful dispensations of foreign sovereigns, before they became subject to the more rigorous system of the Federal Government. The eighty millions unsold was the residuum of repeated pickings and cullings, by sales and donations, for periods of ten, fifty, and an hundred years, under four different sovereignties, and might be assumed to be at least one half unfit for cultivation, and worth nothing at all, and the other half alloyed in all assignable proportions with mixtures of bad land, and hardly worth an average of forty or fifty cents per acre.

Having made this general statement, which he treated as the proposition of his subject, Mr. B. proceeded to sustain and verify it by a rapid view of the actual condition of the public lands in the different States and Territories. Passing over the State of Tennessee, in which the Federal Government held a residuary and contingent interest in some lands derived from North Carolina, and which he conceived to be of too little value to justify the expense of setting up the official machinery which it would require to survey and sell it, and which ought to be ceded at once to the State for the improvement of its roads and rivers, he would proceed to the States in which his bill would find an ample and appropriate field for the operation of its respective clauses. At the head of these States he would place Louisiana, contrary to the received opinion which assigned that station to Ohio. Louisiana, in point of early and considerable settlement, was one of the oldest States in the valley of the Mississippi; and, in point of territorial alienations, was certainly the State most completely dispossessed of its good lands, and, therefore, most ripe and ready for the operation of the different clauses, and especially of the two last clauses of the Graduation Bill. It had been settled above an hundred years ago, and the alienations of its soil, by the gratuitous donations of the Kings of France and Spain, amounted to five millions of acres before its transfer to the United States. Since that epoch, no more than 182,000 acres had been sold, and the bare statement of this fact, included the whole argument in favor of a change in the mode of selling there. Louisiana was situated in the southern latitudes, in a climate adapted to the cultivation of the rich products of cotton, sugar, rice, and indigo. Twenty-five millions of acres of her soil were vacant, and three land offices were in operation; yet, in a period of a quarter of a century, no more land had been disposed of than the pitiful quantity he had named. The inference was obvious and irresistible. The valuable lands were taken under the former governments; the remainder is not worth the minimum price which is set upon it. All the alluvion grounds upon the margins of the Mississippi, the Red River, the Washita, and their *bayous*; the best of the uplands in Attakapas, Opelousas, and back of Baton Rouge, are held in private hands; and the vast extent of pine woods, prairies, and inundated plains, are more fit for donations—the former to herdsmen, who would cover them with cattle, and the latter to planters, who would reclaim them—than to any system of sales that could be devised. The donation and the cession clauses of the bill were peculiarly desirable to Louisiana. She had applied for them through her Legislature. Her Senators on this floor (Messrs. JENKINSON and BOULIER), seconded her wishes. To refuse her request, would be to make light of the prayers of a sovereign State, and to doom the most exposed point in the Union to remain longest without an adequate population to sustain and defend it.

The State of Ohio was second to Louisiana in the list of States most ripe and ready for the operation of the Graduation Bill. She had seven millions of acres to be disposed of under it, out of fifteen millions which the Federal Government once owned within her limits. The

quality of these seven millions comprehended all the varieties of second and third rate lands, with a large proportion of what was unfit for cultivation. They were the refuse of above forty years of sales, made first at one dollar per acre, in certificates of the public debt; afterwards, at two dollars per acre, under the credit system; and, since 1820, at one dollar twenty-five cents per acre, for ready money. Several millions of these seven might be sold in four years at the different prices fixed in the bill. The balance, comprehending all that would not command twenty-five cents per acre, would fall to individuals under the donation clause or to the State, under the cession clause; and by the State Legislature, with its intimate knowledge of localities and near superintendence, might be made available, in no inconsiderable degree, in promoting the great cause of education and internal improvement.

Alabama was the third State to which Mr. B. adverted. Her superficial content was thirty-three millions of acres; of which the Indians held eleven millions, the Federal Government about eighteen millions, and individuals about three and a quarter millions. The quantity to be affected by this bill was about fourteen millions; of which he would say that much the largest portion was unfit for cultivation. The good land of the State lay on the margins of the rivers, or in bodies which had chiefly been sold; the unsold part consisted of pine woods, worth but little. The graduation clause of the bill would not have a very extensive operation in this State. Her soil changed suddenly from good to bad. The richest and the poorest were often in contact. The intermediate qualities of second and third rates, were not in proportion to the two extremes of best and worst. The donation and cession clauses would be necessary to free that State from vacant land, and bring all her soil under the dominion of private owners. Mr. B. then referred to the memorial of the Legislature of Alabama, praying for the passage of the Graduation Bill, commenting upon the deference which was due to her request, and making his thanks for the manner in which his name had been mentioned in the memorial.

The State of Mississippi claimed his next attention. This State, he said, was almost entirely in the hands of the Indians and the Federal Government, and it was difficult to decide which of the two opposed the greatest bar to her prosperity. Only one million and three-quarters had been sold by the Federal Government, out of thirty millions of acres which the State contained; and out of nine millions which had been surveyed, only about seven would come under the operation of this bill. Of these seven millions, he could safely say, and on appealing to one of her Senators, (Mr. WILLIAMS,) he was confirmed in the declaration, that more than half of it was unfit for cultivation. The general face of the State was subject to the same description which he had given of Alabama, and he would not trouble the Senate with repetitions where a reference would answer. He would barely stop for a moment in his rapid view of the condition of the new States, to say that the fate of Mississippi had been peculiarly hard. She comprehended within her limits the most ancient of the European settlements on the gulf frontier of the United States—the Biloxi—which was settled by the French in 1680. Her chief town, Natchez, became the residence of a white population above an hundred years ago. In 1783, the chief part of her territory became annexed to the Union by the terms of the treaty with Great Britain. In 1798, she was formed into a Territory, and in 1817 erected into a State. Such are the dates of her civil and political existence; yet at this late day, after the lapse of a century and a half from her first settlement, nearly half a century from the incorporation of her soil with the Union, thirty years from the time of her erection into that primary po-

APRIL 9, 1838.]

Graduation of the Public Lands.

[SENATE.]

litical state called a Territory, and eleven years after her elevation to the rank of a sovereign State, and with a form and magnitude and natural advantages to rank with the great States, she still remains, in the political scale, among the smallest, and, what was worse, seemed there most likely to remain. The Indians held half her land, and the best half, and refused to sell it; the Federal Government held nearly the whole of the remaining half; and while pretending to sell, was, in reality, locking up the lands from sale, by the operation of an arbitrary minimum, which set purchasers and bidders at absolute defiance. The donation and cession clauses of his bill, presented the remedies of which this State stood most in need.

Mr. B. proceeded to his own State, Missouri, the State of his adoption, to which he owed faithful, grateful, and devoted services, for the signal honor of two elections to the Senate of the United States, in the first eleven years of his residence there. She needed the beneficent operation of all the clauses of the graduation bill, as the statement he was about to submit would pre-eminently show. Her superficial content was forty millions of acres; her surveyed lands amounted to twenty-three millions, and the sales under the laws of the United States to one million. The quantity subject to the operation of this bill, would be about half the quantity surveyed, the remainder having been disposed of in donations, or in satisfaction of New Madrid claims, or military bounties, or never having been brought into market, or having been reserved from sale on account of private claims, or on suspicion of containing lead, or iron ore, or salt water. All these appropriations and reservations reduced the large amount of surveyed lands to the quantity of ten or eleven millions of acres, which would come under the operation of his bill. The quality and actual value of these ten or eleven millions was the next part of the inquiry. To answer this inquiry with full and entire effect, Mr. B. said it was necessary to indulge in some historical recollections—to go back to the year 1764, when Upper Louisiana, now constituting the State of Missouri, was a province of the Spanish Monarchy, and began to be settled by emigrants from Illinois, from Canada, and from Europe. The Spanish Government then, as now, was a perfect despotism; but, in one respect, namely, in the distribution of the crown lands among the king's subjects, was truly parental. It gave to whomsoever would take; and it is worthy of remark, that the effective words of distribution in the ordinances of the kings, and in the testamentary devises of parents, were always the same, "*repartir*," and "*repartimientos*." After the year 1790, these parental distributions were not confined to Europeans or their immediate descendants. Spain conceived the idea of strengthening Upper Louisiana, and settlers from the United States were admitted to the king's bounty, upon the liberal terms which had been enjoyed by his old subjects. Under these bountiful dispensations the country had become extensively settled, and its choice lands widely appropriated, before the province changed masters in 1803, and passed into the hands of the United States. The counties of New Madrid, Cape Girardeau, Ste. Genevieve, St. Louis, and St. Charles, each as large as the third-rate States of this Union, possessed a population in number, wealth, and intelligence, which enabled them to sustain the organization of our judicial system, and all the regulations of county government, the instant the change of sovereignty took effect. The settlements extended for above 200 miles from north to south, from below New Madrid to above St. Charles. The grants and concessions of land extended still further; they reached west into the Boonslick country, and north into the Salt River country, each above an hundred miles from the limits of the settlements. These concessions were choice selections made at the will of the grantee, and located

according to his pleasure. They amounted to near three millions of arpens; of which about one million had been confirmed under the laws of the United States, and the remainder, being reserved from sale by a law of Congress of 1811, will not be subject to be disposed of under any clause of this bill. From this statement, Mr. B. said it would be seen that the country had been extensively picked of its good lands before it came into the hands of the United States—that the cream had been taken off, and it was a dish of skimmed milk when the Federal Government sat down to it; and, since that time, it had been picked again by sales, by pre-emption rights, by New Madrid claims, by donations, by reservations, and by military bounties, until what was left unsold at \$1 25 per acre, was essentially a refuse; comprehending much that was unfit for cultivation, much that was second and third rate, and perhaps not a single quarter section that could be deemed first rate. At a minimum of \$1 25 per acre, the sale of such lands could not be accomplished in ages and centuries to come; at graduated prices, as regulated in the bill, several millions of acres would be sold in five years; the Federal Treasury would get its real value; the People would have it for cultivation, the State for taxation; timber would be saved, instead of being destroyed; many poor families would be furnished with homes, and would love and cherish the Government whose bounty they enjoyed; and what would not sell for 25 cents per acre, could be made available by the State Legislature, for the meritorious objects of improving the minds of the People and the face of the country.

Mr. B. said, that when he brought in his bill in 1824, the Legislature of Missouri had sent in a memorial praying for its passage; and at the present session he had presented petitions for the same purpose, signed by upwards of four thousand inhabitants of the State. Of the character which had been given on this floor of the signers of these petitions, he would say that it was as unjust in fact as it was ungenerous in manner; that the petitioners were persons of respectability; and that, if he had time to read over the names, the Senators from all the middle States, and especially from Kentucky, Tennessee, and Ohio, would recognize many of their connexions, and many of their oldest and most esteemed friends and neighbors.

The State of Illinois next claimed the attention of Mr. B. He said her superficial content was forty millions of acres, of which twenty-seven millions had been surveyed, and about one million and a quarter sold. The quantity subject to the operation of the bill would not exceed thirteen or fourteen millions of acres, as much of what had been surveyed had not been brought into market, or had been destined for military bounties. The quality of these thirteen or fourteen millions was such as might be expected from the picking to which the State had been subjected in sales and pre-emption rights under the laws of the United States and in donations or concessions under the French Government. One-third or one-half might be set down as unfit for cultivation, on account of the number and extent of the prairies. The Legislature of the State had applied, in memorials, for the passage of the bill, and had mentioned his (Mr. B.'s) name in a manner which commanded his public acknowledgments and best exertions to accomplish her wishes: a task in which he was efficiently aided by her Senator, [Mr. KANE] who had spoken for the bill with so much ability in this Chamber, and by her Representative, [Mr. DUNCAN] who had reported for it with so much strength and clearness, in the Hall of the House of Representatives.

The State of Indiana was the State, of all others, which had applied most frequently to Congress upon the subject of the public lands, and was, probably, the State to be, above all others, most extensively benefited by the passage of the graduation bill, on account of the mixed nature of its soil

SENATE.]

*Graduation of the Public Lands.*

[APRIL 9, 1828.]

and the number of poor families who move into it from the neighboring slave-holding States. Her Senators (Messrs. NONZ and HENDRICKS) had represented her wishes, and left but little for him (Mr. B.) to say. The superficial content of the State was twenty-two millions of acres; of which the Indians held six millions, the inhabitants three and a quarter millions, and the Federal Government the remainder. About sixteen millions had been surveyed; of which about ten millions would come under the operation of this bill. The quality of these ten millions was such, that about one-third might be considered as unfit for cultivation; the rest principally reduced to second and third rate tracts, by the pickings it had undergone under the French Government, from 1680 to 1763; under the British, from that time till 1783; and since, under the laws of the United States. Land Offices had been established at Jeffersonville and Vincennes since the year 1804. Sales had become slow and inconsiderable in the old districts; emigrants pushing on to the new ones, where they could get first choices of land for the same price they would have to give for the refuse tracts in old districts. Still these old districts contained much desirable land which old settlers and new comers would be glad to buy for what it was worth. The donation and cession clauses would operate well in this State, where many poor families would receive with gratitude the bounty of the Government, and where the unsaleable lands, which would not command twenty-five cents per acre, would be made useful by the State Legislature in supporting schools, opening roads, improving rivers, and completing the connexions with the lakes which nature herself had begun and almost finished.

The three Territories claimed a brief notice from Mr. B. Arkansas, which had applied by memorial for the passage of the graduation bill, had done the author of it the honor to mention his name, for which he returned his public thanks, had but about six millions of acres, out of nearly forty millions, subject to its operation. Only fifty-four thousand acres had been sold there under the laws of the United States, in the twenty-five years which the Territory had been a part of the Union. Florida, which had also applied by memorial, had but one and a half millions of acres subject to the bill. Her sales amounted to a quarter of a million of acres in the three years that the Land Offices had been opened. Michigan had but four and a quarter millions of acres subject to the action of the bill, and had sold but three hundred and seventy-five acres under the laws of the United States, in the very long period that she had belonged to the Federal Government. All three of these Territories had been picked under former sovereignties, and contained large portions of land unfit for cultivation—Florida and Arkansas especially; in both of which the extensive pine woods, common to the South, widely prevailed.

Having gone through this detailed statement, to sustain and verify his leading proposition, Mr. BENTON continued—

It is now made manifest, Mr. President, that out of 1,100 millions of acres of land which is held in trust for the People of the United States by the Federal Government, and of which 260 millions, to which the Indian title has been extinguished, besides 50 millions more to which it has not, lies in seven States and three territories—it is now made manifest, sir, by official documents and incontrovertible statements, that out of this immense domain, the first clause of my bill, which is the clause now under consideration, will only apply to about 80 millions of acres; that of this 80 millions, about one-half may be thrown out as unfit for cultivation, and the other half set down as a mere refuse—the leavings of a century's sales and donations under the laws of the United States and foreign sovereigns, and which the Federal Government has been in vain endeavoring to sell at its minimum price of \$1 25 per acre, for many years past.

This being the quantity, and such the quality, of the land to which the first section of my bill is applicable, let us see if it is true, as has been asserted on this floor, that this quantity is more than the People will need in the four years that the bill allows for its sale, and whether the value of it is greater than they can pay in that time? The existing population in the States and Territories in which these lands lie, is about two millions of souls, and is daily increasing by births and emigration, at a rate to double their numbers in a very short period. Many of the present inhabitants are without land, and would be glad to get at it equitable rates under this bill; many of the freeholders would want more, either for themselves or their children, and all the emigrants would, of course, be buyers to the extent of their means. The quantity of 40 millions of acres apportioned among the existing population, would give 20 acres per head, and the same quantity divided among the increased population which four years will give, would probably diminish the distributive proportions to 15 acres a head, which, allowing 6 souls to every family, would make 90 acres to the family. This proportion could not be considered excessive in new countries, where men of tolerable property count their lands by hundreds and by thousands of acres. With respect to the amount of money which it would require to pay for it, I apprehend that it would not exceed in number of dollars more than half the number of acres sold, as I should consider 50 cents an acre a high average for such inferior and refuse ground; and as the donations to the poor, contemplated by the third clause, would, if it succeeds, be numerous, and in the aggregate considerable, though made up of small parcels; it would follow that the amount of money to be raised would not be above three or four millions of dollars per annum, or twice or thrice the amount now paid annually for lands; an amount which the people of the new States could readily spare by increasing their exertions and retrenching other expenses, for the few years which the operation of the system would require. And this finishes, Mr. President, the exposition which I had to make of the nature and effect of the first clause of my bill.

I will now proceed to the second clause, contained in the second section, and dismiss it with a brief notice, because I do not mean to struggle for its preservation. I mean to abandon it, not because I think it indefensible, but because it is objected to by some of the real friends of the bill, to whose wishes and judgment it is my duty and pleasure to defer, whenever it can be done without injury to the main question. This second clause applies the graduation principle to the public lands hereafter to come into market; that is to say, to the whole body of the lands. It is objected that this would occasion the lands to be disposed of too rapidly; that there would be neither buyers to purchase, nor money to pay for, such an excessive quantity. But there is no foundation, in my opinion, for the objection. The bill does not bring the land into market; it only operates upon it after it is brought in, upon the proclamation of the President. It will depend upon his discretion after the passage of the bill, as it now depends upon it, to order portions of the land, from time to time, to be exposed to sale. It will still be as the law now is. The President, for the time being, may order as little into market as he pleases. He may order none at all. He may stop the sales, so far as their stoppage depends upon the issuing of his proclamations. It would be an abuse to bring an excessive and inordinate quantity into market at once; an abuse which has not yet been committed, and of which there is more reason to apprehend the reverse than the fact. Still some of the real friends of the bill are opposed to it, especially my venerable friend from North Carolina [Mr. MACON.] He and several others are willing to take the first section as an experiment—to make



APRIL 9, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

trial of the graduating principle upon the refuse lands to which that section is applicable—and if it succeeds on this trial, it can afterwards be extended to the whole body of the public lands. Sir, I have respect for their wishes, and defer to them accordingly; and, so far as my consent is concerned, this second section can be considered as struck from the bill.

The third and fourth sections of the bill contain the donation clause, which proposes to give a half quarter section of land, after it has fallen to 25 cents per acre, to any actual settler who will cultivate it for five years. I have an objection myself, sir, to this clause, which I stated two years ago—it is to the smallness of the donation; and I now repeat what I then said, that I trust it will be doubled by the votes of the Senate.

The fifth, and last section, contains the cession clause, being the fourth and last clause in the bill, which proposes to cede to the States in which they lie, all the refuse lands which will not sell for 25 cents, after being offered for one year at that price.

I have now finished, Mr. President, the exposition of the four clauses of the bill. I have stated the case of the new States and Territories, which pray for its passage; not skilfully or powerfully, I must admit, but truly and intelligibly, as I hope and believe. I have now given the facts to the Senate, upon which their judgments are required to act. I have shown the present land system to be inefficient for all the purposes of its creation; and this brings us to the inquiry, whether a change of some sort in the mode of selling the public lands, is not demanded by the interest of the country? I shall maintain the affirmative of this inquiry, and shall undertake to show that a change is demanded, and such a change as my bill contemplates, by every interest that is party to the question. I will show that this change is due—

1. To the old States who ceded their vacant lands to the Federal Government.

2. To the new States in which these lands lie.

3. To the Union, for whose benefit they were ceded.

That a change is due to the ceding States, results from the object and terms of the cession, and the non-fulfilment on the part of the Federal Government, of the conditions upon which it was made. The lands were ceded to be disposed of for the payment of the public debt; they were accepted, to be disposed of for that purpose. The Federal Government was constituted the trustee of the lands, and bound to make application of them to a specific object. She accepted the trust, and neither party dreamed at the time that the lands were ceded in fee simple, and in perpetuity, to the Federal Government, to be kept forever, or lavished upon innumerable objects, as the whim or interest of her sovereign will should dictate. Virginia and Georgia were the great efficient donors: Massachusetts, the next greatest possessor of vacant lands, acted a more cautious part. She held her 30,000 square miles of vacant territory in her own hands; cherished upon it her province of Maine; eventually saw that province erected into a State; and, upon the accomplishment of that event, divided the remaining vacant lands with the new sovereign, and each are now selling their respective proportions upon fair and equitable terms, adapted to the real value of all the varieties of soil, timber, and locality. Such was the safe and prudent conduct of Massachusetts; and in so doing she put it out of the power of the Federal Government to violate any engagement with her. Not so Virginia and Georgia,\* and the two Carolinas. They threw up their lands upon the altar of the public good. They divested themselves of hundreds of millions of acres, upon the cardinal condition that the Federal Government

should dispose of them for the payment of the public debt. This was in the year 1785, on the part of Virginia, and 1802 on the part of Georgia. The value of this condition was to consist in the fact, that by the sale of these lands the public debt should be paid off, and the ceding States saved from the imposition of taxes for the discharge of that revolutionary legacy. This was stated and enforced in all the state papers of the day, relative to the subject. It was particularly insisted upon in the first message of President Washington to Congress. In one of these messages, he earnestly recommended "timely" and "judicious" sales to be made of these lands, for the express purpose of paying the "principal" as well as the "interest" of the public debt, and to save the People from being taxed in their persons and property for its payment. What was meant by timely and judicious sales was fully explained in the report of Secretary Hamilton, which followed and enforced the message which contained this recommendation. By timely, was there seen to be the present time; and by judicious sales, were shown to be sales for the then present actual value of the lands; and this value was fixed by Secretary Hamilton, at an average of twenty cents per acre. Such was the recommendation of Washington and Hamilton. But "other counsels ruled the hour." The Congress of that day became impregnated with the insane conception of getting rich upon the sale of these lands. Nothing was heard of but their future value. The wildest calculations were indulged in. Figures and numbers became too feeble, inadequate, and inexpressive, to show off the future product of this new mine. Dimensions were resorted to; and one calculator was wild enough to estimate its future product at the value of a pile of gold five miles long, five miles wide, and five miles high! Well, their plan was adopted. A minimum, ten times the amount of Hamilton's average price, was fixed upon, and this minimum was for the bad land only; a system of auctions and of periodical sales was adopted for the good, which was to carry their price to ten and twenty dollars an acre. This was nearly forty years ago: and what has been the result? Twenty millions of acres sold; 32,000,000 of dollars received; 2,165,000 dollars paid for surveying; 1,155,000 dollars for selling; 35,000 dollars per annum for keeping up the General Land Office; 3,393,000 dollars for Indian treaties; and 240,000 dollars per annum for Indian annuities, most of them perpetual! Such are the fruits of the system! On the other hand, interest to the amount of 150,000,000 dollars has been paid upon the public debt; the debt itself is nearly as large as it was; and the people of the States who made so great a provision for its payment, are still recurred to, to furnish their proportions of ten millions annually, to be levied through the custom-house, on their comforts and necessities, to meet its annual interest, and a fraction of the principal. Upon this view of the fruits of the present system, I submit to the Senate, that justice to the States which ceded their vacant lands to the Federal Government, demands a change.

That a change is due to the new States in which these lands lie, results from the fact already shown, that, under the improgessive movement of the present system, ages and centuries must roll away before the federal title can be extinguished to the lands within their limits. It is also due to them upon other grounds. In the first place, to enable them to strengthen their settlements and improve their social condition. At present, the old districts have no attraction for emigrants. The new comers push forward to new districts where first rate land is got for the same price which is demanded for second and third-rate in the old ones. This leaves the old settlements thin and weak, and the neighbors divided from each other by tracts of vacant lands, and all the labor and expense of sustaining the social state aggravated and increased by having too few to bear them; roads and bridges more laborious

\* Several other States executed deeds of cession, but they had nothing but pretensions to cede; among them, Connecticut who got two millions of acres of land in Ohio, which the Federal Government had got from Virginia, for surrendering her claims.—*Note by Mr. B.*



SENATE.]

*Graduation of the Public Lands.*

[APRIL 9, 1838.]

to be made and kept in order; the county levies higher; the service of jurors more frequent and continued; mills, schools, and churches more scarce; the labors of harvesting, house-raising, and log-rolling more heavy—no such “log-rolling” as takes place in this Capitol, Mr. President, but the real heavy “toating” of “butt-cuts,” which take twelve pair of strong men to lift from their beds. Such are the evils of the thin settlements, made thin and kept thin, by fixing one uniform price for all qualities of land; and which evils would vanish and disappear under the operation of a change which would sell second and third rate land for what it was worth. In the next place, a change which would accelerate the sales of the lands, is due to the new States, upon the principle of letting them have something to tax. Indirect taxes upon imports are surrendered to the Federal Government by the terms of the Constitution; direct taxes upon land is the chief resource remaining to the States for the support of their Governments; and of this resource, so far as it depends upon sales of public land, the new States are lamentably deficient. For example: the sales in Ohio amount to 8 millions of acres out of 15; in Indiana to 3½ millions out of 22; in Illinois to 1½ out of 40; in Missouri to 1 out of 40; in Mississippi to 1½ out of 38; in Alabama to 3½ out of 32; and in Louisiana to one-sixth of a million out of 25 millions. In all these States, the greater part of their soil, covered by the mantle of Federal dominion, is free from all contributions for the support of Government: and for want of this cardinal resource, the State authorities are forced to descend to the taxation of objects which ought to remain as free from the scrutiny as from the burthens of the Government, such as the beds on which people sleep, the chairs on which they sit, the tables off which they eat, the horse which drags the plough, the cow that gives milk to little children—yea, to the orphan children who have lost their mother. At the same time, the Federal Government holds 260 millions of acres of land in these States and Territories, on which it pays no tax, and which it refuses to sell for a just price.

In the third place, a change is due to the new States upon the fair import of their compacts with the Federal Government. By one of the clauses of these compacts, the new States bound themselves not to tax the Federal lands before they are sold, and were to receive three per cent. out of the nett proceeds of the sales, as an indemnity for the loss of the taxes while the sales are going on. But the sales, under the present system, hardly go on at all. It will take hundreds of years to complete them; and, in the mean time, the new States lose the taxes which they would have got without the compacts, and lose the indemnities which they were to have got by them. This is inconsistent with the import of the compacts, and with the fair interpretation of the stipulation not to tax the Federal lands before they were sold; a stipulation which implies that they were to be sold, and to be sold in a reasonable time, and of course for their present value.

It is due to the whole Union to make this change. First, to save their property from depreciation in the universal destruction of timber upon a line of 4000 miles in extent; from the northwest corner of Pennsylvania, round by the valley of the Mississippi and the Gulf of Mexico, to the southeast corner of Georgia. Great is the daily destruction of Federal timber upon this immense line; not only for fuel, fences, and buildings among the neighbors, but upon the larger scale of supplying saw-mills with logs, tanneries with bark, steam-boats, steam mills, iron-works, and salt-works, with wood to burn; and boat yards and ship yards with the choicest timber for the construction of vessels. For all these purposes the forests resound daily with the blows of axes, the rivers teem both night and day with innumerable rafts. The Federal Government has enacted its laws and charged its officers to stop this destruction. But what are laws when unsupported

by public opinion? The forest laws of the Federal Government are not only not supported by public opinion, but are condemned and execrated by it. The people say, this timber is as much mine as any body's. It is public! They say, further, I am ready to pay a just price for it; but the Federal Government will not take a just price, and I had as well use it as let it stand and do nothing, or fall down and rot. Such is their compendious logic, and they quickly suit the action to the word. Penal laws are of no avail. They serve only to give fees to officers, to excite odium against the Government, and sometimes to put an instrument of revenge into the hands of a malignant neighbor. The true remedy is to sell the lands, and then the public will get the value of the land and timber both; private owners will take care of their wood, and the country will have a supply of fuel, and of fencing and building timber, for centuries to come. Secondly, as the means of saving the value of the land itself. In every period of sixteen years the amount of this value is lost in the payment of interest upon the public debt. It would be just as well, for all the purposes of revenue, to sell those lands now for 25 cents per acre, as to sell them for 50 cents sixteen years hence; or for 100 cents thirty-two years hence; or for two dollars sixty-four years hence; and so on to the end of time, or to the end of the sales, which would probably be about the same epoch under the present system. What a loss in not having adopted the system of Hamilton thirty-six years ago! One hundred millions of acres, sold then for an average of 20 cents, would have produced twenty millions of dollars; the interest of that sum would have been forty millions; and this much stopped out of the principal and interest of the public debt, would have left us at this day without the incumbrance of a shilling. In the third place, a change is due to the whole Union, for the purpose of getting the entire business of disposing of the public lands out of the halls of Congress. This business is now consuming one-third or more of the whole time allowed to the sessions of Congress, occupying it with details and minutiae proper for the local legislation of the States, and to the exclusion of its own appropriate business. This is an evil of great and increasing magnitude; but, great as it is, it yields in enormity to another, of which the two Houses of Congress must soon begin to feel the fatal approaches—the evil of corrupt legislation, of which the public lands will form at once the subject and the instrument.

I have shown, Mr. President, that it is due to the old States which ceded these lands to the Federal Government—due to the new States in which they lie—and due to the whole Union, for whose use they were intended, to change our present system of selling them. What that change should be, is the next inquiry; and upon this point I can say, that, after eight years meditation, I have fixed upon the plan contained in the bill before you: that this plan is approved by seventeen out of eighteen Senators from the Western States; and that it has in its favor seven legislative memorials, and the petitions of four thousand persons, which have been laid upon your table, and printed by your order. Strong in my own convictions of the justice of this plan—cheered and supported by the approving voice of seven States and three Territories—by the votes and speeches of so many Senators from the West, and of several from the Atlantic States—it is no more in my nature than it is consistent with my duty, to yield to objections which have no force, or to suffer the bill to be cut and slashed to pieces with amendments, (as they are called,) which, whatever be their object, can have no other effect than to divide its friends and ensure its defeat. Of course, I speak of amendments which are thrust at the bill without any consultation with me—whose matter and manner are equally objectionable—and not of the amendments coming from the friendly hands of the Senator from Virginia, who sits

APRIL 9, 1828.]

*Graduation of the Public Lands. }*

[SENATE.]

before me, [Mr. TAKEWELL]; the Senator from North Carolina, who sits to my left, [Mr. MACON]; or the Senator from Georgia, who sits over the way, [Mr. COBB.] Amendments from such hands as these come in no "questionable shape." I know their "intent to be charitable;" and as long as they harmonize with the general plan of the bill, it will be my duty, as it is my pleasure, to receive them with respect and deference.

But the bill meets with several objections; at the head of which stands one of a novel and extraordinary character, not connected with the merits of the question, but growing out of supposed injuries which it is to inflict upon the old States. It is said that the bill will have the effect of drawing off the population of these States, diminishing the weight of their political influence, sinking the value of their lands, and retarding the progress of their manufactures.

These are strange objections, Mr. President, to be urged in a country blessed with a Constitution founded on the rights of man. They would come well from feudal lords in the old baronial times of Great Britain, or from the masters of the serfs and vassals of Russia and Poland at the present day; but they grate harshly upon my ear—they harmonize badly with the feelings of my bosom—coming from American statesmen, and intended to restrain the free inhabitants of the old States from bettering their condition by removing to the West. Admitting all the evils apprehended, and it would still be an invalid objection; for the People have a right under our Constitution, to go where they please; even to expatriate themselves, and go into foreign countries in pursuit of wealth or happiness. It is their own privilege to go or stay, and no rightful power resides in this Government to restrain them. But the evils will be much less than seem to be apprehended, even in the parts of the Union from which the objections chiefly come. Emigration has never depopulated a good country. The chasm made by one person moving away is always filled in such a country by another coming in, and usually a richer one. Political influence is not diminished, but increased, by such emigrations. Of this the two Halls of Congress furnish abundant proof. Lands in the old States will certainly not produce less in consequence of such removals. The prolific principle of the soil will still be the same; and if it sells for less, it is also bought for less. The thing balances itself. The buyer gains what the seller loses; and as the seller is to be the emigrant, the advantage remains with the one that remains in the country. In many places, the price of land is as low now in the old States as my bill proposes to make it in the new ones. My friends tell me that land fit for cultivation, and with some improvement upon it, and convenient to all the advantages of old established institutions, can be had now in North Carolina for one dollar per acre. In Virginia, I see from the assessment of 1817, when the price of real estate there, as elsewhere, was double what it now is, that a large county, bearing the name of one of her Senators, here present, (Tyler,) and containing as many acres as the Federal Government has ever sold in Missouri, was assessed at 68 cents per acre, improvements and all; that another county of about the same size, bearing the name of another of her Senators present, (Tazewell,) was assessed at 33 cents per acre; and three others at the respective prices of 24, 23, and 18 cents per acre. Gentlemen will say these are inferior lands. I answer, that the prices in my bill also apply to inferior land, and that so far as price is concerned, there will be no inducement for emigration from old States to new ones. To the south of the Potomac, and in all the slave-holding States emigration is more beneficial than otherwise. The poor are not needed there. Slaves perform all the menial services, and do the principal part of the labor. In the non slave-holding States, and especially in the manu-

facturing districts, it is somewhat different. There the poor are wanted for tenants, for day laborers, for domestic servants, and to work in the manufactories. To such States it might be some disadvantage to lose their poor; but it is a loss which they have no moral or lawful right to prevent, by passing laws to restrain their removal. But, Mr. President, I will drop these objections. I do not think it would be justifiable in Senators from old States to vote upon such considerations; and of course it is not becoming in me to presume that an argument is necessary to prevent them from doing so.

I will proceed to the next objection, which is also of a novel and extraordinary character, and seems to have its origin in a benevolent inclination to save the People of the new States from the consequences of their own folly. It goes upon the supposition that the price of all the land held by individuals, will be sunk to the scale of prices fixed in the bill, and that these landholders will be injured in their property to that degree. This is the ostensible nature of the objection; but it may be that it has a different object; that its real design is not charitable, but insidious; and that it is intended to excite these landholders against the bill. In the first point of view, it is, to say the least of it, a very unexpected ebullition of superserviceable benevolence, which the individuals referred to will resist and repudiate. They have no need, and it is no compliment to their understandings to suppose that they have any need for such intrusive guardianship. They know that their lands will produce as good crops after as before the passage of the bill. Many of them will want to purchase lands at the graduated prices. All will know that individuals are now selling second and third rate land for the same prices mentioned in the bill, and every one is conscious that population gives value to land, and that their own will rise in value in proportion to the settlement and improvement of the country.

The third objection that I shall notice is the one so incessantly repeated, that no one will buy until the lands fall to the lowest price. This, Mr. President, is the same objection which was made to the graduation principle in Tennessee, and which, for several years, retarded the establishment of the system there. When it was established, the objection was discovered to have no foundation. This we learn from the letter of Mr. Mitchell, of the House of Representatives, the author of the system in Tennessee, and the statement of Mr. Smith, the entry taker in one of the districts. These papers have been printed by order of the Senate, laid upon our tables, and are presumed to be read by every member. I will not, therefore, consume the time of the Senate in reading them over, amply as their contents would repay that trouble; but I must take leave to present a second time, the table of sales actually made in the Hiwassee district, a district of only forty miles square, and which proves the utter fallacy and total inapplicability of the objection. The following is the table:

*Amount of land entered in the Entry Office of the Hiwassee District, Tennessee, and amount of cash received from the 2d February, 1824, to the 2d February, 1828.*

Price per acre.	No. of acres.	Cash received.
\$ 1 50	100,000	\$ 150,000
1 00	53,000	53,000
0 50	90,000	45,000
0 25	80,000	20,000
0 12½	56,000	7,000
0 01	132,000	1,200
		\$ 276,220

Such is the triumphant answer which actual experiment gives to this objection. It was the experiment of one district; but the result was the same in others, for the law was co-extensive in its application with the ex-

SENATE.]

*Graduation of the Public Lands.*

[APRIL 9, 1828.]

istence of the State lands. But even without this experimental answer, the objection would have vanished before an argument. Instead of waiting for the lowest price, many would be tempted to give more than the land was worth, either to save a quarter section which was necessary to complete the size and form of their estate, or to supply it with wood, or a stream of water, or a stone quarry, or a sugar orchard, or to keep off a bad neighbor, or to form a settlement for a child, or to keep open an outlet for stock. Such was the natural progress and order of things. He that wanted a piece of land that suited him would cheerfully embrace the first opportunity of taking it up for its real value, lest another should forestall him in the purchase, and make him afterwards pay more than the value. To suppose otherwise, and to assert, as this objection implies, that the People of the new States and Territories would wait with each other for four years, until the price of all land fell to 25 cents per acre, is to suppose the existence of a universal combination, as impossible in practice as it would be dishonorable in conception. And, after all, it could end in no advantage; for when the lands had fallen to 25 cents, the actual settlers would have the preference, and the purchasers would have to stand off until they were satisfied, and then the contest would begin among them; for if two or more applied at the same time, for the same tract, they would have to bid for it, and the price might be run up higher than ever.

The fourth objection to my bill is found in the apprehension of speculators. It is the same old objection, Mr. President, which had its effect for a while in Tennessee, as we learn from Messrs. Smith and Mitchell, and which was completely falsified by the event there, and is ready to be overthrown by argument here. Sir, there can be no such thing as speculation in wild land, in the present state of America. A speculator buys to sell again. His plan is to buy low, and sell high; but, in the present condition of America, although he may buy low enough, yet he will soon be forced to sell still lower. What chance is there for wild land to rise? The United States own eleven hundred millions of acres, for which she can find purchasers. Mexico and Canada have more than they can give away. The old States and the new States are full of improved land, offered for sale on the most reduced terms. You see ten sellers for one purchaser. The old speculators of 1817-18, that is to say, the few that have escaped ruin, cannot sell their lands, and are, in fact, the real authors of this objection. The body of the People do not make it. They laugh at it. They know that the laws of entail and primogeniture are abolished, and that the greatest landholder of the present day is only the trustee for other people's children; that his posterity, and the posterity of his present tenants, will exchange positions in two or three generations, perhaps in one generation; and, as for present purchases, they know that they can rise as early, ride as fast, get to the office as soon, and show as good money as any speculator. If it comes to bidding, they can bid as high. If it comes to drawing lots, they stand as good a chance as any man for the long straw. In a word, sir, the People are not afraid of speculators. They know there is no such thing. The objection has been tried upon them, and they laugh at it.

The fifth objection supposes that the Federal Government will not get the value of its lands under my bill. I demand, sir, if it gets the value under the present system? And I answer no! I assert that it gets nothing under the present system; that the thirty-two millions of dollars received in forty-two years, for twenty millions of acres, has been sunk, and double sunk, and five times over sunk, in the payment of interest on the public debt, while this sum was collecting, and in the expenses of the system. I say that it will get quickly under my bill, what

it gets at all; that an average of fifty cents per acre, received in four or five years, for the refuse lands, will be worth more to the Treasury than \$125, received for the same lands, would be worth thirty or forty years hence. But I dismiss this calculation as one of inferior and subordinate consideration. I look to the cultivation of the lands more than to their sales. It is the cultivation of the soil which enriches the country; and in this point of view, the country is always a gainer when any portion of the public lands is passed from the Federal Government, which cannot cultivate them, into the hands of private owners who can. As a proof of this, look to the duties which have been received on imports, which imports are founded on the exports which are the products of the soil. You will see them amounting, in thirty-seven years, the period that the present Constitution has been in force, to \$575,000,000. Yes, sir, to five hundred and seventy-five millions of dollars! And this source of revenue, instead of being exhausted by one year's cultivation, like the revenue from the sale of the lands, which can only be received once is perennial and eternal, renewing itself incessantly, and augmenting from year to year, with the increase of wealth and of population. Surely it is our policy to increase this bountiful source of revenue, and for that purpose to give a quarter section of land to every inhabitant that will cultivate it.

I cannot dismiss the objections which have been made to the graduation clause of my bill, Mr. President, without noticing one which I heard in Missouri, but which has not been enforced by any speaker on this floor. It was the objection of a tanner who supplied his vats with bark from the public lands, and who, after running over all the worn out objections about speculators, etc. admitted that his true objection was altogether of a different nature: that if the bill passed, all the land would be brought up, and he would get no more "public bark" to tan with.

I now proceed, sir, to the donation clause, and admit at once that its primary intention is to better the condition of the poor. I know it to be written in that Book which is the epitome of all knowledge, "that the rich ruleth the poor, and the borrower is the servant of the lender." I know, too, that it is said by my venerable and venerated friend from North Carolina, [Mr. Maco] that Governments are not made for the poor, but against them; that the rich get the benefits, and the poor get the burthens of Government; and I know that this severe remark has much foundation in the history of mankind, yet it has not always been so. There have been exceptions, and especially in that great republic, whose name, after the lapse of two thousand years, still shines as a leading star in the firmament of nations. It was not so among the ancient Romans. With that heroic people, although the Government was chiefly in the hands of the Patricians, yet the poor had an interest in their country, and that interest was founded in their share of the public lands. When a conquest was made, half the lands were immediately set aside for gratuitous distribution among the poor; the other half was put up to sale for the benefit of the public treasury. Besides this fundamental law, we read in the history of that great people, of occasional donations of land to 20,000 poor families at a time. Many laws were made for the protection of their lands—as the Licinian law, which secured their possessions for several hundred years, and for the enforcement of which the Gracchi lost their lives. It was this interest in the soil of their country, which made the love of that country so strong a passion in the breast of the Roman citizen. It was this which made every Roman glory in the name, and hold himself forever ready to fight and die for his country. And cannot the same cause produce the same effect with us? Congress is charged with providing for "the common defence" of the nation, and she expends millions

APRIL 9, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

upon the fortifications of the seacoast, and upon the equipment of ships for the sea. And may she not give land for the defence of the Western Frontier? Great Britain is now filling Upper Canada with freeholders, at a great expense to the Crown. One hundred and fifty acres of choice land to each emigrant—expenses of removal—provisions for one year—seed-grains for the first crop—farming tools and household utensils—a cow, at the cost of £4 10 sterling: such are the inducements which England holds out for the settlement of Upper Canada. And why? For the obvious purpose of strengthening herself against us in that quarter: and shall we not strengthen ourselves against her in the opposite quarter? And by the same means? The defence furnished by patriotism and valor, has been called “the cheap defence of nations,” and so in fact it is. A brave People, devoted to their country, is its cheapest, as well as its surest, defence. Of this defence, it is in the power of this Government to avail itself to any degree. It may have as many warriors as it pleases on its frontier. It has hundreds of millions of acres of vacant land in the frontier States and Territories, and some hundred thousand citizens without freeholds. Let it give them land; let it give them an interest in their country; a home for their wives and their little ones; and they will never be found without a horse and a rifle; without a willing mind, a courageous heart, and a strong arm, when that country demands their service. Let not the character of these People be judged by the infamous British publications, to which too many of our statesmen look for information of their own country. I have one of these publications, which I have reserved to read in this place, that I might bear witness, on this elevated theatre, before the whole American Senate, to its base and libellous character. It is from the British Quarterly Review, No. 61. Listen to it:

“We affirm, without fear of contradiction, or of error, that there is not to be found, on the face of the globe, a race of men so utterly abandoned to vice and to crime, so devoid of all fear of God, and regard towards man, as the outsettlers, of Kentucky, Ohio, and other back States.”

Now, Mr. President, I affirm, without fear of error, and with utter contempt for all contradiction, that a baser libel was never published, against any People, than this which I have read. It has been exposed by one who knows its falsity, (Governor Cass, of Michigan, in the North American Review,) and I add my voice to his, and from personal knowledge. I have known the People of the frontier States from my boyhood—have travelled among them, and lived among them; and can truly say, that, for all the manly virtues—for integrity, fair dealing, courage, generosity, and hospitality, they are proverbial and unrivalled. The benighted stranger never knocks at their gate in vain: the traveller never quits their house hungry: locks and bars are not necessary for the security of cribs and barns: the mail needs no guard: the solitary unarmed traveller, in a journey of a thousand miles, enjoys a safety by day and by night, which he would look for in vain in the streets of that capital of Great Britain, from which issued the infamous libel which I have read to you. It is the People of these frontier States to whom we are chiefly indebted for the glories of the late war. It is to them we are chiefly to look in future wars. They are with us “the cheap defence of the nation.” And shall they not have an inheritance in the land of their fathers? Shall they not have a home, as well as a grave, in the land which they defend? Shall we part with no ground but for gold and silver? Shall we consider money more valuable than patriotism? Shall we act upon the principle which I have heard asserted on this floor, that the man who cannot pay \$100 for eighty acres of land is not worth having for a citizen? Sir, I

know better. I know that an immense proportion of the inhabitants of new countries never see the day when they are masters of 100 silver dollars, to be paid down for a piece of land. Early marriages, the cares of family, current expenses for indispensable objects, accidents, misfortunes, and losses, prevent the accumulation of such a sum—small as it may seem to those who are in the habit of handling money, but great, in fact, to him who gets nothing but by the labor of his hands, and whose first earnings go to the daily support of his wife and his children. Poverty is not always the effect of vice or laziness. Many are born poor, and remain so; many are born rich, and become poor through misfortune; and, to all, the change of condition from tenant to freeholder, is the most difficult part of their lives. Let the Federal Government make that change for them. It can do it for hundreds of thousands, and be none the weaker or poorer, but richer and stronger on account of it. Great and meritorious are the services of the poor. They are soldiers in the time of war, and cultivators both in war and peace. Their daily labor is the perennial source of food to man and beast. Daily do they moisten the earth with the sweat of their brow. Shall that sweat continue to fall upon ground which is not their own? Shall they remain without land under a Government abounding with land? Shall they be compelled to choose between the hard alternatives of being trespassers or tenants, all their lives? Shall they see for ever this Federal Government, after constituting itself sole purchaser of land from Indians, resolve itself into the hard character of speculator and monopolizer, and make “merchandise” out of God’s first and greatest gift to man?

The cession clause, Mr. President, to which I now proceed, is the fourth and last clause in the bill. Its nature has been explained. The other clauses being adopted, the adoption of this one would seem a matter of course. It could no longer be an object to keep up offices in the old districts, to sell the miserable refuse which would remain unsold for a year, after having been offered at twenty-five cents per acre. The expense would not justify it. The only question would be between giving them up to the States for beneficial purposes, or suffering them to lie idle for hundreds of years, under the barren sceptre of the Federal Government. That, with me, would be no question at all. The States, with the advantage of local knowledge, and near superintendence, could make them available in promoting education and improving the country: in the hands of the Federal Government, they would be a harbor for wild beasts, and nuisances to the country for hundreds of years. I dwell particularly, Mr. President, on this idea. These refuse lands are the sources of disease and death. I have in my hand the statement of an officer whose habitual correctness is above all praise—a gentleman who hides superior merit in a subordinate station—one who takes pains to conceal more science than any other gentleman of my acquaintance can show—I speak of Col. McRee, Surveyor General in Missouri, whose report upon the inundated lands of Missouri and Illinois was made under your instructions, and printed by your order—I have, I say, his statement in my hand, which shows 1096 ponds, lakes, and marshes in these two States, on an area of four millions of acres, or the one-twentieth part of their surface. They cover several hundred thousand acres of land. The most of them belong to the Federal Government. They are nuisances to the country, and nuisances which the local authorities have not the means to abate. They are the source of sickness and death to the neighboring inhabitants; even to those who have bought land from the owner of the nuisance. Many such, after years of contention with noxious and pestilential air, spending their money, and losing many members of their family in the vain conflict, have been compelled to move

SENATE.]

Graduation of the Public Lands.

[APRIL 9, 1828.]

away, abandoning their possessions without rent or sale. Sir, I consider it as plain language, not amounting to metaphorical, to call these 1096 ponds, lakes, swamps, and marshes, so many Federal garrisons, manned by innumerable and invisible agents of destruction, in the shape of various diseases, for the extermination of the inhabitants. The American Bottom is the chief seat of these 1096 garrisons, and melancholy is the havoc which they have made upon it. Who has not heard or read of this incomparable and unrivalled bottom, called by pre-eminence, American? And how faint and inadequate is the conception which any description can give to those who have not seen it! Figure to yourself, Mr. President, an alluvion bottom, ninety miles long, and averaging five miles wide, washed on one side by the Mississippi, fortified on the other by a lofty rampart of limestone rock; divided and subdivided in its whole extent into woodland and prairie; the wood filled with vines and wild fruit; the prairies covered with grass and flowers; the soil rich, like the Delta of the Nile, and too loose, too light, to hold the streams of water which gush from the rampart of rock, or fall from the high country above, and which are swallowed up in their vain attempt to reach the river; situated under the temperate latitude of 37 and 38, opposite to the flourishing market town of St. Louis, and within four days sail of New Orleans: Figure to yourself these objects, and you then have an outline of the American Bottom, which your own rich imagination may fill up, in its happier days, with fields almost black with dark green corn; other fields yellow with ripening wheat, barley, rye, and oats, reflecting the rays of a brilliant sun from their level, golden, uniform, and waving surface; orchards loaded with young fruit; vines with grapes; vast herds of cattle wading up to their sides in the tall prairie grass; and all this in an atmosphere fragrant with the fresh perfume of innumerable flowers and blossoms. This magnificent bottom was the first abode of the French in the valley of the Mississippi. Its settlement, by the followers of La Salle, about the year 1680, was coeval with the settlement of Philadelphia. Before the peace of 1763, which transferred the Canadas and Illinois to the British Crown, it was the seat of a numerous population, which supplied New Orleans with provisions, and sent three companies of militia to assist in the destruction of Braddock, at fort Duquesne. Kaskaskia was then a rich and flourishing town; Cahokia, Prairie de Rocher, and Prairie de Pont, were gay and smiling villages; Fort Chartres, with its numerous and brilliant garrison, gave security to the inhabitants, and imparted life and animation to their innocent joys. But, since then, how changed! The transfer of the Illinois to Great Britain, gave the first blow to its prosperity. Fort Chartres lost its numerous garrison. The Jesuits, who had a college at Kaskaskia, led many of their flock to the Spanish side of the river, and founded St. Louis and Ste. Genevieve. The expedition of General Clark, in '78, scared off others; and, to crown all these causes of emigration, came the ordinance of 1787, for the government of the Northwest Territory, and for the exclusion of slavery from it. The French are attached, Mr. President, to their slaves. They call them by kind and gentle appellations, "*mon ami*," "*mon enfant*," "*ma fille*," are not unfrequent terms of address to their "bond men" and their "bond women." The fear of losing this species of property, under the new ordinance, gave the last impulsion to the emigrating spirit, and the greater part of the remaining slaveholders followed their countrymen across the Mississippi, or down it to New Orleans. At the arrival of the Americans, as we were called, upon the acquisition of Louisiana in 1804, the population was found to be three-fourths gone; and at Kaskaskia, Fort Chartres, and the villages, the traveller was astonished at the sight of ruins in the heart

of the New World. But the bottom had too many attractions to be overlooked by emigrants. Our People began to settle upon it, and to apply their energies to its cultivation; but they also have been compelled to remove. The pools of water, formed by reflux currents from the river, or by rains from the hills, has taken possession of the low parts, and formed permanent lakes, by the deposit of the tenacious clayey sediment which came from the cultivated lands. The population was too weak to drain them, or to fence out the river by levees, at the low places. The State authorities lacked the power or the means to do it. The Federal Government, to whom all these nuisances belonged, like an Irish landlord, living in London, was ignorant of their existence. The very water which forms these lakes and ponds, was supposed by it to be land, and is offered for sale at the minimum price of one dollar twenty-five cents the superficial acre. The consequence is, that the American Bottom is less populous now than it was at the period of the acquisition of Louisiana; less so than it was when I first saw it, twelve years ago, and becoming less populous every year. The stagnant waters encroach upon the People, and the People retire from before them. The Federal Government owns these nuisances, and will neither abate them, nor contribute its proportion among other landholders, to have them abated. They increase in size and number, and are becoming the lords of the bottom: but if the ceasion clause in my bill should take effect, the clause which I am now pressing on the attention of the Senate, this sad picture may soon be reversed. These nuisances, and their proximate domain, would change owners, and, in the change, they would get a master on the spot to treat them as they deserve. They would soon cease to be garrisons, either State or Federal, metaphorical or real, for the destruction of People's lives. Wise laws would be passed by the State Legislature, founded in local knowledge, adapted to the evil, and executed by persons interested in their success. Ponds, lakes, and swamps would disappear; their pestilential airs would vanish; health would be restored to the American Bottom; and, with it, an unalloyed enjoyment to the planter and farmer of this terrestrial Paradise. I have confined what I have to say, Mr. President, upon the subject of these nuisances, to the American Bottom alone, not because it is their only seat, but because I wished to strike the imagination, and fix the attention with one eminent example of this evil, which would do for a thousand lesser instances. But they are not limited to that bottom. These nuisances are found in ample number, differing in magnitude, not in nature, upon the margins of all the creeks and rivers in all the States and Territories, from the Gulf coast of Louisiana, Alabama, and Florida, to the Lake shores of Indiana and Michigan. They extend from Detroit to New Orleans. They are the property of the Federal Government, and every where they are sources of disease. Will the Federal Government hold on to them for ever? Will it continue to wave its barren sceptre over pestilential swamps and marshes, as well as over desert prairies, flinty hills, and sterile ridges?

Mr. B. concluded with an appeal to the Senate. He would not recapitulate on a subject on which he had spoken fully two years ago—again at the commencement of the present session—and now, for the third time, and extended into the third day. He made an appeal to the members upon the sacred nature of the duty which the decision of this bill devolved upon them. It was a local subject, vitally interesting to seven States, and was to be decided upon by a National Legislature, composed of members no way responsible to those States. The decision was in the hands of Senators, not chosen by the States interested, not amenable to them, without any interest in the success of the bill, and, by possibility, labor-

APRIL 10, 1828.]

*Internal Improvements.*

[SENATE.]

ing under the delusive belief of having an interest in its defeat. Such circumstances put human nature to its severest trial—they put our form of government to its severest trial—to the trial at which every confederacy has heretofore failed—the trial which subjects the local interest of one part, and a weaker part of the confederacy, to the final award and decision of the other part, and the stronger part. Certainly it was inconsiderate, it was imprudent, it was highly unwise in these seven States, to come into the confederacy before they had provided for their own ultimate independence, and for the certain extinction, within some reasonable time, of the Federal title to the land within their limits. Instead of binding themselves never to interfere with the primary disposition of the soil—never to tax the Federal lands—they ought to have made these restrictions upon their sovereignty temporary in duration, and contingent in application. They ought to have submitted to these restrictions for limited periods only, and to have reserved the right of taxing all the land that was not sold in a reasonable time, which times should have been fixed in the compacts. No one can doubt but that if these stipulations had been contended for, at the first admission of the new States, they would have been granted, and that the periods fixed for the full enjoyment of their sovereign rights would have been much shorter than have elapsed since the oldest of them was admitted. But the day for making stipulations has gone by; the time for supplicating is now come. The compacts are made, and so far as the sovereignty and independence of the new States is concerned, they are capitulations without terms—submissions without appeal—surrenders at discretion, to the will of Congress! They can only appeal to your justice, and that appeal is now made, not in my speech alone, but in the memorials of Legislatures, and in the petitions of individuals, and in the united voices of seventeen out of eighteen Senators, that you have upon this floor, from the valley of the Mississippi. May their appeal not be in vain. May it be such as to prevent them from ever thinking of applying to the Congress of the United States, the seventh clause in the Declaration of Independence against the King of Great Britain.

THURSDAY, APRIL 10, 1828.

## INTERNAL IMPROVEMENTS.

On motion of Mr. SMITH, of Maryland, the bill making appropriations for internal improvement was again taken up.

Mr. BENTON moved to strike out the appropriation of 175,000 dollars for the completion of the Cumberland Road to Zanesville, observing that a bill for this purpose had passed the Senate at an early period of the session. His motion was to insert the bill alluded to, instead of the provision in the present bill. Mr. B. went at considerable length into an argument against the principle of allowing the Executive to originate bills, taking, thereby, its legitimate powers from the legislative body. He thought, on such subjects as that now before the Senate, in particular, the legislature ought to originate bills. He thought the evil was gaining ground, and wished to stay its course. The question, therefore, which his motion would propose, would be, whether the legislative or Executive discretion should be exercised in originating bills.

On motion of Mr. PARRIS, the motion was divided, so as to take the question first on striking out.

Mr. SMITH, of Maryland, opposed the amendment. He did not look upon this as an Executive measure. The remarks of the gentleman from Missouri did not apply to this bill, as all the appropriations had been sanctioned by former acts of Congress. He did not see that censure could rest any where. It was true that many things had been put into the bill which did not belong there—such

as provisions for light-houses—yet he did not consider that it displayed, in any degree, the exercise of a power to originate bills on the part of the Executive. He should vote against striking out.

Mr. McLANE dissented from the opinions of Mr. BENTON. He presumed the subject of the Cumberland Road had been reported upon by the Committee on Roads and Canals, and that this part of the bill had not originated with the Committee of Ways and Means. He thought there could not well be any difference between the views of the Department and those of the gentleman from Missouri, as they had the same object in view.

Mr. BENTON expressed a doubt whether the Department and himself held, in all respects, the same views of the subject. He certainly agreed in an issue to extend the road to Zanesville. It had been proposed, he said, at a very early period, in a report made by Mr. Jefferson, to extend the road to the Seat of Government of Missouri; but he had reason to believe that, as the line of the road had not yet been indicated, it was intended to divert it from the course originally laid out. The people of Missouri and Illinois were very anxious to ascertain the route which the road was to take, in order to lay out their farms accordingly; and it was for that reason that he had framed the bill to which he had alluded, and which passed the Senate. The people of Kentucky and Alabama had no reason to doubt his friendly disposition. He was willing to advocate roads through their States, but he wished also to save his own. He, therefore, had proposed this amendment.

Mr. RUGGLES made a few remarks in opposition to the amendment.

The question on striking out being then taken, it was agreed to.

Mr. KING thought it unnecessary to insert the bill proposed by the gentleman from Missouri, as the bill passed in the Senate, at an early period of the session, was now in the House of Representatives, and had not been acted upon there. By not inserting the bill now proposed, the objection would be got rid of, that this bill was encumbered with objects which ought not to be inserted in an appropriation bill.

Mr. RUGGLES said, that he should regret having voted in favor of striking out, if the motion to insert was abandoned. He, therefore, hoped the motion to insert would be agreed to.

Mr. BARTON did not think this amendment would come under the general objection of mixing up incongruous matters in an appropriation bill. It was not improper, in making an appropriation, to state for what it was made; and in this alone did the amendment, now proposed, differ from the provision in the bill before the Senate.

Mr. PARRIS thought the adoption of this motion might possibly produce an awkward state of affairs. If the House were to take up the bill passed in the Senate, and pass it, there would be two appropriations made for the same object. There were many portions of the bill which he was in favor of; but he had been opposed to that for the Cumberland Road from the commencement. He, therefore, wished that it might be separated from this bill, because he wished to give his vote on it separately. He thought it ought to stand on its own ground; and, as it would be passed in the other House, he thought there was no necessity of inserting it in this bill.

Mr. BENTON said, that it was to remove that embarrassment of which the gentleman from Maine had spoken, that he introduced the bill which was now before the House of Representatives. As the season was now far advanced, he was anxious that this appropriation should be made at once; and if the road to the capital of Missouri could not be located, he was anxious that the

SENATE.]

Internal Improvements.

[APRIL 10, 1828.]

road to Zanesville should be completed: and, although it was against his principles to vote for a bill composed of incongruous materials, in this case he was forced to do it.

Mr. TAZEWELL asked whether this proposition was in order. He supposed that a bill that had been acted upon and disposed of, could not be acted upon again during the same session. If the bill had been rejected, it could not have been brought forward again. He thought a bill as much out of reach of the Senate, when it had been passed and gone to the other House, as though it had been rejected. He rose to ask the question, whether it was in order to propose this bill as an amendment.

The CHAIR said that the proposition was in order; as there was a distinction between acting upon an original bill which had been disposed of, and an amendment proposed to another bill.

The question was then taken on inserting the bill in relation to the Cumberland Road, alluded to by Mr. BENTON, as an amendment to the bill under consideration, and the motion was rejected—ayes 18, noes 22.

The bill was then reported to the Senate; and the amendment adopted yesterday in Committee of the Whole, to restrict the surveys of internal improvements to those objects already commenced, being proposed for confirmation—

Mr. KANE opposed the amendment at considerable length, and replied to the arguments of Mr. McLANE, of yesterday. He inquired of the Committee of Finance, how long it would require to finish the works already commenced, and what amount would be required to defray the expenses of those objects?

Mr. HENDRICKS followed, in opposition to the amendment, which he looked upon as a step towards the abandonment of the whole system of internal improvement.

Mr. HAYNE explained some of his remarks, made yesterday, which had been alluded to by Mr. HENDRICKS.

Mr. JOHNSTON, of Louisiana, went into an examination, at great length, of the surveys already made under the act of 1824, and supported the opinion, formerly expressed by him, that they were all works of a national character.

Mr. SMITH, of Maryland, in reply to the inquiries of Mr. KANE, observed that the Committee on Finance had no information as to the amount of expense required to finish the surveys already commenced, or the time which their completion would take. From an examination of the documents, he should be led to the conclusion that a surplus would remain out of the 30,000 dollars, after the completion of those surveys.

Mr. NOBLE spoke at great length in opposition to the amendment, and with great severity of persons who had changed their course on this subject, and maintained the partial and unjust influence which arresting the surveys at this period would have upon the Western States.

Mr. KANE made some further remarks, and observed that, if the supposition of the gentleman from Maryland was correct, he was still more opposed to the amendment, as it was not customary to make appropriations larger than the object to be effected by them required.

Mr. BARTON explained the grounds on which he should vote against the amendment.

Mr. BRANCH said a few words.

The question being then taken on the amendment, it was decided in the affirmative, by the following vote:

YEAS.—Messrs. Berrien, Branch, Chandler, Cobb, Dickerson, Eaton, Ellis, Foot, Hayne, King, McKinley, McLane, Macon, Parrie, Ridgely, Rowan, Sanford, Smith, of South Carolina, Tazewell, Tyler, Van Buren, White, Williams, Woodbury.—24.

NAYS.—Messrs. Barnard, Barton, Bateman, Bell, Benton, Bouigny, Chase, Harrison, Hendricks, Johnson, of Kentucky, Johnston, of Louisiana, Kane, Knight, Marks,

Noble, Robbins, Ruggles, Seymour, Sibley, Smith, of Maryland, Thomas, Webster, Willey.—23.

The VICE PRESIDENT rose, and said he hoped it would not be considered assumption in the Chair to offer an explanation to the Senate of the ground on which the casting vote had been given on this question yesterday. As the Chair understood his motives had been called in question, it seemed necessary to explain them, and to shew that the Chair had, in giving that casting vote, abandoned no opinions formerly entertained. From the beginning, the Chair had been of opinion that this system was subject to great difficulties, which might eventually run it down; that it might be diverted from national to local objects; and that it might be made subservient to political combinations. The Chair does not pretend to assert that the system has been misdirected, or that the powers delegated by the law have been abused. But it was always the opinion of the Chair, that such results should be guarded against. It was the fortune of the individual who now fills the Chair, at a former period to preside over the War Department when this subject was agitated, and, in pursuance of a resolution of the other House, he had drawn up a project, which was submitted to the President of the United States, and communicated by him to Congress in the year 1824. In that document, the opinions of the Chair upon the powers of Congress were fully stated. He had always acted upon the principle that Congress ought to have the control over the whole subject; that the responsibility was too great to be reposed in one individual; and that specific appropriations ought to be made to carry on the various objects of the system. These were always the opinions of the humble individual who now fills the Chair. While a member of the other House, at an early period, he had contended for the specific appropriation of money to objects of internal improvement. The casting vote given yesterday had been dictated by those principles. The VICE PRESIDENT remarked that allusions had been made to a casting vote given by him, two years since, on the bill making appropriations for a canal in Illinois. That vote had been a silent one, and he now took occasion to explain it. The Chair then applied to the two Senators, and remarked to them, that, from the closeness of the previous votes, it was not improbable that a casting vote might occur, and that, unless the bill was amended, the vote of the Chair must be against it. The bill proposed to set aside a portion of land for the construction of the canal. The Chair considered the public lands the property of the Government, and to be disposed of for the common benefit; and that if a canal were to be provided for out of those common funds, it ought to be toll free to the People of the United States. The Senators from Illinois did not consider themselves authorized, by the wishes of their constituents, to offer an amendment to the bill, and the Chair voted against it. The opinion of the Chair still remains unaltered. He had never seen any ground for any other decision. He could not see the justice of giving a free passage through that canal to the people of Illinois, and, at the same time, of levying a tax on the people of Missouri and Mississippi, who were as much interested in the work as the citizens of Illinois. The Chair said, in conclusion, that he hoped to be excused by the Senate for this explanation. He had always been free to declare his sentiments and motives, and on no occasion had he endeavored to conceal them. If, said he, I know myself, I have never been guilty of such conduct, and have been above concealing my opinions on all public measures.

Mr. NOBLE said that he understood the Chair to allude to the remarks of certain of the Senators who had taken part in the debate on this subject. For his own part, he should be willing that the Chair should designate the individuals.



APRIL 11, 1828.]

*Office of Major General.—Internal Improvements.*

[SENATE.]

[Several voices here joined in a call to order.]

The VICE PRESIDENT rose, and said, that he did understand both of the Senators from Indiana to allude to an abandonment of the system of internal improvement, and to a desertion by the Chair of the principles which he had formerly avowed.

Mr. NOBLE rose again; and several voices called to order. He said that he wished to explain. Gentlemen might call to order as much as they please—

He was here going on, but the CHAIR interposed, observing that there was no question before the Senate.

Mr. NOBLE said he understood that there had been no question before the Senate when the President addressed the body, and it appeared to him that the Chair had addressed himself.

Mr. TAZEWELL called Mr. NOBLE to order.

The CHAIR said there was no question before the Senate. The Senator from Indiana will take his seat.

Mr. NOBLE observed, that, if he must sit down, he would submit; and then took his seat.

On the amendment offered in Committee of the Whole by Mr. BENTON, to strike out the provision for the Cumberland Road, Mr. RUGGLES asked the yeas and nays.

Some further conversation took place on this question, between Messrs. EATON, RUGGLES, SMITH, of Maryland, CHANDLER, FOOT, HARRISON, TAZEWELL, and WEBSTER; when, the vote being taken, it was decided in the negative—17 to 30.

FRIDAY, APRIL 11, 1828.

#### OFFICE OF MAJOR GENERAL.

Mr. HARRISON moved to take up the report on the resolution formerly passed in the Senate, in relation to abolishing the office of Major General of the Army; which was agreed to.

Mr. CHANDLER moved to amend the resolution, so as to strike out the word "not"—in effect to support the resolution, and to abolish the office. He also moved to recommit the resolution, with orders to bring in a bill to abolish the office of Major General. Mr. C. supported the motion by a few remarks, in which he repeated his conviction that the office was unnecessary, and that its abolition would be a saving to the country.

Mr. JOHNSON, of Kentucky, opposed the amendment offered by Mr. CHANDLER, and argued at some length on the necessity of a military head.

Mr. HARRISON gave a history of the office in this country, and supported its necessity for the safety and complete organization of the Army.

Messrs. SMITH, of Maryland, and EATON expressed themselves at length in favor of Mr. CHANDLER'S amendment.

Mr. BARNARD expressed himself at large against the amendment, and maintaining that the office of Major General was absolutely necessary for the well-being of our military establishment.

Messrs. SMITH, of Maryland, and CHANDLER replied briefly to Mr. BARNARD.

Mr. NOBLE supported the amendment, chiefly on the ground that the office of Major General was a sinecure.

Mr. BARNARD replied to the remarks of Messrs. SMITH, of Maryland, and CHANDLER.

Mr. VAN BUREN said that this question had been one on which he had felt considerable doubt, not being a military man. The gentleman from Maine, [Mr. CHANDLER] deserved great credit for the vigilance with which he detected, and the spirit with which he opposed, any expenditure which was not required by the wants of the country. And if he [Mr. V. B.] thought the office unnecessary, he would join him with pleasure. He had come to the Senate with doubts as to the course which he should take; but the view which the gentleman from

Pennsylvania had taken, had convinced him that the office could not safely be abolished. Although his impression had been that he should vote for abolishing the office, his opinion had been so completely changed by the arguments of the Senator from Pennsylvania, that he should give his vote against the motion to recommit.

The yeas and nays having been ordered, the question was then taken on the motion to recommit the report, and decided in the negative.

The question being then taken on agreeing to the report of the Military Committee, that it is inexpedient to abolish the office of Major General of the Army, it was decided in the affirmative.

#### INTERNAL IMPROVEMENT.

The unfinished business of yesterday, being the bill making appropriations for internal improvement, was then taken up, and the question being on ordering the bill to a third reading—

Mr. SMITH, of South Carolina, addressed the Senate: He said, as the amendments were now disposed of, his intention was to offer his objections to the passage of the bill, as he had yet to learn by what delegated power this Senate could sustain the principles upon which it was founded. He was aware of the disadvantages under which he should have to approach this important question. He had been warned, and perhaps correctly, that his opposition to the bill would avail nothing, because, it was said, a majority of the Senate were in favor of it. This, to be sure, was not very flattering to his purpose. But he deemed it incorrect to yield up principles, implicitly and silently, to majorities. It would, however, by no means, be unfair or disrespectful to inquire upon what ground this majority arrived at their conclusion. Nor was this the first time he had ventured to oppose his humble opinion to that of a supposed majority. And as his cause was that of the Constitution and of his country, he would not shrink from his duty, although it should prove unavailing. In doing so, he had the consolation to know he had no confessions to make, nor retractions to offer. He had long since formed his opinions upon this subject; since when he had given his adhesion to the political creed of no man who maintained this ruinous doctrine, but had invariably pursued the even tenor of his own way. Not because he conceived his own opinions to be infallible, nor from a want of due respect to the opinions of others, but because their arguments were unfounded.

He intended to confine his remarks to a few prominent points. To the extravagant length to which this system already had, and must continue to lead us; to the great inequality and injustice of its practical operations in the different sections of the Union; and to the flagrant outrage it offered to the Constitution, by violating its fundamental principles.

For the first thirty years after the adoption of the Constitution, economy, and a sacred observance of that instrument, were regarded as cardinal virtues in a statesman. One administration had been pulled down, and another erected upon its ruins, because it was supposed economy had been overlooked, and the Constitution violated by the former. Those times have passed away. Economy is now parsimony, and a regard for the Constitution is a want of patriotism.

As an evidence of the extravagance to which we were running, the document No. 172, would exhibit a specimen of no ordinary character. It contained an official report of sixty-nine distinct surveys of roads, of canals, of rivers, of creeks, and of harbors.

[Here Mr. S. quoted from the document the list of the surveys, 69 in number, to which he had referred.]

He could not ask the Senate to hear his remarks on all these surveys, however important they might be, but would invite their attention to some of the most promi-

SENATE.]

*Internal Improvements.*

[APRIL 11, 1828.]

ment objects; among which was the "Survey of a route for connecting the Atlantic with the Gulf of Mexico."

This canal would probably be one of the most unprofitable and expensive works contemplated in that report. If executed in a style to render it efficient for ship navigation, for which it was intended, it would cost the United States \$50,000,000, and when completed would not last a fortnight. The same current and counter current that formed Cape Florida, originally, would overwhelm it the first gale that blew. Besides, the most experienced mariners that frequent that coast, have pronounced it utterly impracticable to approach it, surrounded as it is with sand banks that shift with every tide.

The road from the western boundary of Missouri to the confines of Mexico—a distance of five hundred miles, and must be constructed at an expense to this Government of not less than \$5,000,000—may be useful to a few wandering traders, but it is impossible to suppose it to be a governmental object, as regards the policy and safety of the United States. Border wars are always more destructive, and more bloody, and excite more hostility and vengeance, from the facilities afforded by the proximity of the parties, than any other wars among nations. All other bordering nations guard against such consequences. But it seems to be the policy of our Government to pave the way to our neighboring nations if they should choose to make inroads upon our frontiers.

In addition to the preceding sixty-nine plans and surveys, Mr. S. said he had collected from the documents recently laid on the tables of the members, thirty-eight other reports, and bills making appropriations for roads, for private turnpike companies, for canals, for harbors, for break-waters, for piers, for sea-walls, for artificial harbors, for removing obstructions from rivers, for removing obstructions from creeks, for charitable institutions, for colleges, for schools, and for the public bounty to as many private citizens of the West as choose to ask for it. All of which are disclosed in the following table: [Here Mr. S. quoted from the reports.]

What, he would ask, has Congress to do with the Milesburg and Smith Port turnpike road? Or with the Washington and Frederick Turnpike Company? Or with the Baltimore and Ohio Rail-road? Do not the reports and surveys before us display an ample field for governmental patronage, without taking charge of the concerns of every corporation? These are the property of private adventurers, who call upon you for appropriations from the public treasury to assist in advancing their private fortunes. \$10,000 of the last year's appropriation was expended in surveying the route for the Baltimore and Ohio Rail-road, and more is asked for in the bill before the Senate, for the same purpose. And its first fruits were an inordinate speculation in selling out the shares; some of which were sold as high as seventeen hundred per cent. upon the amount paid in. You are to survey this road, and become identified with the company, and should that fail, or find it a losing business, the road can be turned over to the Government to finish. There was another road in which the United States had as little interest as they had in the Baltimore Rail-road. It was a magnificent road from the city of Washington to Buffalo, on Lake Erie. A road five hundred miles in length, to be eighty feet wide, trees grubbed out, and paved with metal, the style of all your roads, and to cost the Government \$6,000,000, at the least calculation. And when done can only accommodate a few members of Congress and other persons visiting Washington. There is a road from Zanesville, in Ohio, to Florence, in Alabama, another magnificent work, four hundred miles long, and to be finished in national taste, and which will cost you another \$5,000,000.

Break-waters, sea-walls, and artificial harbors, are becoming fashionable. For the Delaware break-water you

have just appropriated \$2,326,627. The commerce of Philadelphia, broken down by the manufacturing mania, must be revived, and this is an effort, at the expense of the public treasury, to do so; and which, according to every experience upon public works, will cost you \$5,000,000 before it is finished. It is said this will be a place of protection to distressed mariners, and especially to those from the South. If the object is protection to southern mariners, why place it at the mouth of the Delaware Bay? There was no plan or estimate for any thing of this character, for the protection of distressed mariners from the capes of Delaware, in the North, to the mouth of the Sabine, in the South, a dangerous coast of more than two thousand miles long. There the distressed mariners are left to buffet the waves.

You are also asked, by a few fishermen who had settled on Nantucket Island, to construct an artificial harbor for their special accommodation, although they have Boston almost in sight, on one side, and Martha's Vineyard on the other: two excellent harbors. Among the reasons assigned for this very expensive work, is a cogent one by the distinguished engineer who made the survey. He says, for want of such an harbor, they frequently lose favorable periods for making the voyage round Cape Horn. Nantucket lies in about 42° North, and Cape Horn in 50° South, seven thousand miles distant, across the Tropics; where they meet every wind that blows, and are driven to every point of the compass. Where vessels are one while becalmed, and the next hour in a hurricane. An artificial harbor, however, at Nantucket is to overcome all these obstacles. Can any thing be more preposterous? Yet this is the opinion of an engineer of boasted science. Mr. S. observed, were he of the break-water school, he should deem it equally justifiable to construct artificial islands on the Grand Banks of Newfoundland, for our fishermen to dry their fish on, as, by the treaty of 1783, between the United States and Great Britain, they must abandon the native islands they use for that purpose, on the happening of a certain event. One would be quite as just as the other, and equally constitutional.

So yielding has Congress been to these applications, that the State of Illinois asks for thirty thousand acres of land, not only to clear out her small creeks, but to defray the ordinary expense of building a penitentiary, the common jail for the use of the State.

The Legislature of Indiana, not content with near one million of acres of public land, given to that State during the last session, for her own roads and canals, now asks for lands enough to make a permanent road, bridges, causeways, &c. through the States of Kentucky, Indiana, Illinois, and Missouri. A road through four different States, to cost this Government \$8,000,000, at the request of Indiana, that asks, at the same time, through another legislative memorial, for the speedy extension of the great Cumberland Road through that State also, for the purpose of encouraging emigration, that the population of the State may be increased! We should think this conclusive evidence of the unlimited and gross extravagance to which this system is approximating with rapidity. What motive can the Government of the United States have for increasing the population of Indiana, more than that of any other State? You are called upon to beat up for volunteers, at a most exorbitant bounty, to go to Indiana to increase her population, and thereby increase her census, to give her more weight in this Government, or it will be deemed illiberal and unjust!

The General Government, in disposing of the public lands in the Western States, gave as an appendage to each township, the central section for the use of schools, to which the children of indigent parents could have an easy access, without the expense of boarding abroad. A plan borrowed from the New England States, where it has long manifested its beneficial effects upon the poorer

APRIL 11, 1828.]

*Internal Improvements.*

[SENATE.]

classes of the community. Two years ago the State of Ohio, with great difficulty, obtained a law of Congress to enable that State to sell these central sections, and place the proceeds in their banks; by which the generous bounty of this Government has been prostituted to the vile purposes of fraud and speculation, in propping up their tottering and insolvent banks. And, in addition to two millions of acres which she now asks for roads, for canals, for harbors, for rivers, for creeks, for bridges, for colleges, and for squatters, that State unblushingly asks for large quantities of other lands for the use of common schools.

Mr. S. said, a beautiful drawing of a road from the city of New York to the city of Albany, a distance of one hundred and sixty miles, had made its appearance. It was difficult to devise what was the object of this road, because one of the finest rivers in the world leads directly from one city to the other; and more than ten steamboats ply between the two every day, carrying from five hundred to one thousand passengers each. Besides, the whole river, from one city to the other, is constantly whitened with sail-boats. And if there be any one route, of the same distance, in the world, that excels all others for an easy, secure, certain, cheap, and speedy passage, it is to be found on that majestic river between New York and Albany. To execute this road in a suitable taste for that region, if compared with the cost of other roads constructed by the United States, will amount to \$3,000,000.

As a specimen of government economy, the Engineer had made eight separate surveys to ascertain the proper route for a road whereon to transport the mail from Baltimore to Philadelphia; the constructing of which, as regarded the transportation of the mail, would produce to the United States a considerable loss. This was demonstrable from existing facts, and a comparison with other roads. From Philadelphia to New York was 96 miles, on a good turnpike road. The mail is transported daily between the two for 13,400 dollars. From Baltimore to Philadelphia is also 96 miles, on a road constructed and kept up by the People, who understand their true interest better than Congress, with all its train of Engineers, and the mail is also transported daily between these two cities, and an additional mail transported daily from Baltimore to Washington, during the session of Congress, all for 13,735 dollars. So that the mail is transported from Baltimore to Philadelphia, on a country road, for a less sum than from Philadelphia to New York, on a turnpike road. If we take into consideration the character of this road, its bridges, and especially the one over the Susquehanna, more than a mile wide, its width, its ornaments, and its fripperies, we cannot estimate the cost at less than \$1,500,000, the interest of which, at six per cent. will amount to 90,000 dollars per annum. Then, taking these plain facts together, they will give you this result: By adding 13,735 dollars, the sum now paid by the Government for the transportation of the mail, to 90,000 dollars, the interest on the money expended, it will give you \$103,735, the real sum the transportation of the mail will cost you for ever after.

Mr. S. remarked, that, when the bill to make an appropriation for the repairs of the Cumberland Road was before the Senate, he stated the average cost of that road had exceeded 13,000 dollars. It was contradicted by one gentleman, who attempted to prove from documents that it did not exceed \$6,000 per mile. In defence of what he had then stated, as well as to lay before the Senate an official statement of the cost of the road-making system, in which the United States had so largely embarked, he had collected certain documents of 1827.

In a Report from the Treasury Department, 6th January, 1827, relative to the cost of that road, it appeared it had cost, up to that period, from Cumberland to Wheel-

ing, a distance of only 130 miles, \$1,710,298 93, which gives an average of 13,156 dollars per mile, on the whole distance. The sum paid to Commissioners and a Superintendent for that 130 miles, is 78,430 dollars 47 cents, which will average 604 dollars 31 cents per mile, for superintendence only—a sum sufficient itself to make a good road.

Casper W. Wever, the Superintendent, in an official report of the 25th of May, 1827, to the Chief Engineer, gives his estimate of 328,983 dollars 68 cents, then indispensably necessary for the repairs of that 130 miles, which will average 2,522 dollars 95 cents per mile, for repairs only!

Mr. Wever, in another official report, 16th November, 1827, to the Chief Engineer, says: It was of great moment that a system or plan for the regular repairs of that great monument of the wisdom and munificence of the General Government should be established by Congress. And then goes on to say, the road had become too bad to be mended, and must, in a great degree, be made anew. And then further adds, without constant repairs it could never be travelled!

So incredible are the facts relative to the cost of this road that it had become necessary to prove to the Senate, by their own official documents, the truth of their own acts. And, indeed, so extravagant are the facts, that, without such proof, it would appear like an idle dream, that a road cost the Government 13,156 dollars per mile, to construct it, and 2,522 dollars per mile to repair it, in one year, and before that year had expired, had become impassable until it should be made anew. And to insure its future usefulness, the Government must set apart a separate fund, to be drawn upon forever, at the will and pleasure of a superintendent whose interest it was to be perpetually making and mending. Yet, true as this is, and with all its enormities, it is only a foretaste of what is to come, if we are to pursue this system; and more especially when the Government shall have fully embarked in constructing canals, of which there were as many as thirty in the plans and surveys now exhibited to the Senate, some of them 500 miles in length. Among them are the James River and Kenhawa Canal, and the Chesapeake and Ohio Canal, concerning which, Mr. S. said, he would offer a few facts from the reports of the Engineers.

These two canals, very similar in character, taken together, give a distance of about 500 miles in length, and are entirely in the mountains, where nothing was to be seen, from the beginning to the end, but craggy rocks, deep sunken valleys, cataracts, and awful precipices, which were to be encountered at every step. These canals were to be made up of aqueducts, of dams, of culverts, of embankments, of bridges, of locks, and of tunnels. A sample of which is given by the Engineer, in the eastern section of the Chesapeake and Ohio Canal, a distance of only 186 miles, on the most favorable and least mountainous ground. There are 218 culverts, 9 aqueducts, 160 bridges, and 635 locks; and yet the Engineer estimates the cost of this section to average only 23,985 dollars per mile, whereas, on the middle section, of 70 miles in length, he estimates the average cost at 143,258 dollars per mile. On this section, he estimates the cost of a single tunnel, only 5 miles in length, at 3,500,000 dollars, which will average 700,000 dollars per mile. From these estimates it would be a fair conclusion, that less than 50,000,000 dollars will not be adequate to complete this 500 miles of canal, as the James River and Kenhawa Canal would, according to the survey of the Engineer, require tunnels 10 miles in length, and dams 70 feet high.

In times of old, they levelled the hills and filled up the valleys; but we, who are a wiser People, root up the mountains, and march through their centre. Nature had

SENATE.]

Internal Improvements.

[APRIL 11, 1828.]

been bountiful, almost to excess, in the abundance of her rivers and water communications between the Western and Eastern sections of this Union, on which an easy and expeditious intercourse can always be had. But, hereafter, instead of passing along these native channels, at the rate of 15 or 20 miles an hour, we are to be lifted and lowered through more than 2000 locks, to be dragged over 50 aqueducts, and creep, at a snail's pace, through protracted tunnels, as dark and dismal as the mansions of the dead, under the base of tremendous mountains. Surely nothing could surpass the folly of such a project, but the ambition and intrigue of those who planned and cherished it. It reminds us of a modern philosopher of the West, who, not long since, asked you for an outfit to enable him to visit the North Pole, and thence to the centre of the earth, in search of a concave sphere, which he conceived existed there. Were he now to ask, it would not be matter of surprise if his outfit should be granted; provided he would shift his course, and instead of the tedious route by the North Pole, would commence his voyage at one of these tunnels, and make his reconnaissance directly through.

Mr. President, there certainly exists a strange incompatibility in the policy we are pursuing, with regard to economy. On some occasions it is cherished with a zeal that would promise to correct every abuse that may have crept into every branch of the Government, and ensure in future a circumspect and prudent administration of your public funds. But, on other occasions, the public interest seems to be lost sight of. And this diversity of policy was never more obvious than at this moment. Congress are, on one hand, running the full career of retrenchment; exploring the recesses of every department; examining every functionary; and probing every administration to the very quick, that they may save the People's money, and put down a system of corruption; whilst, on the other hand, they were practicing an extravagance and profusion without limits. And the public money is regarded more as common spoil than as the property of the General Government; and he who can first lay hands upon it, bears it off. And if this course is permitted to continue, it must bankrupt this Government, and introduce a species of corruption that would taint it to its vitals. A system, to use the language of a distinguished statesman, to whose eminence he could never aspire, of buying the People with their own money.

Yes, sir, of buying the People with their own money! Eight separate and distinct routes have been surveyed between Baltimore and Philadelphia, by the Engineers appointed to that service; some of them made, without regard to the public interest, under the influence of distinguished men, to suit their own convenience, if we are to give credit to the memorial of the citizens of the county and city of Philadelphia. And that whole community are now enlisted in the cause, who had taken no interest in the question, until these surveys were made, but were moving on in the spirit of laudable enterprise, to construct a turnpike road for themselves.

The Brigade of Engineers who were ordered to survey the route for a great national road from the city of Washington to New Orleans, discharged that duty with very little deviation, by travelling along the public highways, in carriages and steamboats, like other gentlemen; stopping at towns and villages to enlist the feelings of the inhabitants on the side of Internal Improvement, by inducing every man to believe the national road would pass his door. This quieted opposition, and even inquiry, as to the constitutional power of Congress over the subject. Plain, honest, men, who, perhaps, had never looked at the Constitution, were willing to sacrifice their scruples to their interest.

But, Mr. S. observed, notwithstanding these abuses, and many other abuses to which this system was eminent-

ly calculated to lead, and to which it must always lead, and would lead, he was not prepared to attach the blame to the President or the other functionaries to whom it had been confided. He was not the advocate of the President or any other man; but he would censure no man but for good cause. You have conferred on the President of the United States the dignified office of an overseer of the roads, and given him two or three Brigades of Engineers to survey the routes and report upon them. When they set out upon a reconnaissance, can he follow in their train, to see that each man does his duty? You have, by the act of 1824, submitted entirely to his discretion to decide what roads were of national importance. And by what means is he to determine this abstruse question? Is the President to travel over the whole United States, in quest of roads, and inspect the grounds on which they are to pass, before he decides upon their nationality? Is this practicable? If it is not, by what means is he to arrive at his purpose, but by means of information from others? When he has done so, it is ascribed to him as partiality. And the members of Congress are quarrelling with the President, and among themselves, because some have got the start of others in this race for roads. The members complain they have not obtained their full share. Some say they are not in favor, and therefore have not succeeded in their efforts to obtain surveys of their favorite roads.

It was, Mr. S. said, among his objections to the system, the great inequality and injustice of its practical operations in the different sections of the Union. And this fact was fully demonstrated. At the present session there were applications from the Western States, all of which had received already large donations in public lands, for at least 10,000,000 of acres, for Internal Improvements, and other purposes of their own. And there were applications now before Congress, in some shape or other, for appropriations for Internal Improvements in the different States, except the States of South Carolina and Georgia, for more than \$300,000,000. And with all this preparation and appropriation, in the other States, to fill them with roads and canals, at the expense of the public Treasury, not a chain had been stretched, nor a Jacob staff planted, within the States of South Carolina and Georgia, by authority of the General Government, for that purpose; and because their Legislatures have not deemed it constitutional, nor proper that their members in Congress should join in the general struggle for the mere favors of the General Government, and higgles and huckster for a road or a canal, as they would in a market or fair for a bale of goods or an ox.

Among the arguments why we should appropriate \$2,326,000; to begin a Breakwater at the mouth of the Delaware Bay, we are told of the customs collected in the port of Philadelphia, on foreign goods imported, which gave that city high claims to the protection of the Government. Sir, it is not the revenue you collect on foreign merchandise that constitutes the real wealth of a nation. It is the amount of your exports you are enabled to send abroad that constitutes your national wealth. If you have nothing to send abroad, you can expect nothing to bring home. And turn it as you will, all your revenue is ultimately paid from the agricultural pursuits of the laboring community, who are entitled to their full share of the dividends of the Treasury. In order to ascertain the relative proportions of the agricultural product of each State and Territory, and thereby test the proportion of protection each one was entitled to on that principle, he had extracted from the statistics of Waterston and Van Zandt the following table; and had selected the year 1818, as a medium year, and one as little encumbered with foreign or domestic embarrassment as any other. In that year, the exports were, from—

APRIL 11, 1828.]

*Internal Improvements.*

[SENATE.]

Maine	-	-	-	\$ 000,000
New Hampshire	-	-	-	114,233
Vermont	-	-	-	240,069
Massachusetts	-	-	-	5,698,646
Rhode Island	-	-	-	534,288
Connecticut	-	-	-	574,500
New York	-	-	-	12,982,564
New Jersey	-	-	-	25,957
Pennsylvania	-	-	-	5,045,901
Delaware	-	-	-	30,181
Maryland	-	-	-	4,945,322
District of Columbia	-	-	-	1,264,734
Virginia	-	-	-	6,941,414
North Carolina	-	-	-	948,253
South Carolina	-	-	-	4,184,298
Georgia	-	-	-	10,977,051
Louisiana	-	-	-	12,176,910
Mississippi	-	-	-	84,764
Michigan Territory	-	-	-	85,352
Ohio	-	-	-	00,000
Alabama	-	-	-	00,000
Indiana Territory	-	-	-	00,000
The ten Atlantic States, North, including Delaware, exported during that year to the amount in value of	-	-	-	\$ 25,246,339
The States of South Carolina and Georgia alone	-	-	-	22,161,349
Leaving a balance in favor of the ten States, of	-	-	-	\$ 3,084,990

But if we take into consideration the produce from those two States, that had gone coastwise to the Northern ports of Boston, Philadelphia, Baltimore, and New York, and there manufactured or exported—all of which, when exported, is carried to the account of their own exports, and the exports of New York is vastly augmented by this means—we shall find, by taking this from the ten States, and adding it to the two States to which it rightfully belongs, it will far overbalance the \$3,084,990, and will prove that these two States export a larger proportion of those articles that enter essentially into national wealth, than those ten Northern States export.

In the same year, the exports from all the States and Territories, including these ten Atlantic States, in the Union, except the States of South Carolina and Georgia, exported in their whole amount only \$47,692,088

If we deduct the exports from South Carolina and Georgia

It will leave a balance in favor of the whole of the States and Territories against the two States, of

And if we again take into calculation that portion of our produce which goes coastwise, and is either manufactured or exported from the Northern States, it will be seen, evidently, that the small States of South Carolina and Georgia, both of which have but sixteen Representatives in Congress, out of two hundred and thirteen, exported more than half as much as all the other States and Territories in the Union, including the vast and fertile valley of the Mississippi. If the Constitution authorizes this system of road and canal making, why are not provisions and benefits extended to those two States that have contributed so largely to the growing prosperity of the Union, as well as to all the other States and Territories? The Constitution has wisely provided that all the privileges, immunities, and benefits therein provided for, shall be extended to each State upon some uniform and fixed principle, and not left to chance; nor yet to the opinions of an interested majority, who should carve out for themselves what suits their own purposes, without regard to the interest of the minority.

The advocates of this system, from the earliest efforts to bring it into operation, have not been able to agree

upon any one given power in the Constitution that will justify it. Some derive it from the power given to Congress to declare war; some from the power to establish post offices and post roads; some from the power to regulate commerce; some from the power to provide for the common defence and general welfare; and others from the power to lay and collect taxes, duties, imposts, and excises. And they have travelled on with these uncertain guides, and with this diversity of opinion, each coming to the same conclusion from different premises, and making a joint stock business of it, and playing political sequents—do you take your road, and then give me mine—until it is justified upon any ground that happens to correspond with a gentleman's views of what he would call good policy.

We are told by some gentlemen they are pleased with this system, and wish it to be carried on upon an enlarged plan, because it develops the resources of your country, and facilitates your commercial intercourse, and prepares you for war during peace. Others say, without it you cannot dispose of your surplus revenue. And they tell us so, with a perfect knowledge of a public debt of seventy millions of dollars hanging over our heads; a great proportion of which is the debt created for the support of your Revolutionary war, more than fifty years ago. But some of your most sage and experienced statesmen of the present day, have recently discovered that a national debt is a national blessing. They tell you, were you to pay off your national debt, you would throw too large a quantity of money into circulation; and this is given as a reason for going on with the system of roads and canals. But how fallacious is the argument? If you are to expend your revenue in constructing roads and canals, and lavish it away upon undertakers and idle engineers, will it not throw your money as much into circulation as it would were you to pay it to your public creditors? And can it be material, as to its effect, through what channel it goes into circulation? This argument is about as well-founded as any other that has been offered in support of this system. Your national debt will be a national blessing to contractors and undertakers of your roads and canals, who will share largely in the spoil; and it will be a blessing to your money lenders, to speculators, to brokers, and to stock-jobbers, whose trade it is to watch over the misfortunes of the rest of the community, and take advantage of their adversities; but will prove a national curse to the morals of the people of this Government, and bankrupt the Government itself, as it has done in all other Governments that have pursued it; and you will enjoy this blessing to your utmost wishes, before you are done with your roads and canals!

Gentlemen tell us they consider not only the policy, but the constitutional principle likewise, are both settled as regards this long contested question.

Ask upon what principle it had been settled, and one gentleman tells you it was settled by the law of Congress passed on the 30th of April, 1824, "to procure the necessary surveys, plans, and estimates upon the subject of roads and canals;" and which another gentleman very frankly avows was forced through Congress, and which passed the Senate by less than one-half of its members.

Another gentleman affirms the constitutional question was settled twenty years ago, when Congress voted a donation of \$50,000 worth of flour to the people of Caraccas, and shipped it to that city in American vessels, after they had suffered by the earthquake. This donation was voted by Congress in a moment of good feeling, because they were republicans. And, immediately upon its reaching its port of destination, was seized by a band of royal forces, and made prize of. And there your republican present terminated. And because Congress arbitrarily assumed the right of voting away a sum of money to a foreign people, it is taken as a fair exposition of the Con-

SENATE.]

*Internal Improvements.*

[APRIL 11, 1828.]

stitution, to warrant any disposition Congress may think fit to make of the public moneys in future; and consequently to appropriate any sum within its grasp to internal improvement.

Mr. S. supposed the Greek frigate, when it shall have become sufficiently known to bring it on the theatre of action, will be ranked in the first class of Congressional precedents. This Greek frigate was purchased to save a falling mercantile house in New York. Congress, in the exuberance of its good feelings, of which it always has an abundance in store, was casting about to find some fit occasion to expend a little money in the Greek cause, as they were Christians, and occupied that classic ground once the seat of the Muses; when it was suggested by some of the members, the expediency of building a frigate, and sending it out for their service. And this was buzzed about Congress in broken accents and whispers, and was adopted with great enthusiasm; and those New York broken merchants got the job, and with it upwards of \$300,000 of your public money; and the frigate they supplied you good for nothing. Here your Greek benevolence expired! But the deed itself will remain as a monument of your power to give away, or to waste as much public money as you please, whenever a majority in Congress shall think fit to do so.

Another gentleman asks, what is to become of the Military Academy at West Point, if you do not go on with internal improvement? And further asks, for what are you giving a mathematical and scientific education to the young men of your country, if you would not employ them in developing the resources of the nation? And tells us this city is to be the centre of science, where all the scientific men in the Union will be brought together. And then asks you, how are the States and companies to progress in their internal improvements, but by obtaining the benefit of this science from the General Government? And seems to think this a strong illustration of your constitutional power over the subject.

Mr. S. said he would answer those interrogatories. If the Government of the United States is to keep up a Military Academy at West Point, or elsewhere, to educate the sons of members of Congress, and the sons of their friends and favorites, where they were educated entirely at the expense of the Government, and under pay, in the mean time, of \$228 per year, there could be no question but you would soon have a number of scientific men without employment. And if you would then give them commissions in the Army, with high pay, and increase that pay every session, which you were pretty much in the habit of doing, with additional pay as engineers, transportation and expenses paid, for amusing themselves through the country, you would soon render this the seat of science. And with these inducements, and the growing prospects for all Government agents, you will not only collect to this place all the military science from West Point, but from the whole Union, for where the carcass is, there will the eagles be gathered. But if it has been the policy of the Government to increase the military science of the country, and place it here in bureaux and other seats of idleness, what had that to do with the constitutional question of the powers of Congress to construct roads and canals?

Mr. President, instead of referring to the Constitution itself, the unerring standard of its own solutions, laid down as a guide, even to future ages, are we to look for the solutions of its principles in the laws and resolutions of Congress, passed, no matter under what influence, by less than a majority of either House; and many of them passed without even a majority being present? Or are we to look for the solution of its principles in the Military Academy, or the accumulation of science at the Seat of Government? This is but a feeble demonstration of the charter of your liberties. It is the road to tyranny. The despot does

not grasp the sceptre at a single move, but by a succession of usurpations that ripen into law. No tyrant that ever lived, who did not make his way by the sword, had ever made greater inroads upon the fundamental principles of free Government, in the same space of time, than Congress had upon the obvious principles of the Constitution within the last twelve years.

Mr. S. said, when he took the oath, in the presence of this Senate, to protect the Constitution of the United States, he did not go into the Secretary's office, and turn over the musty documents that had lain there for forty years, to teach him the knowledge of that Constitution he had sworn upon the holy Evangelists to protect. Nor did he believe the duty prescribed under that sacred obligation was to be found in the law of the 30th of April, 1824. Nor did he resort to the brigades of engineers, with all their science of mathematics, and differential calculus, to inspire him with their touch, but to the Constitution itself, to learn its provisions.

But if this important question rested upon authorities alone, the weight of authorities are opposed to the system. General Hamilton, who was anxious to support it, doubted, and recommended an amendment of the Constitution, to provide for it. But he had too much good sense to sacrifice the Constitution to convenience; and remarked that "the degree in which a thing was necessary could never be the test of the legal right to adopt it."

Mr. Jefferson is said to have recommended the construction of the Cumberland Road. But all the advocates of the road system place that road on the ground of compact. Besides, Mr. Jefferson, at the time he recommended it, expressed his doubts, and, like General Hamilton, advised that the Constitution should be amended. Yet he lived to look back upon it as the greatest error of his political life, and to regret it with bitterness of soul.

President Madison negatived the celebrated bonus bill, in 1817, the rallying point of the aspiring politicians of that day, for which he assigned reasons, recorded in your annals, that will bear the scrutiny of the profoundest statesman, and convince the most visionary opponent. Nor did that bill pass in the House of Representatives by more than two votes of a majority, 84 to 82, and that upon grounds that are entirely abandoned now.

President Monroe, in his first message to Congress, at the succeeding session, anticipated the question, and assured Congress as the subject had undergone an elaborate discussion, and had been negatived by his predecessor, he also would negative such a bill were they to pass it. Although this was no more than fulfilling a faithful duty, yet it gave rise to much zeal, which was followed up by a report that censured the President for anticipating, prematurely, as they supposed, a subject of so much interest; and a number of resolutions were submitted, and discussed at great length. Three of which he would bring to the attention of the Senate, and show how they resulted:

2. "Resolved, That Congress have power, under the Constitution, to construct post roads and military roads. Provided private property be not taken for public use without just compensation." Negatived—yeas 82, nays 84.

3. "Resolved, That Congress have power, under the Constitution, to construct roads and canals, necessary for commerce between the States. Provided private property be not taken for public use without just compensation." Negatived—yeas 71, nays 95.

4. "Resolved, That Congress have power, under the Constitution, to construct canals for military purposes. Provided private property be not taken for public use without just compensation." Negatived—yeas 81, nays 83.

These resolutions put the question into every shape,

\* See his Report, 119.

APRIL 11, 1828.]

*Internal Improvements.*

[SENATE.]

and protected the rights of individuals, yet not one succeeded. A number of gentlemen who voted uniformly against all those resolutions, and against every modification in which they were, on that occasion, so variously placed, are now among the zealous supporters of this system, with their votes recorded against the constitutional power. Some of those gentlemen are now with us, and voting for this bill. What was unconstitutional ten years ago, is constitutional now.

This project proved abortive, and fell in the House of Representatives. But, in consequence of censure thrown on President Monroe by that report, he wrote a book, and communicated it to Congress five years after, in the form of a message, with his negative of the "bill to establish turnpike gates on the Cumberland Road," in which he demonstrated, with unanswerable arguments and illustrations, that Congress did not possess the power to construct roads and canals. That message is also recorded in your annals with President Madison's negative, where they will remain as monuments of the true construction of the Constitution, and of wisdom, that will outweigh all your theories of constructive power, and necessity, and convenience, put together.

Now it is evident that all the authorities are opposed to the system, up to the law of 30th April, 1824, which, we are told, was forced through Congress, and which passed the Senate by less than a majority of its members. Previous to that law, it had never received the legal sanction of the Government in a single instance, except the Cumberland Road, and some Territorial roads, both of which its friends had considered exceptions. It was true, the former Secretary of War had a number of those objects of internal improvement examined and surveyed, before the passage of the law of 1824, not by authority of any law, but by virtue of his inherent power as Secretary of War, and which were called national objects.

The term, National was a new word that had crept into our political vocabulary, and growing pretty much into use. It was a term unknown to the origin and theory of our Government. The first article of the confederation says, "The style of this confederacy shall be 'The United States of America.'" A part of the Federal Convention styled it a National Government. It was, however, made a question, and Mr. Ellsworth moved to expunge the word National, and place in the room of it "Government of the United States,"\* which was agreed to by the unanimous vote of the Convention. Mr. Ellsworth, who was a distinguished patriot, and an eminent statesman, saw the bearing of the word National, and therefore moved, not in the ordinary phraseology to strike out, but to expunge it! However, all that guarded precaution is now exploded, and the word has become technical.

Although he denied the legitimacy of the term, and considered it an insidious word, when used as descriptive of our Government, he would nevertheless adopt it upon this occasion. And without wishing to impugn the private or political character of any functionary of the government, he would ask, who clothed the Secretary of War, or the President of the United States, with power to designate any road a National road, or any canal a National canal? Or, he would ask, by what rule an agent of the government can distinguish between roads and canals that are national, and roads and canals that are not national? The Senator from Delaware [Mr. M'LANE,] strenuously argues, that there is manifestly a clear distinction, and that the Breakwater in Delaware Bay is a national object, and the road to be constructed between the city of Baltimore and the city of Philadelphia is a national road. Mr. S. said, he would ask any gentleman learned on this subject, to inform him where the nation-

ality of a road begins, or where its nationality ends? He would test the question in this way. Suppose the road that is to lead from Baltimore to Philadelphia to be a national road, as the gentleman supposes; would it lose its national character were it to deviate and pass two degrees west of Philadelphia? If it would not, would it do so were it to deviate ten degrees west of Philadelphia? If it would, at what point between two and ten degrees did it lose its national character? If a road be national that leads from one point to another, and not national if it leads to a different point, at what shade of deviation does it become denationalized?

This question is susceptible of but one definition. A road, canal, breakwater, river, or creek, becomes national or not national, in the ratio of its supporters, and and the influence of those who ask it. The Senator from Delaware [Mr. M'LANE,] says he will support none of those objects, unless they are national objects; and that the Delaware breakwater, for which you have appropriated the large sum of 2,326,000 dollars, is a national object, because it is for the benefit of the community at large. How will he estimate Cunningham creek in Ohio, for which this bill appropriates only 1517 dollars? Is that a national object? A petty creek! Still that gentleman votes for it; although we have not heard a word of its utility to any body. He thought with the gentleman from Massachusetts, [Mr. WEBSTER,] that one road was as much national as another, if made for the use of the community.

Until Congress became road makers, every portion of the community made their own roads. Are one portion of the community to be relieved of this burthen, and the others left to bear it? And if the Constitution has transferred the power from the community to Congress, to construct commercial roads, has not every man an equal claim to a portion of them? And is not the road over which the poor farmer travels with his one-horse cart, but twenty miles, to seek a market for the small product of his yearly labor, as much a national road as the road from the western frontier of Missouri to the confines of Mexico, over which the rich capitalists of that State are to travel, in quest of the gold and silver bullion and the dollars of their Spanish neighbors? The more you investigate this subject, the more abstruse it appears, and every step you advance adds new proofs of its absurdity.

Mr. S. here left this part of the subject, and said he would now examine the bearings of the constitution upon this question. The constitution was formed at a time, and under circumstances, that forbid a belief that any power was left to chance or construction. It was formed, too, by an assemblage of patriots, whose talents would have graced a Roman Senate, in times of its meridian splendor, and whose virtues were yet untainted by intrigue or ambition. Their object was to confer certain powers on the general government, but to fix a permanent limit to those powers; not to form a constitution that should be a plaything in the hands of Congress, to be applied as convenience or interest should dictate. It was the first written constitution the world ever saw, except that given from Heaven to the people of Israel.—But in less than 30 years from its adoption, it has been thrown aside among the rubbish, as not understood, or, if understood at all, not by any two politicians in the same way. Gentlemen are weary of the Constitution. It has become too unfashionable, and not easily defined. Every other art and science, and every calling and profession among civilized men, are understood by those who pursue them; and are understood in the same way; because they have their appropriate and technical means of being understood. This protection is denied to the constitution. It had been stript of all the ordinary rules of construction, by which alone the meaning of this or any other instrument can be perpetuated. But, however

\* Yates's Secret Debates—242.



unfashionable it may be, or however unavailing the result, he would endeavor, by the ordinary rules of construction, and the fair import of the words employed in the constitution itself, to demonstrate that the construction contended for by the advocates of this power was erroneous, and dangerous to this government.

Among those who attempt to derive this power from the Constitution, some of them have relied upon that clause which gives Congress the power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

Nothing can be more foreign to the common and universally received import of the words "to regulate commerce," than to suppose they contain a positive power to egress, to construct roads and canals, or piers and breakwaters. The power is given to regulate, not to create commerce. Commerce has a definite signification. It means the ordinary buying and selling, and bartering, between the citizens of the same country, and the citizens of one country with the citizens of another country—and it means no more. Universal usage has fixed its boundaries so permanently, they cannot be shaken by any artificial or sophistical argument. It needs no foreign aid—if it did, every thing said upon the subject supports this definition. Mortimer's Commercial Dictionary defines it to be the interchange of commodities for other articles, or some representative of value for which other commodities can be procured." But he connects no roads or canals, piers or breakwaters with it. That addition has been exclusively a work of Congress.

Chancellor Kent, of New-York, one of the ablest jurists of the age, in his Commentaries upon the Laws of the United States, as well as of his own State, has treated largely on the powers of Congress to regulate commerce, in his remarks upon the decision of the Court of the United States in the case of *Gibbons vs. Ogden*, † in which he confines it entirely to a power to regulate traffic and intercourse. But the commentator says, in treating further upon the opinions of the Court—"It was admitted, that inspection laws, relative to the quality of articles to be exported, and quarantine laws, and health laws of every description, and laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, &c. were component parts of an immense mass of legislation, not surrendered to the general government." ‡

This is the opinion of the Supreme Court of the United States, upon the very point in question, in which they say the right is not surrendered to the General Government. If you have this power, why not grasp the whole subject, and regulate the turnpike roads and ferries, and regulate the inspection laws? They are more intimately connected with commerce than roads and canals. Sir, as well might we say Congress had the power to furnish the boats, as to make the canals on which they are to ply. As well might we say Congress shall provide the wagons and teams, as to construct and keep in repair the roads on which they are to travel. It can be done for much less money, and it equally concerns trade and commerce.

If he was permitted to construe this clause of the Constitution from the context, which was sanctioned by the known and established rules of construction, he thought he could give a new view of the subject, which had not heretofore been broached by any body, and one which he conceived conclusive against the power.

It is only necessary to state the case to render it self-evident. This clause contains three distinct paragraphs. The first, "to regulate commerce with foreign nations;" the second, "to regulate commerce among the several

States;" the third, "to regulate commerce with the Indian tribes." The very same powers, precisely, are conferred on Congress, by each paragraph. They are so minutely the same, that the most subtle casuist cannot discriminate between them. Will you then carry through your scheme, and whilst you are constructing the national road from the western frontier of Missouri to the confines of Mexico, continue that national road through the Spanish province to the City of Mexico? Or will you, whilst constructing the road from Mattawamkeag to Mars Hill, in Maine, continue it on through the British province to Montreal or Quebec? If you have the power, under the second paragraph, to construct a road in Maine or Missouri, you clearly have it under the first to construct a road in Mexico or Canada. For it would never have been intended by the Convention to form any part of the Constitution, in the same words, to be applied to the same objects, and to produce the same results, without a shade of difference, wherein it was more than evident that one part could be executed, and the remainder could not, under any possible circumstances. Can sophistry itself obviate this palpable absurdity?

But it is said that under the power given to Congress "to establish post offices and post roads," the power is unlimited. But here the power, as in the case of regulating commerce, must depend upon the phraseology of the sentence, and the practicability of the object to be accomplished. If neither of them justify this implied construction, the power cannot exist. It is said, the word "establish," means to construct. When a majority of a political assembly were bent upon their object, they could give such definition to a word as best suited their purpose. But the word "establish," as settled by all lexicographers, means nothing more than to fix, to settle, to make permanent. And Congress itself, in all its post road laws, had confirmed that definition. And surely their own legal definitions are good authority.—The title of the bill now before the Senate for that purpose is "A bill to alter and establish post roads." The act for that purpose of the 2d of March, 1827, by its title, is "An act to establish sundry post roads." Its enacting section is, "That the following be established as post roads." This act establishes 270 new post roads. Some of them more than 300 miles in length. And taken together, not less than 10,000 miles in length. When Congress pass a law to construct a road, they say so in so many words; as in an act of the same date of the above, the title of which is, "An act to authorize the laying out and opening certain roads."

This was also an object totally beyond the capacity of the government to accomplish, and must have been known to the Convention to be so; therefore could never have entered into the plan of "establishing post offices and post roads," to leave an implied power that must consume annually three times the amount of your revenue. Because, if to "establish" signifies to construct, it then becomes imperative on Congress to construct every post road in the Union. And to show that it was a work far beyond the resources of this government to execute, it was only necessary to say, there were already 7000 post offices, all of which the government must build, and 100,000 miles of post roads to construct; which, according to the cheapest estimates of the post roads heretofore constructed, would cost the government 500,000,000 dollars, with an average increase of 5000 annually. § It would cost you four times as much annually as the whole expense of administering this government, including every department in it, army, navy, and all. It is utterly impossible, Sir, to imagine, that a deliberative assembly, like that convention, could have dreamed of leaving such a formidable power concealed within another power, and

† Kent, Com. 1 vol. p. 409.

‡ Kent's Com. 1 vol. 410.

§ Document from General Post Office.

APRIL 11, 1828.]

*Internal Improvements.*

[SENATE.]

to be dragged out only by implication, when, some thirty or forty years thereafter, the majority of Congress should think fit to call it into action. The enormity of this power is none the less because Congress have not hitherto, constructed all the roads they claim the power over.—But the exercise of that power is now about to commence its operation in its most extravagant form.

It has been argued by the friends of this measure, that, without this implied construction, Congress could not carry on the ordinary operations of the mail. It might, they say, be impeded by the States. But if it were possible that any State, or any people, could be so lost to their own interest as to obstruct the mail, you have already passed laws more than sufficient to punish such wanton temerity. You have given by law the superiority of the roads and highways to the mail carriers; and every body is obliged to give the road. If any person obstructs the passage of the mail, he is punishable by fine and imprisonment. If the mail is robbed, it is made a penitentiary offence. If, in robbing the mail, the mail carrier is put in fear of his life, you punish the offender with death. And surely the power you hold over the purse, over the personal liberty, and over the life and death of the offender who shall dare to obstruct the passage of the mail, is as ample as it would be safe to place in the hands of Congress.

The power given by the Constitution of the United States "to declare war," has been greatly relied on, as giving, by implication, the power to construct military roads; which, we are told, can be used, in times of peace, for post roads, and commercial roads. You have passed through two bloody wars successfully, without a military road. Is it to be supposed your enemy is to meet you at the end of your military road, or is he to use it as well as you who make it? You must be prepared to meet your enemy wherever you find him; not where you would wish. War roads, when necessary, can only be made for the occasion, and that must be left to the discretion of the commander of your army. Can any thing be more ridiculous than Congress constructing military roads without knowing where the operations of war are to rage? The universal consent of mankind has established it, without repeal, that the operations of war provide their own roads.

It is a rule of construction, never to be departed from, that, in reconciling a doubtful law, it is only necessary to ascertain the intention of the lawgiver, and that will settle the construction. The intention of the Convention, on that occasion, is so palpable as to leave no doubt whatever. Various propositions were submitted by different members of that Convention; among them was Mr. Charles Pinckney, of South Carolina. One of Mr. Pinckney's propositions was, "That Congress should have power to establish military roads." Although many of Mr. Pinckney's other propositions were adopted, they rejected this one to establish military roads. Rejecting it, is a demonstration that the power was not given; and therefore cannot be implied without violating the settled principles of construction.

Besides, it is a power by no means essential to either raising or supporting an army. Nor did the Convention believe so, or they must have adopted it; and more especially, as the proposition was directly submitted. The evidence is abundant from the constitution itself. They gave Congress "power to declare war," which would irresistibly have implied a power to raise and support armies. They might have declared war, but how were they to carry it on without an army? They did carry on a prosperous war without constructing a single road.—Raising an army would also irresistibly imply the power to support an army. Yet they are both expressly provided for in so many words. There is a distinct clause giving Congress "the power to provide and maintain a navy." Another to make rules concerning captures on

land and water; and various other distinct provisions; all of which are minutely and separately expressed—whilst the power to construct military roads is left to be picked out of some of the other powers by implication.

"Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare."

On the last clause of this paragraph, "to provide for the common defence and general welfare," great reliance had also been placed, to derive the power to construct roads and canals: to which a concise answer would be sufficient. As this precedes the enumeration of powers, it can have no allusion, but to the several objects therein enumerated, all of which are intended to promote either the common defence or general welfare: providing a navy, raising an army, &c. are providing for the common defence. Regulating commerce, establishing post offices, &c. are providing for the general welfare. But a saving clause, to precede the enumerated powers, would be a palpable absurdity. It would resemble a conveyancer, who should convey the appurtenances, before he conveyed the premises; or a dying man, who should bequeath the residue of his estate, before he bequeathed the specific legacies. If this had succeeded the enumerated powers, it would have been an absurdity; because it would embrace every possible object within the scope of legislative action, and would have totally superseded every enumerated power, and left Congress under no other restraint than that of their own unbridled will.

A correlative doctrine is founded on the first part of the clause—the power of Congress "to lay and collect taxes, duties, imposts, and excises." Having the power to collect money, Congress can dispose of it in any manner they think fit; therefore, they have the power to apply it to construct roads and canals. General Hamilton first gave this opinion; others have since followed in his train. It is difficult to conceive how they reconcile this principle, that Congress can authorize another power to expend and distribute the public moneys, when the advocates of the measure acknowledge Congress itself cannot expend it for the same objects. This is a broad ground of construction, and one not warranted by the ordinary import of the words. The same remarks may be applied here, that were applied to the last part of the sentence, "the common defence and general welfare." "To lay and collect taxes, duties, imposts and excises," compose the first enumerated power given to Congress. And then follows, in immediate succession, the objects upon which the moneys collected from taxes, duties, imposts and excises, shall be expended. And if there be any meaning at all in the sentence, it is limited, "to pay the debts and provide for the common defence and general welfare of the United States." Your debts are not yet paid, and "the common defence" is defined in the power given "to provide a navy, raise armies, organizing, training, and disciplining the militia," &c. And your "general welfare" is defined in the power given to "regulate commerce, establish post offices and post roads, coin money," &c.

Taxes, duties, imposts, and excises, are that part of the property of the people at large, which they are called upon to contribute, for carrying into operation the objects set forth in the enumerated powers. This they have heretofore yielded a willing obedience to. To support your wars, they submitted to a stamp act, to an excise, to furniture tax, &c. When the thirteenth Congress declared the last war with England, no member would hazard his popularity to propose a tax, and the war had nearly failed under their timid silence; the people goaded Congress into a tax, and an onerous one ensued, which they bore with the magnanimity of freemen, because they believed it a constitutional duty. But let your revenue from imposts fall short, and a tax be laid for roads and

SENATE.]

Internal Improvements.

[APRIL 11, 1828.]

canals, breakwaters and tunnels—you would find a revolt from one end of the Union to another. They would not be led by the giddy dance of every politician that should construe the first part of the constitution he might happen to turn to, as containing implied powers to justify a burdensome tax upon his neighbor, to make convenient roads for himself. No gentleman of Congress, in these times, however, could be considered a constitutional lawyer, unless he was master of the implied powers that were supposed to lurk in all its provisions. The principles of construction that now govern us, reminded him of some merry writer in the newspapers, who said, "Construction is an artful swindler, and bubbles more people out of their rights than twenty armies. Give me construction for a lever, and I will construe the world off its hinges without any thing to rest my lever on." And should the powers of construction, which Congress have assumed, continue to advance, it would soon possess a more unlimited power than any monarch in Europe; and one that would shake this government to its centre. For this belief, evidences are not wanting.]

But with all these powers of implication, no one had yet found upon what clause of the Constitution the right of soil was given, whereon to construct those roads and canals, without which an implied power to construct would be destitute of foundation, and the whole fabric must tumble. This objection did not rest upon the simple negative, that the powers not delegated to the United States were retained by the States or the people, only, which was conclusive, but on another negative, which amounts to a positive denial of the right of sovereignty. Congress are expressly empowered, in the 8th section of the 1st article, the very section and article from whence the constructive powers are drawn,

"To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased, by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings."

Congress could not exercise the smallest degree of legislation over the ten miles square, itself, on which they have erected the Capitol of the United States, not so much as to lay the foundation of the building, until the States of Maryland and Virginia each passed laws authorizing the Government of the United States to take it, and Congress passed a law authorizing the acceptance. Nor can they build a fort, magazine, arsenal, or dockyard, all of which are indispensably necessary for the protection and defence of the country, and intimately connected with the subject of war, and without which your army must lose a main part of its safeguard, and your navy be neglected, until they first purchase the soil on which they are to be erected, by the consent of the States in which such place may lie, and pass a correspondent law to accept it for that purpose. Yet it is contended, that Congress have an implied power to construct roads and canals wheresoever they please. That this negative was a complete denial of the power, there could not be a question. For, according to a well known rule expressing what they might purchase and accept, by the consent of the Legislature of a State, excludes the power to accept any other. *Expressio unius est exclusio alterius*. The expression of one proposition excludes any other proposition. Because, if Congress had the power, there could be no reason for giving it again; if they had it not, they could take no more than what was given.

[Your Sedition Laws, Tariffs, Colonization Societies, Memorials for a General Emancipation, &c. &c. are all the off-spring of implied power.

The Senate has just passed an act for constructing a military road in the State of Maine: provided that the Legislature of the State of Maine shall consent thereto. And the Legislature of Pennsylvania has passed a resolution authorizing Congress to erect toll-gates on that portion of the Cumberland Road that lies within that State, with many provisos limiting and controlling the operations of Congress.

Sir, has it come to this, that the United States which have assumed and maintained so elevated a rank among the nations of the earth, and whose Constitution has been the admiration of the world, for its well defined, and well balanced, powers between the General Government and the Government of the States, by which alone they supposed its durability secured, must truckle to a single State, a member of its own body, and beg or chaffer for the paltry privilege of making a road within the limits, and for the benefit of that State—and to be dictated to and circumscribed in the exercise of that privilege? Does such a course comport with the dignity of this Government? Or, what is infinitely more important for our consideration, does it comport with the safety of this Government?

If the Government of the United States have not the right of sovereignty over the soil, by the power of the Constitution, can the State of Pennsylvania bestow that right of sovereignty? If she can, does it not put it in the power of a single State to make an essential change in the Constitution, and confer a power which all the States, in convention, withheld from the General Government? If the General Government has that right by the Constitution, Pennsylvania cannot bestow it. But suppose Pennsylvania should carry her doctrine further, and yield up the sovereignty of the whole State, for if she can yield a part she can yield the whole, and the State of New York and the State of Ohio should follow her example, could they not form a confederacy in the very centre, that would dictate to the whole Union, and originate a nucleus that would at once consolidate the Government? Sir, if the other States follow the example of Pennsylvania, and surrender their sovereignty by piecemeals, your State Governments will not be worth preserving; and, if they were, they could have that privilege but a little while. Who were the statesmen that first pushed this doctrine? Those who are looking to empire.

Sir, the tariff of 1816, for a system of protecting duties to manufactures; the bonus bill of 1817, for a system of Internal Improvements; the report of the Secretary of War, of 1819, recommending an extensive system of military road and canals; and the law of 1824, for procuring plans, estimates, and surveys for national roads and canals, were the priests that bound your Constitution fast in cords, and laid it at the foot of the altar of caprice, avarice, interest, and ambition, and we, their surrogates, are about to immolate the victim.

After Mr. S. concluded his speech, Mr. KANE said, he rose for the purpose of doing that which would better have been done yesterday, to respond to the appeal made to the Senators from Illinois, by the presiding officer of the Senate, as to his conversations and opinions upon the subject of the Illinois canal bill, which was before the Senate two years ago. The statement of the conversation, which that gentleman had done him the honor to hold with him, and of the opinions expressed by him, and at the time designated, corresponded substantially, and, he would say, exactly, with clear recollection upon the subject.

Mr. THOMAS remarked, that it would afford him great pleasure to have it in his power to corroborate the statement made by the President yesterday, but he had no recollection of the conversation alluded to by the President. On the contrary, he recollects distinctly to have gone to the table of one of the members from In-

APRIL 14, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

diana, [Mr. NOBLE,] to compare notes with him, both having counted the votes as the call was made. The votes being equal, I remarked that we should carry the bill; the President will give the casting vote in favor of it. The reply was, you are mistaken, sir; he will vote against the bill. I state this to show that I cannot be mistaken: but I again repeat, that I should be glad to have it in my power to corroborate the statement. Some time after the rejection of the bill, my colleague informed me that the Vice President and himself had held such a conversation as that stated.

The VICE PRESIDENT remarked, that, when he had the conversation with the Senator from Illinois, he had thought the other Senator was present—but it must have been another Senator.

Mr. T. said, that, but for the circumstance of his making the remark to the gentleman from Indiana, at the time, he might distrust his own memory.

The question being then taken on ordering the bill making appropriations for Internal Improvement to a third reading, it was decided in the affirmative—22 to 10.

MONDAY, APRIL 14, 1828.

#### GRADUATION OF THE PUBLIC LANDS.

Mr. BENTON moved to take up the bill to graduate the prices of public lands; which being agreed to, and the amendment, offered as a substitute, by Mr. BARTON, being under consideration—

Mr. BENTON said, that, to the two first amendments he had paid no attention in debate. They were parodies of his own bill, and good answers, as far as they went, to the arguments against his bill; but the third amendment was a different affair. It resembled his bill in nothing. It was a complex, unequal, and injurious measure; and he would first read it to the Senate, and then state his objections to it, point by point, and clause by clause.

The amendment: ["Strike out all the first section, after the word 'prices,' in the 8th line, and all the second section, and insert the following:"] "All lands that shall have been subject to entry at private sale, for the term of five years, at one dollar per acre; for the term of ten years, at seventy-five cents per acre; for the term of fifteen years, at fifty cents per acre; and for the term of twenty years, at twenty-five cents per acre."

The amendment being read, Mr. B. said he had various, distinct and separate objections to it, which he would state to the Senate with all possible brevity and precision.

In the first place, it would fix a separate day for every separate tract of land to come into market. He proved this by showing that each individual tract was to fall from one price to another, upon its own age, according to the length of time which it had been in market. The purchaser must find out how many years each tract had been subject to entry at the four different prices named; and this would introduce an infinite variety of days for different tracts to be purchasable at different prices. Not only districts and townships would have different days, but even parts of the same section; as all the time that any tract had been out of market, by previous sale, relinquishment, or reservation, would have to be deducted, and these deductions, added to the original inequality of proclaiming the lands for sale, or offering them for sale on different days. The infinite number of these dates which would have to be learned, and noted down, for no human memory could retain them, might be guessed at from the fact that a single million of acres would present fifty thousand of them. Every half quarter section would have its own date, at each successive reduction of price, the number of half quarter sections in a million of acres was twelve thousand five hundred, and the number of reductions of price would be four to each half quarter; by

consequence, fifty thousand dates to every million of acres; and the first section of the bill was applicable to eighty millions of acres! The acquisition of these innumerable dates, and their application to their respective ranges, townships, and sections, would be impossible to the body of the people. Those only could learn them who could quit all other business, abandon their homes, and live at the land offices. This would give rise to an intermediate set of land agents, a set of persons to collect information of dates, and sell that information to the people; selling, perhaps, the wrong date as often as the right one.

Mr. B. contrasted this complicated and expensive machinery with the simplicity of the bill drawn by himself. His bill fixed but one day, and that the same day throughout all the States and Territories, for all the public lands to fall from price to price. That day would be fixed in the law, and would be known all over the Union. There could be no mistake or dispute about it. It was the first Monday in November next; and the first Monday in the same month, in the second, fourth, and sixth years thereafter. Mr. B. hoped that the Senate would appreciate the simplicity of his bill, and the complexity, oppression, and hardship of the amendment proposed to it. He begged them to save the people from the labor of learning, or the expense of purchasing a knowledge of fifty thousand dates for every million of acres of public land, with all the chances of being deceived and defrauded by a set of intermediate land agents.

In the next place, he objected to the deceptive name and nature of the amendment. It professed to keep up the graduating principle; but the profession was one thing, and the fact another. It was the imitation of the boatman, who looks one way and rows the other. While professing to graduate the price of the lands, the amendment, in point of fact, avoided all graduation, all regular descent by degrees, and leapt at once from the highest to the lowest price, from the topmost round to the bottom of the ladder. He read the amendment over again, and invoked the attention of the Senate to the import of its peculiar phraseology. He pointed out the variations between it and his own bill, and continued: Who is so blind as not to see, that, under this amendment, if it becomes a law, all the land that has been in market twenty years will be purchasable at twenty-five cents per acre the first day that the law goes into effect? and all that has been in market fifteen years will be purchasable on the same day for fifty cents per acre? The Senate had heard it incessantly objected to the graduation system contained in his bill, that it would degenerate into a mere scale of depreciation, and sink the price of all lands in five years to twenty-five cents. What, then, must be their astonishment to see the author of that objection propose a plan by which the price of the same land was to be thrown down, not in five years, but in one day, to the same identical sum? Mr. B. then exposed the injustice of offering lands which had been in market fifteen or twenty years, for less than was demanded for those which had been in market five or ten years. He said that the distinction was fallacious; that difference in the number of years which different lands had been in market, was no evidence of difference in their value, because all were held up at the same price—all at \$1 25 per acre—all were stopped at the same value; and whether they had been held one year, or twenty years, at that price, was immaterial in the inquiry into their present value. The sales of the whole had been stopped, at the same point, and should recommence at the same point, and go on together. The oldest districts would have land worth one dollar, and seventy-five cents, and fifty cents per acre, as well as the newest.

The third objection which Mr. B. took to this proposed amendment, was on account of its palpable partiality and

SENATE.]

*Graduation of the Public Lands.*

[APRIL 14, 1838]

injustice, and the enormous injury it was calculated to do to the States of Missouri, Alabama, Louisiana, and Mississippi. The land offices had been but lately opened in these States, and but little of their land would come into market, at the lower prices, for fifteen or twenty years to come. The first sales in Missouri were in 1818, and but little sold then; the principal sales in Alabama and Mississippi were made since the Creek war; and in Louisiana no land was sold by the United States before the year 1821. By consequence, no land in these States would be in market, under the operation of the amendment, for less than one dollar or seventy-five cents per acre; while, in the States of Ohio and Indiana, where the offices have been in operation since the years 1800 and 1804, and in Illinois, where they have been partially in operation since 1814, a great proportion of their lands would be in market at once, at twenty-five cents and fifty cents per acre. The effect would be, that a great injury would be done to the four slave-holding States which he had mentioned, including the State of Missouri, in which Mr. B. lived; and therefore could not agree to the distinction proposed. He detested the idea of making a distinction between the States, either founded upon their geographical position, or the fact of their holding or not holding slaves. His graduation bill made no such distinction. It steered clear of all partiality and injustice. It put all the new States upon an equal footing. It made the reduction of price commence together and go on together, in each and every one of them. It gave no advantage to the slave States, although the lands had been longer in market, in point of fact, and more thoroughly picked in some of these than in any of the non-slaveholding States, in Louisiana and Missouri, for example, where the lands were picked and culled under the bountiful dispensations of the Kings of France and Spain, for half a century before a land office was opened in Ohio and Indiana.

Mr. B. could not drop this objection without pursuing one step further the consequences of the partiality he had been deprecating. He had spoken of its effect upon States, but we had Territories also to be affected by it. We had two Territories in the South, (Florida and Arkansas,) which were slaveholding; and one in the North (Michigan) which was not. In the two Southern Territories the land offices had been but lately opened, to wit: in Arkansas in the year 1821, and in Florida in the year 1825; and, in the Territory to the North, an office had been established in one of its districts, to wit, at Detroit, in the year 1804. All these Territories were pressing forward to the rank of States; and the attainment of that rank would depend upon the attainment of a certain amount of population, say forty thousand souls. Great political advantages were counted upon in some quarters of the Union, in running in one of these Territories ahead of the rest—an event to be accomplished by accelerating its acquisition of the aforesaid quantum of population; and it was too obvious to need enforcement, that the adoption of this amendment would have that effect in favor of the Territory of Michigan.

Mr. B. concluded with saying that he seldom asked for the yeas and nays, and never, except in cases in which he believed that his constituents would wish to see them. He believed the vote on this amendment to present one of these cases; he would, therefore, now ask for them.

Mr. BARTON spoke in support of his amendment.

Mr. COBB expressed himself favorable to the first section of the bill presented by Mr. BENTON. He wished, however, to amend that section, so as to make the terms of the different graduations two years, and the whole term of the plan ten years instead of five.

Mr. BENTON opposed the motion briefly.

The amendment of Mr. COBB was then agreed to.

Mr. COBB moved farther to amend the bill, by striking out the second section, so as to confine the system

of graduation to lands which have already been offered for sale. He remarked, that this bill was to be looked upon as an experiment; and in such important experiments, the movements of Congress ought to be gradual.

The question being put, the amendment was agreed to.

Mr. BENTON moved to strike out the words 1st day of July, and insert in the 1st section, the 5th of November; which was agreed to.

The question then occurred on the motion of Mr. BARTON, to strike out the first section of the bill, in order to insert a substitute; which being put, it was decided in the negative, by the following vote:

YEAS.—Messrs. Barnard, Barton, Bateman, Bell, Chandler, Chase, Dickerson, Foot, Knight, Robbins, Seymour, Silsbee, Smith, of Md., Wiley.—14.

NAYS.—Messrs. Benton, Berrien, Boulogny, Branch, Cobb, Eaton, Ellis, Harrison, Hayne, Hendricks, Johnson, of Ken., Johnston, of Lou., Kane, King, McKinley, Macon, Marks, Noble, Parria, Ridgely, Rowan, Ruggles, Tazewell, Thomas, Tyler, White, Williams, Woodbury.—28.

Mr. BARTON withdrew some other amendments offered by him.

Mr. COBB moved to amend, at the end of the 9th line of the 3d section; to make the persons to whom the land shall be ceded, pay down five cents per acre.

Mr. C. observed, that it was probably known, that he thought the United States could not give away the public lands. He was, however, willing to put the compensation so low, as to make it merely nominal.

Mr. BENTON said, he did not object, and the amendment was adopted.

Mr. KING moved to strike out that part of the third section which restricts those persons to whom donations are made, to lands which have been in market a year, at the price of 50 cents. He said this restriction would be oppressive on the poorer class of people, as he thought they ought to be allowed to take a patent on any of the public lands.

Mr. TAZEWELL opposed the motion as offering a new feature in the bill. Donations of land were not intended to be made until it would not bring 50 cents. The motion would destroy the harmony of the bill, and introduce a principle not contemplated by its mover. Mr. T. moved to amend, by striking out one and inserting two, so as to restrict donations of lands to such as have been in market two years, at 50 cents. Agreed to.

Mr. BENTON observed, that any change would destroy the harmony of the bill. He opposed the motion of Mr. KING.

Mr. KING sustained his motion. He did not know how it would operate in the Western States. But he would place no value on the bill, as regarded persons, in his State, who could not purchase at 50 cents an acre, if the amendment were not adopted.

The question being then taken, the motion was agreed to.

Mr. TAZEWELL suggested, that some provision ought to be made, that, when the refuse of lands should be ceded to the States, those persons authorized to take lands by the payment of 5 cents per acre should not enjoy the pre-emption rights.

Mr. BENTON moved an amendment in compliance with the suggestion; which was agreed to.

Mr. BRANCH offered a proviso, which provided that no State should enjoy the benefit of this bill, the Legislature of which State did not, within two years after its passage, relinquish all right to the two per cent. fund on the sale of the public lands; and, furthermore, agree to make no claim on Congress for appropriations in aid of Internal Improvement.

APRIL 15, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

On motion of Mr. BENTON, the question was divided so as to take the question first on that part of the proviso, before the word "furthermore."

Mr. KING conceived that the Legislatures could not release the United States. The two per cents. was granted by a compact entered into by the People in Convention, and the Legislatures of the States could not give up the compact. Nothing of importance would be obtained by the States in the refuse of land, while the power of the United States to tax the lands, which was felt in a most burthensome manner, was still retained.

Mr. BRANCH supported his proviso by a few remarks.

Mr. MCKINLEY contended that, in the State of Alabama, lands, after having been reduced to 25 cents an acre, and remained so one year, would be worth nothing. He would agree to the motion if it went further, and allowed the States to collect tolls on improvements made by them.

The first portion of the proviso was then rejected. The question then occurred on the second portion of the proviso; that the new States should make no claim on the United States, for Internal Improvement, after the cession of the refuse of the lands to the States.

Mr. BRANCH made some remarks in support of this proposition.

Mr. MCKINLEY replied to Mr. BRANCH.

Mr. TAZEWELL said, he liked the idea of the proposition, but not the manner in which it was offered. It would meet his views if it could be provided that the lands ceded should be applied for Internal Improvement, or any other public purpose; he did not care whether for education or Internal Improvement. He thought that, if it was not pointed out how these lands should be applied, it would create confusion in the Legislatures of the States.

Mr. BENTON remarked, that, if this motion of the gentleman from North Carolina, as modified by the gentleman from Virginia, were adopted, it would be for the States to consider whether they would take the refuse on these terms. He had intended to move to print the bill when amended; and, as most of the amendments had now been gone through with, he hoped it might now be ordered to be printed. It was a very important bill, and ought to be well considered.

Mr. ROWAN spoke in opposition to the motion.

Mr. NOBLE spoke at some length in opposition to the proviso offered by Mr. BRANCH. It would be in violation of the compact between the States and the United States. He did not care how the law was passed; the States could not violate the compact. If the proviso was added, the graduation of the price of public lands would be useless. Bills were now habitually filled with extraneous matter, until they were lost; and offensive amendments were crammed down the throats of the People of the West. If the bill was laid upon the table, it would not be by his vote. If they were to reject this bill, he hoped it would be done fairly, and by no indirect means. If any thing was to be done for the West, he hoped it would be done freely. Hitherto, God knows, they have had difficulty enough to get the Government to fulfil its obligations.

Mr. COBB said, that he had no further amendments to offer; neither did he wish to cram this proviso down the throats of the Western People.

Mr. BRANCH moved to lay the bill upon the table, and print it, with the amendments; which was agreed to.

TUESDAY, APRIL 15, 1828.

#### GRADUATION OF THE PUBLIC LANDS.

On motion of Mr. BENTON, the bill to graduate the prices of the public lands was again taken up.

VOL. IV—42

Mr. COBB moved to amend the fourth section, by adding a proviso, in substance that the cession of the refuse of the lands should not be made to the States until they had paid into the Treasury of the United States, the amount expended by the United States, in surveying the lands, &c. but withdrew his amendment temporarily.

Mr. CHANDLER moved to strike out the fourth section of the bill (providing for the cession of the refuse of the lands.)

Mr. BRANCH moved to recommit the bill, with instructions to annex certain conditions to the grant of the refuse of the lands to the States.

Mr. TAZEWELL suggested that it would be better to delay the motion to recommit until the question should be taken on the motion of Mr. CHANDLER.

Mr. SMITH, of Md., made the same suggestion, when Mr. BRANCH withdrew his motion.

Mr. TAZEWELL moved to strike out part of the 4th section, and substitute a provision that all lands which shall have been offered for sale at 25 cents per acre, for two years, shall be ceded to the States, to be appropriated to the purposes of education and Internal Improvement within the States. [Mr. TAZEWELL explained his views in offering the amendment. He thought a cession of a large quantity of lands, which might be of great value to the States, would be creative of evil effects; but, if the objects to which they should be applied were pointed out, the grant would probably be beneficial.]

Mr. SMITH, of Md., thought it ought to be applied to Internal Improvement alone. Education had already been provided for in those States by acts of Congress. He moved to strike out the words "education and."

Mr. RUGLES opposed the amendment. He thought that the lands ought to be applied as the States should think proper. There had been no application on the part of any of the States for diverting these lands from the objects to which they were originally directed.

Mr. CHANDLER also opposed Mr. TAZEWELL's amendment. If a sale of land was to be made to the States, he thought we ought not to impose conditions.

Mr. BENTON also spoke upon the amendment, and observed that the States had no desire to divert the lands from the objects pointed out by it.

Mr. HENDRICKS made a few remarks, and desired that the amendment might be modified so as to embrace donations to actual settlers.

Mr. ELLIS made some remarks, in reply to Mr. SMITH, of Md. It was known, he said, that the sixteenth sections were, in the greater number of instances, unproductive. He wished that the amendment might be so modified, that the lands should be disposed of under the direction of the Legislatures of the States. He was opposed to the amendment offered by the gentleman from Maryland.

Mr. MCKINLEY said, that the amendment seemed to be grounded on the supposition, that the cession of these lands would cause electioneering and disturbance. If this was likely to take place at all, it would be increased by the number of objects to which it was applied. There would be a party in favor of each of the several objects, and the strife would be, which could obtain the largest share of the lands. He considered that Internal Improvement was the most important object, and he hoped that the condition of the cession would be confined to that object.

Mr. SMITH, of Md., said, his views were entirely met by the argument of the gentleman first up from Alabama, [Mr. MCKINLEY.] He argues that the different objects would cause continued electioneering and dissension. As to the statement of the gentleman from Mississippi, if the sixteenth sections are as poor as he represents them, let us give them better sections.

SENATE.]

*Graduation of the Public Lands.—Indian Emigration.*

[APRIL 16, 1828.]

Mr. ELLIS said, that the difficulty apprehended by the gentlemen from Maryland and Alabama might be prevented, by pointing out in the bill, that a certain proportion of the lands be applied to each object. His statement as to the worthlessness of the sixteenth sections was corroborated by a bill which had been introduced on a former day by the gentleman from Alabama, and which had been rejected.

Mr. COBB said, he could not vote for a cession of land to the States, without some nominal consideration. He had always been of opinion that these donations of land were unconstitutional.

Mr. TYLER expressed the same objection. He observed, that, in the expectation that the gentleman from Georgia would hereafter offer an amendment, which should require, at least, a show of consideration for the ceded lands, he had no scruple to vote for the amendment offered by his colleague.

Mr. NOBLE considered the cession of lands a different substantive question from the graduation of the prices of public lands. He spoke at considerable length, and asked whether these lands were to be ceded to the States, and confined to education and Internal Improvement, and the cession act of Virginia made null and void? He complained that the bill had been clogged and obstructed on every occasion on which it had been brought forward. This bill, and the objects which had been drawn into it, were distinct matters, having no analogy.

The amendment offered by Mr. SMITH, of Md., to the amendment, was then rejected.

On motion of Mr. TAZEWEILL, to strike out and insert, the yeas and nays were demanded by Mr. BRANCH, and having been ordered, Mr. CHANDLER moved a division of the question, and the vote on striking out being first taken, was decided in the affirmative.

Mr. MACON wished to make a motion in relation to the bill. It was one of great importance. He was in favor of the first section, as he thought the graduation experiment ought to be tried, and would, if it was in order, move to strike out all but that section.

The CHAIR stated that the motion would not now be in order.

Mr. COBB asked an explanation of Mr. TAZEWEILL, as to the object of his amendment.

Mr. TAZEWEILL explained in very near the words of his former remarks. The question was then taken on the amendment offered by Mr. TAZEWEILL, which was decided in the negative.

Mr. COBB then renewed his motion to amend, (to make the cession only after the expense of surveying had been paid into the Treasury.)

The motion was opposed by Mr. BARTON, who moved to strike out the restriction to no smaller portion than one quarter section; which was agreed to.

Mr. JOHNSON, of Kentucky, was in favor of the bill; but thought it better to drop the cession clause altogether. It was not necessary to act upon that part for several years. He wished the gentleman from Georgia would withdraw the motion.

Mr. COBB assented, if the gentleman from Missouri should desire it.

The CHAIR said it could not be withdrawn, as it had been amended, without unanimous consent.

Mr. BENTON said, that, as the cession clause seemed to produce much difficulty, he would acquiesce in the withdrawal of that portion of the bill, as it could be acted upon at a future period.

Mr. NOBLE spoke at considerable length in favor of the cession of the lands.

Mr. COBB withdrew his motion to amend, by unanimous consent; and the question being taken on the motion of Mr. CHANDLER, to strike out the 4th section, it was agreed to.

Mr. MACON moved to amend the 9th line of the 2d section, so as to allow no heads of family to enjoy pre-emption rights, until the lands had been offered two years at 25 cents (instead of fifty cents.)

Mr. BENTON said, that the reason for fixing this pre-emption, at the beginning, of the graduation of 25 cents, was because it would tempt those who were able to purchase, to pay for it at 50 cents.

Mr. WEBSTER made a few remarks on the donation of lands to actual settlers, which he thought a very important feature of the bill. He did not feel at liberty to act fully upon it at present. But on some points he was free to speak. He did not think it expedient to drive actual settlers to the refuse of the lands. If they were young men, and valuable citizens, what was given to them ought to be good. He also did not think that an equivalent would be gained by 5 cents an acre; allowing settlers to live on the lands and destroy the timber during four or five years, and to go away at the end of that time. He thought this would be cheap living for four or five years. His idea was that the price should be fixed at 30 or 40 per cent. to actual settlers, and should be worth the money in comparison to the sales of lands, or he should think the better plan would be to restrain donations until the land fell to the price of 25 cents.

Mr. TAZEWEILL said he was pleased with the plan of the gentleman from Missouri, but he thought it ought to extend farther. He would wish to have the arrangement something like this: While the lands are at the highest minimum, one dollar, allow actual settlers to have the pre-emption right at 75 cents; when they were at 75 cents, allow actual settlers to enter them at 50 cents; and so on down to the lowest. This, he thought, would be productive of a good effect, as it would be a continued encouragement to actual settlers, and give them an advantage over other purchasers. With this opinion, he should vote against the motion of the gentleman from North Carolina; and he threw out the suggestion to the gentleman from Missouri.

Mr. BENTON said that he was highly pleased with the idea of the gentleman from Virginia, and should wish time to act upon it.

On motion of Mr. COBB, the bill was then ordered to lie on the table.

WEDNESDAY, APRIL 16, 1828.

## GRADUATION OF THE PUBLIC LANDS.

On motion of Mr. BENTON, the bill to graduate the price of public lands was taken up; and the motion submitted yesterday by Mr. MACON having been withdrawn—

Mr. TAZEWEILL offered an amendment, making provision that, while the lands should be offered at one dollar, actual settlers should be allowed the right of pre-emption at seventy-five cents; that, when at seventy-five cents, actual settlers should be allowed that right at fifty cents; and, when at fifty cents, pre-emption right should be enjoyed by actual settlers at twenty-five cents.

On motion of Mr. TAZEWEILL, the bill was then laid upon the table.

## INDIAN EMIGRATION.

The bill making appropriation for defraying the expense of a delegation of Choctaw and Chickasaw nations of Indians to examine and survey lands West of the Mississippi was read a second time.

Mr. BENTON went into the merits of this subject at length, showing that safe policy as well as humanity dictated the measure. Mississippi and Alabama, particularly, but some others also had on their borders a numerous Indian population, always ready for depredations, and in the event of foreign war, might be induced to act against those States. It was a great object, he thought, to have



APRIL 16, 1828.]

*Indian Emigration.*

[SENATE.]

these Indians removed: It was no less desirable for the Indians themselves than for States within which they resided.

Mr. COBB thought the remarks of the gentleman from Missouri, [Mr. BAXTON] with the force of which he was particularly struck, applied as well to the Creeks and Cherokees, as to the Chickasaws and Choctaws; but he did not find that they were contemplated in the bill; he would, therefore, move to amend the same by inserting the words "Creeks and Cherokees," after the word Chickasaws, so as to make it read "a delegation of Choctaws, Chickasaws, Creeks, and Cherokees."

Mr. ELLIS opposed the motion on the ground that the Creeks and Cherokees were desirous of remaining where they were, and had not asked to be removed. He hoped the amendment would be withdrawn, or at least not pressed upon the consideration of the Senate.

Mr. JOHNSON, of Kentucky, said, I feel a deep interest in every measure which involves directly or indirectly the happiness and prosperity of our red brothers of the forest. It is my deliberate opinion that we are under the most solemn obligations to the tribes within our jurisdiction, and we should seek every opportunity faithfully to discharge them—we should seek every opportunity to advance their condition, and place them as near as we possibly could upon an equality with the People of the United States; when enlightened they are worthy of those high privileges. The bill under discussion proposes to appropriate and set apart a certain sum of money, to enable the President to appoint agents to conduct a small number of the chiefs, or other influential men of these nations, to a new country west of the Mississippi, to examine it for themselves, and to bring back to the various tribes a correct account of all the advantages and disadvantages of the situation. The appropriation in the bill is confined to the two Southern tribes, the Chickasaws and Choctaws alone. Why should the provision be limited? It was said that we had received information from those two tribes that they were willing to examine this country to which the Government has invited them.

I hope, sir, that the provision will be made general—let the same offer be made to all within our limits—the expense would be very little increased. It would consist only in the rations which would be necessary for a few more individuals. It is well known that the Rev'd Mr. McCoy has been attending Congress during a part of this session for the express object of extending this same privilege to the Pattawattamies and other tribes to the North. Let the provision be general and ample, that all who accompany this exploring expedition shall have every comfort, and treated in the best manner. I am very happy that the measure has been introduced into the Senate, as it has this great advantage in it—this noble but unfortunate race of people will have the opportunity of exploring this new country at our expense, and without being under any compulsion to remove or not to remove; that point they reserve for themselves to settle when they have returned to the bosom of their tribes. This course of conduct is magnanimous and honorable. It should be distinctly understood that we do not mean or intend to use coercive measures to force them to any thing. Such a policy would be a violation of our duty to God and to man; but it is equally our duty to give them our opinion, as friends and brothers, and hold out every rational inducement for them to do what is most likely to make them a happy and a prosperous people; and when we have done this, and we have given them every opportunity of judging, let them decide upon their own destiny, as becomes high-minded men. We are powerful, they are weak; this is an additional reason why we should treat them as brothers, and extend to them every comfort and every advantage in our power. The Northern tribes are yet involved in mental darkness; the Southern tribes are in a better condition; they are considerably advanced

in learning, in the arts and sciences, and in civilization. The present system of education for their children, will soon qualify them for a happy self-government, under the fostering protection of the United States. Such a people would be able to judge what was best for them to do. Among the Choctaws, that nation which has always been friendly to us, I am acquainted with some distinguished men who would do honor to any country. As to the plan of emigration, my opinion is, that many will embrace it, many will not—all will not stay, all will not go. It is natural for some to wish to inhabit the country of their ancestors, and bury their bones with their kindred—and in others there will be a strong disposition to change positions, with a hope of a better condition. These dispositions are the same in the bosom of the white man as the red man. We shall discharge our duty by making this provision, by which the opportunity is given to all. If tribes, or parts of tribes, should accept your invitation, after the country has been examined, let it be understood that we will guarantee their peace and security, their freedom and independence. As to those who may remain within the limits of the States, and who are unwilling to emigrate, let us act with tenderness towards them; let moderation distinguish every measure relative to their situation, and let our promises to them be faithfully executed. Time alone could ultimately decide or solve the problem of their destiny, and finally it would be self-evident what would be best for them and best for us. I am not unwilling to leave it to Providence; this course of conduct on our part will gain their confidence and their affections. He felt persuaded that a measure so humane and so liberal could not meet with any serious opposition, and he would not, therefore, trespass longer on the patience of the Senate by offering any further remarks.

Mr. COBB said he would by no means consent to withdraw the amendment he had offered. The General Government was bound by solemn compact to remove the Indians from the State of Georgia. Frequent opportunities had occurred of so doing. He could show from different occasions, where the Government might have improved these opportunities for effecting an object so desirable to Georgia, but from policy, or interest, or some such motive, she had neglected to do that which justice to the State required should be done. Georgia had paid to the General Government an immense consideration for it, which had made her poor; and, if the Government had neglected or refused to comply with its compact, it would show that she did not feel herself too closely pinched by the obligations which she entered into. Instead of withdrawing his amendment, he would prefer to change the whole phraseology of the bill, so as to place sufficient money in the hands of the President, to enable him to hold treaties, send out exploring parties, and adopt all other means in his power, consistent with right, to induce all the Indians to remove. He did not feel disposed to give his vote to remove any tribe or tribes of Indians, until the removal of those in Georgia were first provided for. Indiana, Illinois, and Missouri, had nearly all their Indians removed; and, he believed, in the whole State of Ohio, there were not more than five hundred of that species of population; and yet these States had come into the Union long since the compact with Georgia had been entered into. What impression such proceedings made upon the minds of Senators, he would not pretend to say; but he could assure gentlemen they made a very deep impression on the minds of the people of Georgia.

Mr. BRANCH inquired if there were not agents already employed in conducting an exploring party for the Creeks?

Mr. KING said, he did not think it necessary at this time to enter into any examination of the rights of Georgia, as connected with the subject before them; but he

SENATE.]

Arrangement of Seats.

[APRIL 17, 1828.]

agreed perfectly, with the gentleman from that State [Mr. COBB] that more might have been done towards effecting the object, than had been. However, he would not now discuss that motion. The object of the bill before them was merely to make a small appropriation for the purpose of enabling the chiefs of the Choctaws and Chickasaws, to explore a certain portion of country to which they might remove, if they were pleased with it. In reply to the gentleman from North Carolina, [Mr. BAILEY] he could state that an exploring party, under Col. Brearly, had gone out, and some of the Creeks had also gone; but they were such only as had been of the McIntosh party. The party opposed to McIntosh, that now wished to explore, would prefer examining for themselves, and he presumed had no disposition to settle in a place chosen by their enemies. So far as regarded the Cherokees, he doubted whether they were willing to go, and he disclaimed any wish to coerce any of them; but he felt sorry they had not before removed, as they would now have been in a comfortable situation, where the means of supplying their wants would have been abundant, while at present their situation was far from enviable, being obliged to subsist, in a great measure, upon roots. It had been urged as a reason why they should not remove, that in the woods they would lose their civilization, and become wild. He had seen sufficient to convince him, that the wild Indian of the woods had more nobleness of character than the half-civilized Indian, who, for the most part, contract the vices of the lower classes of whites, and became drunken and theivish, and were as unfit for the duties appertaining to civilized life, as they were for that courage and enterprize which distinguished the true Indian.

The amendment of Mr. COBB was adopted.

Mr. JOHNSON, of Kentucky, then moved further to amend the bill, by inserting after the word Cherokees, "and such other Indian tribes as may be disposed to remove west of the Mississippi." Which being agreed to—

Mr. KING moved to insert after the words United States, "and without the limits of the States or Territories;" which was agreed to. Several other amendments were proposed.

Mr. NOBLE addressed the Senate on this subject, and reflected pretty severely upon the agency system which had been pursued. He instanced the removal of the agency at Fort Wayne, which had been carried to a spot of land belonging to the agent, and spoke of abuses which he wished obviated. Sixteen members of the Legislature had signed a paper asking its removal, it was true, but that was but a small portion. He had in his possession letters on the subject; and he meant, in a few days, to offer a resolution, calling on the Department for the correspondence connected with this subject. He could not suffer matters of that kind to pass *sub silentio*. While he had a seat in the Senate, he should discharge his duty, and look to the rights of the whole people of his State, without sailing in the wake of any party, and neither for friend or foe would he shrink from fulfilling what he conceived due to right.

Mr. BENTON moved to fill the blank with the sum of \$15,000; which being acceded to, the bill was reported as amended, and ordered to be engrossed.

THURSDAY, APRIL 17, 1828.

#### ARRANGEMENT OF SEATS.

Mr. SMITH, of South Carolina, moved to take up a resolution offered by him a few days since, in relation to changing the seats of the Senate Chamber.

Mr. VAN BUREN suggested that the resolution had better be postponed to a later period of the session, as the alteration could not probably be made this year.

Mr. SMITH, of South Carolina, did not accede to the suggestion, and the resolution was considered. On the question of agreeing to the resolution, Mr. SMITH, of South Carolina, went into a detailed statement of the inconveniences of the present situation of the seats, and the impossibility of hearing the remarks of Senators. If it was not necessary to hear and be heard, the present plan might be retained; but if it was desirable to act understandingly on the business of the Senate, the former plan ought to be restored. In the few remarks made by the gentleman from Louisiana [Mr. JOHNSON] this morning, he, Mr. S., could hear but now and then a word.

Mr. BRANCH opposed the change.

Mr. VAN BUREN said, that there might be inconvenience in the present arrangement, but the plan had not been adopted without good cause. He stated the inconveniences of the former arrangement, and suggested that the better course would be to appoint a committee to consider and report what change ought to be made in the seats.

Mr. JOHNSON, of Kentucky, opposed the change, remarking that his position under the present arrangement was far better than that which he had formerly occupied. If he voted for the proposition, he should give up his own convenience to oblige others. He thought it would be admitted that it was better for the President not to sit opposite the centre door, at which strangers were continually entering; and that he must have been inconvenienced by the talking of Senators in the lobby, behind his former seat, which could not but have interrupted business. He was willing to vote for referring this motion to a committee of three, who could report whether an alteration was expedient.

Mr. SMITH, of South Carolina, said, that the gentleman from New York seemed to think that there had not been sufficient experience of the present plan. He, Mr. S., recollected that, when the plan was changed, it was said that it could be tried, and, if it was not approved, it could be turned back. In the present position, neither the Chair or the Secretary could be heard by more than half the members. Senators had also now got a habit of turning round from the Chair to address those behind them, and if they did not do it, they could not be heard by those so situated. As to the passage which it had been said had caused so much inconvenience to the President, it could not be so annoying as to have the door slapping every moment close behind his chair. That passage had, since the change, become a thoroughfare, and seemed to be looked upon as a great national road, where persons were continually passing; and he thought there would not be a hundredth part of the confusion there, if the President's seat were restored, that there was at present.

Mr. SMITH, of Maryland, said, that when he addressed the Chair, he could not be heard by those behind him. He had, however, found out the other day that there was a secret in this matter. He observed that the Senator from Massachusetts [Mr. WEBSTER] turned round and addressed those in the rear; and he had imitated the example, but found it very awkward, and that he was obliged to turn to address the Chair occasionally. The arrangement was inconvenient, and it would be very desirable to change it.

Mr. BENTON said a few words, but in an uncommonly low tone. He was understood to say that he was in favor of the present arrangement, because the Chair was better accommodated by it.

The PRESIDENT said, that, as allusion had been made to the Chair, he desired that this question might be decided without regard to his convenience. It was true, that, as the seats were formerly arranged, the Chair had great difficulty in hearing the Senators whose seats were at the two extremities of the chamber; and that the talk-

APRIL 17, 1828.]

*Graduation of the Public Lands.*

[SENATE.]

ing in the passage, behind the Chair, caused some disturbance and interruption of the business.

Mr. CHANDLER supported the resolution.

Mr. JOHNSTON, of Louisiana, objected to the restoration of the former plan, although he admitted that there were inconveniences in the present arrangement. He hoped a committee would be appointed to consult upon, and report what change was requisite.

Mr. BENTON moved to lay the resolution on the table.

Mr. SMITH desired the question now to be put on agreeing to the resolution. A division being made, it was decided in the negative—ayes 20, noes 21.

#### GRADUATION OF THE PUBLIC LANDS.

On motion of Mr. BENTON, the bill to graduate the prices of public lands was taken up; the question being upon the amendment, offered yesterday, by Mr. TAZEWEILL.

Mr. MACON moved to amend the amendment by adding "when thirty days shall have elapsed," after the land shall have fallen to the graduation at which it may be at the time of entering the lands for actual settlement.

Mr. BRANCH spoke against the amendment; which was then agreed to.

Mr. MACON offered a proviso, that the patent should not be issued except to the actual settler or his heirs.

Mr. TAZEWEILL thought this principle was to be found in his amendment, and that there was no need of the proviso. He had no objection to it, however, if it was thought necessary by any gentleman.

Mr. JOHNSTON, of Louisiana, expressed himself in favor of the proviso; which was then adopted.

The question being put on striking out the 3d section, and inserting the amendment of Mr. TAZEWEILL, as amended; and the yeas and nays having been ordered, on motion of Mr. BRANCH, Mr. BARTON made a few remarks, when, on motion of Mr. MACON, the question was divided, so as to take the vote first on striking out.

Mr. HENDRICKS opposed the striking out, but observed, that, if the motion prevailed, he should vote for inserting. His reason was, that, although he was desirous of adopting the amendment, yet, if the present section were struck out, and the substitute not adopted, the entire provision would be lost. He had rather retain the section, if the amendment should not be agreed to.

Mr. KING hoped the gentleman from North Carolina would withdraw the motion, for the same reason given by Mr. HENDRICKS. He was in favor of the amendment, but had rather retain the present section, than run any risk of losing both.

Mr. MACON would withdraw it, if he were not in the same situation as the two gentlemen. He was in favor of the first section, but not of the other parts of the bill. His motion contemplated the striking out of the section altogether.

Mr. WEBSTER suggested that the difficulty would be remedied by the gentleman from Virginia retaining part of the original section, and moving to amend the section.

Mr. TAZEWEILL said, that he was surprised at the objections offered by the gentlemen from Indiana and Alabama. If the Senate were disposed to reject the section altogether, it could be done, on a vote upon a motion to strike out, at any time. He did not perceive that there could be any such objection as that urged by those gentlemen.

Some further remarks were made on this subject, by Messrs. COBB, CHANDLER, and JOHNSTON, of Louisiana.

Mr. TAZEWEILL then modified his motion so as to retain part of the original section.

And the question being then put on striking out, it was decided in the affirmative.

The question then occurred on inserting the amendment proposed by Mr. TAZEWEILL; which was decided in the affirmative.

Mr. CHANDLER moved to amend the bill by adding a section, the purport of which was that no land should be brought into market in any State operated on by this bill, until further directed by Congress.

Mr. CHANDLER supported his amendment, on the supposition that too much land might be brought into market at a time.

Mr. BENTON said, he would barely remark that it was now in the discretion of the President of the United States to bring the land into market as he saw fit. He moved that the question be taken by yeas and nays; which was sustained.

Mr. HENDRICKS said, in case this amendment was adopted, it would operate so that no land would be brought into market in Indiana until all that in Ohio was disposed of, and so on. This would have an unjust operation.

The motion was further discussed by Messrs. CHANDLER, NOBLE, PARRIS, and BERRIEN; when the question being put on the amendment, it was negatived.

Mr. SMITH, of South Carolina, on being called, said he had not heard the motion, and asked to be excused from voting; which was agreed to.

Mr. BARTON moved to amend by striking out two, and inserting five, so as to make the periods of graduation five years instead of two.

Mr. COBB suggested that the motion was out of order, the same point having been amended in Committee of the Whole.

The CHAIR decided that it was out of order; the amendment might be offered in the Senate.

The bill was then reported to the Senate; and the amendments having been read, on the motion to change the periods of graduation from one to two years—

Mr. WEBSTER said, that there was one part of this subject which was of great magnitude, and ought to be carefully examined. He alluded to the terms of graduation. The bill proposed that all lands that shall have been in market two years, should be brought into market at one dollar the acre. There were somewhere about eighty millions of acres of land that had been in the market for many years. And this bill made no distinction between lands that have been in market twenty years, and those that have been offered for sale only two years. He thought the supply of land would be altogether too large. It was generally thought that, even now, the market was overstocked, and that for the last forty years there had been double the quantity on sale that was required. This, he thought, was proof enough that this bill proposed to go too largely into the matter. He thought there ought to be some limitation; and it occurred to him that, to fix it to all the lands that had been offered for sale for ten years, would be a more satisfactory provision. An amendment of that kind would exclude a great quantity of land from the operation of the bill, would still include sufficient, and suffer all the old land officers to wind up their accounts. He thought two years too short a period for the next reduction; but such a limitation would lessen his objections to it—and it would be far better than to have such a mass of land thrown at once into the market. It could not be doubted that land would come down to twenty-five cents much sooner than the population would require it. This, to Mr. W., was obvious, that the graduation of the prices would bring it down to twenty-five cents vastly sooner than the people would want it. He was in favor of the graduation system; but he thought the effect of it would be, if it went into operation as detailed in this bill, to throw the lands into the hands of people who will hold it, as the United States do now, for want of purchasers. He was in favor of mak-

SENATE.]

Police of the Capitol.

[APRIL 18, 1828.]

ing the system apply on lands that had been ten years in the market; but as it was not in order now to move an amendment to that effect, he would defer it until it should be proper.

Mr. BENTON replied to the Senator from Massachusetts on his right, [Mr. WEBSTER.] He said he would shew to the Senate, by a statement of dates, that the term of ten years, mentioned by the Senator from Massachusetts, would give the benefits of the graduation bill to the new States and Territory north of Ohio, as soon as it passed, but would exclude all the other new States and Territories from its benefits. He would begin with Missouri. Her first land office was opened in 1818, and very little land was then sold: by consequence, a provision requiring the lands to have been ten years in market before this bill should operate upon them, would exclude all the lands in that State. Alabama would be in the same predicament. The body of that State was conquered from the Indians during the late war; the land offices opened there about the same time as in Missouri; and, consequently, she would be cut out of the benefits of the bill. The fate of Louisiana would be still worse; her first land office was opened in 1821. She would not have one acre to sell under the provision suggested by the Senator from Massachusetts. The State of Mississippi would have but little to sell, as her principal land offices were opened about the year 1818. This statement of dates, said Mr. B., will shew that the four slaveholding States which I have mentioned, would be excluded entirely from the benefits of the bill. Now for its application to Ohio, Indiana, and Illinois: The land offices in those three States were first opened in 1800 and 1804; by consequence, they would get the full benefit of the bill, even with the gentleman's ten years provision. With respect to the Territories, it would be still more to the prejudice of the Southern ones. Both Florida and Arkansas have had their land offices opened within the ten years, and would be shut out from the benefits of the bill; Michigan, on the contrary, has had offices opened since 1804, and would derive the full advantage of it. The effect of this upon the future destiny of these Territories was too palpable for comment. Mr. B. sat down with saying, that, so far as his vote or voice could go, he would sink this bill, or any bill, which either in words or in effect, should be unequal as to the slaveholding States and Territories of this Union.

Mr. WEBSTER said, that his motion would illustrate his desire to limit the large amount of land which would be brought at once into the market. He intended to make no distinction between the States. He repelled the idea. He was willing that all the States and Territories should participate in the effects of the bill, when their lands should have been in market ten years; as, whenever lands had been in market so long as to show that they were held too high, the graduation system ought to be applied to them. He saw great objections to bringing eighty millions of acres into the market at once. When it was in order, he should offer an amendment, in conformity to the suggestion he had made.

Mr. BENTON said, that he was conscious the gentleman from Massachusetts was out of order in making his speech.

Mr. WEBSTER said he was not out of order; the question was on altering the term of graduation from one year to two, and to that question he had spoken.

Mr. BARTON moved to amend the amendment so as to make the first term of graduation five years instead of two.

Mr. COBB opposed the motion, which was further discussed by Messrs. BARTON, M'KINLEY, and BRANCH, when, on motion of Mr. SMITH, of Maryland, the bill was laid upon the table.

The following message was then communicated from the President of the United States, by Mr. Daniel Brent,

Chief Clerk in the Department of State, acting as his private Secretary:

*To the Senate and House of Representatives of the United States;*

WASHINGTON, 17th April, 1828.

In conformity with the practice of all my predecessors, I have, during my service in the office of President, transmitted to the two Houses of Congress, from time to time, by the same private Secretary, such messages as a proper discharge of my constitutional duty appeared to me to require. On Saturday last he was charged with the delivery of a message to each House. Having presented that which was intended for the House of Representatives, whilst he was passing within the Capitol, from their Hall to the Chamber of the Senate, for the purpose of delivering the other message, he was waylaid and assaulted in the Rotundo, by a person, in the presence of a member of the House, who interposed, and separated the parties. I have thought it my duty to communicate this occurrence to Congress, to whose wisdom it belongs, to consider whether it is of a nature requiring from them any animadversion; and, also, whether any further laws or regulations are necessary, to ensure security in the official intercourse between the President and Congress, and to prevent disorders within the Capitol itself. In the deliberations of Congress upon this subject, it is neither expected or desired by me, that any consequence should be attached to the private relation in which my Secretary stands to me.

JOHN QUINCY ADAMS.

FRIDAY, APRIL 18, 1828.

Mr. RUGGLES offered a resolution to authorize the printing of a Report of the Secretary of the Treasury, on the culture of silk.

#### POLICE OF THE CAPITOL.

The following resolution, offered yesterday, by Mr. FOOT, in relation to the Police of the Capitol, was taken up:

*"Resolved,* That the Committee on the District of Columbia be instructed to inquire and report whether any further regulations are necessary for the police of the Capitol, to secure free and undisturbed communications between the two Houses of Congress, and the Executive and Legislative Departments; and whether there has been any breach of privilege of the Senate during the present session; and said Committee is hereby vested with power to send for persons and papers."

Mr. EATON said, he would be glad if the mover of this resolution would afford some satisfactory information why the resolution should be adopted, and especially, why it should be referred to the Committee on the District of Columbia. As Chairman of that Committee, he was not disposed to take upon himself any unreasonable trouble, nor would he, on the contrary, shrink from the performance of any necessary and proper duty. If, as it purports, the resolution be intended to regulate the internal police of the Capitol, the Committee on the Judiciary he conceived to be the most appropriate one to which it should be referred; but he believed no reference of the subject was at all necessary. There were, he said, laws already in force in the District, ample and sufficient to protect the personal rights of every individual, if, indeed, the resolution have reference to any quarrels, or fight, if you please, which may have taken place. Mr. F. had another, and stronger reason, why he conceived it unnecessary for the Senate to adopt the resolution, which was, a decision of the Senate, unequivocally expressed, that they had no jurisdiction over matter of this character and description, happening within the Capitol. He alluded to a complaint, made some weeks ago to the Senate, by an individual, of an assault made upon

APRIL 18, 1828.]

*Duty on Salt.*

[SENATE.]

him in one of the committee rooms of this building ; and the counter memorial presented by the gentleman complained of. On that occasion, the Senate, by refusing to consider the subject, had expressed a decided opinion that they had nothing to do with it—no control of the matter. As regarded the message of the President of the United States, presented last evening, he viewed it in a different light than in which it was presented by the resolution. He, for one, should always be disposed to pay every attention to a communication coming from the President, and to give it a proper direction when brought up to be considered. The message, said Mr. E. presents one aspect, the resolution of the gentleman from Connecticut another and different one. The message of the President brings the subject for consideration from a proper source—the resolution presents it in a point of view in which the Senate, heretofore, in another case, refused to take jurisdiction. In conclusion, Mr. E. said, he hoped the resolution might not be adopted—at all events, the Committee on the District of Columbia was not the proper one to act on the subject. If any reference were deemed proper to be made, it should be to the Judiciary Committee, to whom rightfully belonged all judicial inquiry.

Mr. FOOT said, that it was in the knowledge of every member, that, since his resolution was offered yesterday, a communication had been made to the Senate, by the President of the United States, which might be considered as superseding the resolution. He could not agree with the gentleman from Tennessee as to the impropriety of referring this subject to the Committee on the District of Columbia. But, in consequence of the Message of the President, he was not desirous of pressing his proposition, and would move to lay it on the table.

Mr. TAZEVELL requested Mr. Foot to withdraw his motion, as he wished to speak upon the subject.

Mr. FOOT said he did not wish any discussion upon the subject, as the communication of the President had changed the aspect of the matter.

The resolution was then ordered to lie on the table.

#### DUTY ON SALT.

Mr. HARRISON rose, and said, that he would again move to take up the bill repealing, in part, the duty on imported Salt, with the distinct understanding, that, if the motion were not agreed to, he should not move its consideration during this session. He did this, that the importers and manufacturers of salt might be informed as to the subject.

Mr. BRANCH spoke at length, and with zeal, in favor of the motion ; he conceived the bill one of deep importance to a very large portion of the people of his State, and as having a direct bearing on the agricultural interest of the country.

Mr. TYLER said, that he had voted for taking up the bill whenever, heretofore, a motion had been made to that effect ; and whenever he believed that any proposition to reduce the duty was likely to grow into a law, he should be in favor of it, provided it contemplated a reasonable reduction. He was, however, now thoroughly convinced that the bill before the Senate would not grow into a law, and that, from the agitation of the subject here, without any definitive action upon it, the country suffered by reason of the augmentation of price. The importation had become restricted and limited, and the price of the article had, of consequence, advanced in the market to a greater price than usual, and that, too, at a period of the year when the demand was greater than at any other—the fish-curing season. He should, therefore, vote against taking up the bill, so that the country may be put at rest, and the trade in the article resume its ordinary channels. He came to the conclusion, that, even if the bill passed the Senate, it would, nevertheless, not grow

into a law, from the fact, known to him, in common with the country at large, that the other House had, without a division, rejected a resolution of inquiry into the expediency of repealing the duty.

The VICE PRESIDENT suggested that Mr. T. was not strictly in order, in alluding to proceedings in the other House.

Mr. TYLER expressed regret, if he had infringed, in the slightest degree, the rules of the Senate. He must, nevertheless, repeat his settled conviction, that no bill could be passed during the session.

Mr. BRANCH thought the gentleman from Virginia in error with respect to raising the price : for if the price fluctuated at all, it would have a tendency to lessen, rather than increase it. He thought it all-important that the bill should be acted on at once ; because the session was drawing to a close was no reason, in his opinion, why it should not be discussed. We shall soon have, said Mr. B. a bill before us for an increase of duty on imported articles, and could it be said, with any propriety, that we have not time to act on it ? He was aware that many gentlemen were opposed to the reduction of salt ; but he hoped the Senate would not give the subject the go-by ; but let the People know at once what Congress intended to do on the subject. Mr. B. spoke positively against the salt tax as an odious one.

Mr. TYLER said his faculties were very obtuse, if the consequence of the prospect of a diminution of duty on any article was not calculated to prevent importation to a considerable extent, and, of course, to augment the price. The merchant who imports at a high duty, must, upon a sudden diminution of duty, sustain a loss equivalent to the actual difference in the duty. The session was too far expended to anticipate any reduction of the duty on salt, and he should, therefore, and for the reasons already assigned, vote against taking up the bill.

Mr. CHANDLER thought the duty on salt ought to be reduced to some extent, but he was inclined to think that no bill that would pass the Senate to that effect could pass the House of Representatives this session.

Mr. SMITH, of Md. said, that, so long as this bill hung over the head of the merchant, he would be afraid to import to any extent, and that, consequently, the price, as the gentleman from Virginia had very justly observed, would be enhanced—the merchant did not know what to do. Last year, very large importations of molasses had been made, in expectation that the duty would be increased, which were now laying on the hands of the importers.

Mr. NOBLE said, that when this bill was before the Senate at the last session, he had voted against it. But then he learned from gentlemen that it acted as a grievous burthen to a portion ; he felt it his duty to investigate the subject so as to endeavor to do justice to all, and although he would give no pledge to vote for the bill, yet he would like to hear all the arguments pro and con, and he then would be enabled to make up his mind on the subject, as well with reference to the States as the General Government.

Mr. VAN BUREN said, it was well known that he was opposed to the present passage of the bill, and when an attempt had been made before to call it up, he had given his reasons why he did not think it should be acted on at this time. He then wished to take the sense of the Senate on the subject, without any discussion ; and gave, at length, the motives which influenced him. It was supposed, by some of his friends, that the bill had better be taken up, and an opportunity offered to discuss its merits, which opportunity had been offered, and it was then laid on the table. Two attempts had since been made to take it up for further consideration, which he had uniformly opposed, because he thought it would be a waste of time that might be more profitably employed.

SENATE.] *Assault in the Capitol.—Graduation of the Public Lands.—Survivors of the Revolution.* [APRIL 18, 1828.]

On the question of taking up the bill for consideration, Mr. COBB called for the Yeas and Nays, when there appeared, as follows :

YEAS.—Messrs. Bell, Benton, Berrien, Boulogny, Branch, Cobb, Ellis, Foot, Harrison, Hayne, King, McKinley, Macon, Noble, Rowan, Smith, of Maryland, Smith, of South-Carolina, Tazewell, White, Williams, Woodbury.—21.

NAYS.—Messrs. Barnard, Barton, Bateman, Chandler, Chase, Dickerson, Eaton, Hendricks, Johnson, of Kentucky, Kane, Knight, McLane, Marks, Parria, Ridgely, Robbins, Ruggles, Sanford, Seymour, Silabee, Thomas, Tyler, Van Buren, Webster, Willey.—25.

So the Senate refused to take up the bill.

#### ASSAULT IN THE CAPITOL.

On motion of Mr. ROWAN, the Message of the President of the United States, relative to the assault upon his Secretary, in the Rotundo of the Capitol, was taken up.

Mr. TAZEWELL rose and said, that when the resolution of the Senator from Connecticut was laid on the table, he had desired to say a few words as to the course proper to be pursued in treating this subject. He had not been so fortunate, in the discussion of that resolution, as to obtain a hearing, and he therefore availed himself of the present opportunity to express his views. It had been the practice of Congress, for a long series of years, that, whenever the same subject was before both Houses at the same time, one House delayed acting upon it until the other had brought it forward and decided upon it. Practice, it was known to every Senator, had vindicated this course in times past ; and it now recommended itself to Congress. The course was a proper one. Public convenience required it—courtesy required it. But if ever there was a subject to which this rule ought to be applied, it was this. The President of the United States has made a communication to both Houses, on the same subject, in the same form of words. The House of Representatives have taken up the subject—and being in the other House, is it fit that the Senate should proceed in its examination? There were two matters included in the message of the President : One was a violation of the privilege of this body—the other is a proposition, of some legislative enactment, to provide for the subject *in futuro*. Therefore, to legislate on the subject would be a mere loss of time. If the House of Representatives pass such a law, it would come before the Senate in proper time. If the House considered it inexpedient to pass such a bill, the Senate could then take it up, and do whatever they should judge necessary. This course was recommended by former practice, and was an act of courtesy. As to the other subject comprised in the message, if it should turn out as was stated by the President, no man would be disposed to go farther than he in investigating and punishing the act. But he thought it better not now to act upon it. The same subject had been referred to both Houses, as a contempt of each. It would be very difficult for both Houses to act upon the matter. If the House were to consider the act as a contempt, and fix a punishment—and the Senate, acting at the same time, were also to fix a punishment, would it be proper that two punishments should be inflicted for one offence? If the two Houses acted separately, there must be confusion and conflict in their decisions. There would be several questions to be decided. If both fix upon punishment, which House has the right to punish first, or which House has a right to punish most? One body might take a different view from that taken by the other. One body might think it proper to punish, while the other might think the reverse. All these things might occur ; and these were his reasons for having approved the motion of the gentleman from Connecticut, to lay his resolution on the table ; and he should have made the same motion, had it not been made

by that gentleman. And on these grounds, said Mr. T. I move that the communication from the President be laid on the table, with the understanding that, when the proper time arrives, it shall be taken up, and acted upon fully and promptly.

The VICE PRESIDENT said the message would lie on the table as a matter of course.

Mr. FOOT asked whether, as it had been taken up on motion, it would not be requisite to put the question on laying it on the table.

The CHAIR said that it was according to the strict parliamentary rule to put the question.

On motion of Mr. WEBSTER, the yeas and nays were ordered on laying the message on the table.

The question being then put, it was decided in the affirmative, by the following vote :

YEAS.—Messrs. Barnard, Benton, Berrien, Branch, Chandler, Cobb, Dickerson, Eaton, Ellis, Hayne, Johnson, of Kentucky, Kane, King, McKinley, Macon, Parria, Ridgely, Rowan, Sanford, Tazewell, Tyler, Van Buren, White, Woodbury.—24.

NAYS.—Messrs. Barton, Bateman, Bell, Boulogny, Chase, Foot, Harrison, Hendricks, Knight, McLane, Marks, Noble, Robbins, Ruggles, Seymour, Silabee, Smith, of Maryland, Smith, of South Carolina, Thomas, Webster, Willey, Williams.—22.

#### GRADUATION OF THE PUBLIC LANDS.

On motion of Mr. BENTON, the bill to graduate the price of public lands was taken up, and the question being on the amendment adopted in Committee of the Whole :

Mr. BENTON said, that, as from the great variety of amendments that had been adopted, it was difficult to understand the bill, he moved that it be postponed, and ordered to be printed, declaring that he had no design to delay the bill, but merely desired to enable members to act understandingly upon it.

At the suggestion of Mr. WEBSTER, the motion was withdrawn, and Mr. W. submitted two sections, which he intended at a proper time to offer as amendments to the bill. The question then being taken on printing the bill and amendments, it was agreed to.

#### SURVIVORS OF THE REVOLUTION.

On motion of Mr. WOODBURY, the bill making appropriations for certain Surviving Officers and Soldiers of the Revolution was taken up, and the question being on an amendment offered by Mr. WOODBURY, Mr. W. explained its operation.

Mr. SMITH, of S. C. said, he thought the subject had been despatched, as he had heard it said that, if a former proposition was not agreed to, the petitioners would not again present their claim. He wished the bill to be postponed until Monday, and made the motion.

Mr. BERRIEN opposed the motion. The bill now proposed to place these applicants upon the pension list in a manner acceptable to their feelings. He hoped the proposition would not be pressed.

Mr. SMITH, of S. C., said, that, if the Senate was against the motion, they could reject it. He considered, and he believed others did, that the subject was formerly finally disposed of. He was against swelling out the pension list.

Mr. SMITH, of Maryland, explained an allusion which had been made by Mr. SMITH, of South Carolina, as to the original pension list. He thought the calculations made on this subject by the Chairman of the Committee, were probably correct.

Mr. WOODBURY said that he would accede to the motion to postpone until Monday, if it were not for the apprehension that some of the Senators who were now present, might then be absent. He thought, if the true

APRIL 21, 1828.]

*Assault in the Capitol.—Graduation of the Public Lands.*

[SENATE.]

sense of the Senate were to be taken on it, the question ought now to be taken.

Mr. MACON spoke against the bill, and in favor of the motion for postponement; which was then agreed to, and the bill was ordered to lie on the table.

#### ASSAULT IN THE CAPITOL.

The CHAIR stated that he had received a communication from Russell Jarvis.

Mr. BRANCH moved that it be laid upon the table; when

The CHAIR withdrew the communication for the moment; but shortly after again presented a letter from Mr. Russell Jarvis, stating that he supposed himself to be alluded to in the message of the President, presented yesterday, and giving the cause of his outrage upon the Secretary of the President, and the manner in which it was committed.

Mr. BRANCH suggested that a message ought to be sent to the other House, proposing to appoint a Joint Committee to examine the subject. He also moved to lay the paper on the table.

Mr. BERRIEN desired to have the paper read, before he acted upon it.

Mr. SMITH, of Maryland, said the Senate had decided this morning that they would do nothing upon the subject; and he objected to the reading of this letter.

Mr. JOHNSON, of Kentucky, said that he desired to hear the paper read.

Mr. SMITH, of Maryland, persisted in his objections to the reading, and the question being put, the reading was ordered. [The Secretary then read the communication.]

Mr. BRANCH made a few remarks in support of his previous suggestion.

Mr. VAN BUREN said, that the leading feature of the message of the President, was the breach of privilege. There were other matters also included in the communication. Now, said Mr. V. B., we all agree as to the matter of the message; but we only disagree as to the manner in which it shall be acted on. He allowed he had been struck with the remarks of the Senator from Virginia, that the two punishments might be inflicted for one offence to both bodies. This seemed to point out that some concerted action ought to be had by both bodies upon the subject. The idea of the gentleman from North Carolina seemed proper, and to designate the proper course: because, if this act was an insult at all, it was an insult to both branches. But a remark which had been made to him by a venerable Senator, was certainly entitled to some weight. It was, that an offence to the House of Representatives was not necessarily an offence to the Senate, nor was an offence against the Senate necessarily so to the House of Representatives. The proposition of the gentleman from North Carolina ought, therefore, he conceived, not to be acted upon precipitately; and he hoped it would be deferred until Monday, that it might be acted upon with a full understanding of its effects. He should, therefore, prefer that the message and the letter just read should lay on the table.

Mr. MACON said, the question is: What law shall we refer to? The Supreme Court has established here the common law of England; but Congress has never adopted the parliamentary law of England, as was ably shewn by the gentleman from New York, in his remarks on inherent powers. The law makes the offence. He should doubt the power of both Houses to punish the same offence. As to a Joint Committee, they will not act entirely together. When they consider the matter they will decide for their own bodies. It is the case with all such Joint Committees. What will be its effects? I am entirely of opinion with the gentleman from N. York, that we had better take time to consider of it. If the bearer of mes-

sage of the President wants a law passed for his protection, he ought to have it. Congress certainly ought to have power over the Capitol. It was formerly overrun by hucksters, and on the motion of a gentleman, not now a member, and not now in the world, every woman of the kind was placed under the power of the Presiding Officer. The President of the United States has sent us a message; and I, said Mr. M., have no doubt, looking narrowly at the manner in which it is worded, that he was aware of the difficulty there would be in acting upon it. It is a difficult matter, and I had rather not appoint a Joint Committee yet. Let us take a little time to consider it.

Mr. BRANCH made some further observations.

Mr. WOODBURY moved to lay the communication from Russell Jarvis on the table; which was agreed to.

MONDAY, APRIL 21, 1828.

#### GRADUATION OF THE PUBLIC LANDS.

On motion of Mr. BENTON, the bill to graduate the price of public lands was taken up, and the question being on an amendment to an amendment agreed to in Committee of the Whole, offered by Mr. BARTON, to make the periods of graduation five years instead of two, was briefly opposed by Mr. BENTON, who stated that it would have the effect to destroy the bill.

Mr. BARTON defended the motion, and repeated that the period of two years was too short to be beneficial.

The question being then taken on Mr. BARTON'S motion, it was determined in the negative.

The amendments adopted in the Committee of the Whole were then agreed to.

Mr. WEBSTER then rose, and proposed to amend the bill by the addition of two sections. The first, to take place of the first section in the original bill, providing that, on the first day of January next, all lands which had been in the market ten years, should be reduced to one dollar per acre. The other section related to actual settlement, and allowed actual settlers to enter lands at fifty cents per acre.

Mr. WEBSTER explained the objects of his amendment at considerable length.

Mr. BRANCH opposed the motion.

Mr. RUGGLES moved to amend the amendment, by striking out the limitation to lands that had been in market ten years, and extend the reduction of price to one dollar.

Mr. VAN BUREN expressed himself favorable to the motion of Mr. RUGGLES.

Mr. WEBSTER made some farther remarks, in which he declared himself favorable to the principles of graduation, and opposed to the motion of Mr. RUGGLES.

After a few remarks from Mr. VAN BUREN, Mr. BENTON spoke against the motion to amend, and discussed, at considerable length, the various propositions that had been made in relation to the public lands.

Further debate took place, in which Messrs. BARTON, WEBSTER, M'KINLEY, and MACON, took part; when the question, on the motion of Mr. RUGGLES, being taken, it was agreed to—yeas 22, nays 14.

The amendment of Mr. WEBSTER, as amended, then occurred, and the question having been divided, so as to take the vote first on striking out, it was determined in the negative.

The remainder of the amendment was then withdrawn by Mr. WEBSTER.

The question on engrossing the bill then occurred, on which the yeas and nays were ordered, on motion of Mr. WEBSTER.

Mr. VAN BUREN addressed the Senate at great length, in opposition to the bill, and in reply to the various arguments which had been urged in support of the bill and its various modifications.



SENATE.]

*Graduation of the Public Lands.*

[APRIL 22, 1828.]

Mr. M'KINLEY, after some explanations between him and Mr. VAN BUREN, proceeded to reply to the speech of Mr. V. H., and spoke about half an hour, in defence of the opinions formerly advanced by him; when the bill was ordered to lie on the table.

TUESDAY, APRIL 22, 1828.

On motion of Mr. NOBLE, the bill for the continuation of the Cumberland Road, through the State of Indiana, was taken up, and several amendments, reported by the Committee on Roads and Canals, having been agreed to,

Mr. NOBLE spoke at great length in support of the bill, and the claim of the State of Indiana to have the road extended through that State.

Mr. CHANDLER made a few remarks in opposition to the bill; and,

Mr. NOBLE explained.

Mr. HENDRICKS supported the bill in a short speech.

Some further explanatory conversation took place between Messrs. CHANDLER and HENDRICKS.

The question on engrossing the bill then occurring, the yeas and nays were ordered on the motion of Mr. COBB, and being taken, the question was decided in the affirmative, by the following vote:

YEAS.—Messrs. Barnard, Barton, Bateman, Benton, Chase, Eaton, Harrison, Hendricks, Johnson, of Ken. Johnston, of Lou. Kane, Knight, McKinley, McLane, Marks, Noble, Ridgely, Robbins, Rowan, Ruggles, Seymour, Silsbee, Smith, of Md., Thomas, Webster, Williams.—26.

NAYS.—Messrs. Branch, Chandler, Cobb, Dickerson, Ellis, Foot, Hayne, Macon, Parris, Smith, of S. C. Tazewell, Tyler, Van Buren, White, Woodbury.—15.

## GRADUATION OF THE PUBLIC LANDS.

On motion of Mr. BENTON, the bill for the graduation of the price of the Public Lands was again taken up; and, the question being on engrossing the bill,

Mr. ROWAN rose and replied at great length to the speech of Mr. VAN BUREN, delivered yesterday, and in support of the bill.

Mr. DICKERSON observed that he should consider himself unfaithful to his trust, if he did not, to the last, oppose the bill under consideration—which he considered as in a higher degree than any bill heretofore brought before Congress, to wrest from the old States their undoubted rights, to destroy the confidence that ought to subsist between the old and new States—and to sap the foundation of the compact by which they are held together.

He had stated a few days since, when this subject was under discussion, that he decidedly preferred the amendment proposed by the Senator from Indiana [Mr. HENDRICKS] to this bill; but that, as we were not reduced to the necessity of adopting either the bill or amendment, he should vote against both. The amendment required nothing more of us than a cession of the public lands, amounting in value to many millions of dollars, to the States in which they lie, by which we should be immediately relieved from the expense of our land office system, as well as the expense of legislating upon the subject of these lands, while, by the operation of this bill, we are as effectually to loose these lands, without being relieved from any expense whatever.

By the bill, as amended, these lands which have been offered for sale, consisting of about eighty millions of acres, are to be sold from the first of November next, at one dollar per acre, for two years—thereafter, at seventy-five cents for two years—thereafter, at fifty cents for two years—and thereafter, at twenty-five cents. So that in

six years these lands will be in the market at twenty-five cents per acre. And this system, we are very gravely told, is to replenish our Treasury. The manner in which our Treasury was thus to be replenished, was explained, but not understood. I, said Mr. D., consider it much worse than a relinquishment of the whole.

Will any man buy these lands until the price is reduced to the lowest minimum? Surely not. And there will be a suspension of sales until that period: not from any combination among those who would otherwise be purchasers, but because each one will find it his interest to wait for the lowest minimum. Will any one give one hundred and sixty dollars for a quarter section of land, which, in six years, he might have at forty dollars? If anxious to make an immediate purchase, he would buy of the large landholders in these States, who must bring their lands into the market as soon as possible: for this graduating system is to affect the price of their lands, precisely as it will affect the price of the public lands. A man holding a hundred thousand acres, or any other quantity, of land, in these States, purchased at one dollar and twenty-five cents per acre, will, in six years, find his price reduced to twenty-five cents per acre. He must, therefore, sell out, if possible, before that period. But, to do so, he must constantly offer his lands at a lower price than the minimums at which the public lands may be offered. He will be urged to these sales by the consideration that his lands are 'axed.' There will, therefore, be no sales of public lands till they shall be offered at the lowest minimum. It seems the price is to rest at twenty-five cents per acre: But, at that price, the lands are not worth holding by the United States. The money to be received at this price, for our public lands, would not indemnify the Government for the expense of our land law-system, and the time spent in Congress in legislating upon these lands.

The bill applies to eighty millions of acres: if they bring nothing into our Treasury, it will be folly to expect any thing from the residue of our public lands. These lands are the common stock of the United States. Those that have been ceded by certain States, have been ceded expressly as a common stock. Those that have been purchased, have been purchased out of the common fund. Our public lands have cost us more than thirty-three millions of dollars, besides probably an equal sum in protecting and defending them. And are we now about to relinquish the pecuniary advantages which were anticipated from those lands which we have acquired and protected at such immense expense? On the part of the State from which I have the honor to come, I can never assent to this arrangement.

New Jersey has a vested right to a share of those lands, from which she did hope to obtain some remuneration for her heavy losses and expenses in carrying on the Revolutionary war. New Jersey acquired no crown lands within her boundaries by the revolution. She never owned any part of her soil, except by purchase—never taxed the lands of the proprietors. But the gentleman from Indiana says there has been no moment when New Jersey could not tax these lands. She has the power to tax these lands, but it cannot be done with strict justice, inasmuch as there was an agreement some eighty or one hundred years ago, upon certain concessions as to the sale of these lands, that they should not be taxed. A sense of justice has prevented any attempt at taxation.

New Jersey has submitted to her condition without murmuring. She has asked but little, and received nothing. I did, by instruction, ask a donation of lands for an asylum of the deaf and dumb, established in that State. The boon was a small one, but it was refused. Since which, I have voted against donations of lands, and shall continue to do so till some equitable princi-

APRIL 23, 1828.]

*Baltimore and Ohio Rail Road.*

[SENATE.]

ple shall be adopted for the regulation of such donations.

We have extinguished the Indian title to nearly two hundred and sixty millions of acres, of which we have sold nineteen millions. The present bill applies to about eighty millions. The Senator from Missouri says it would take several thousand years to dispose of those lands, under the present system, and asks if the new States are forever to remain in a state of minority—a state of dependence upon the Union—if they are ever to remain deprived of the sovereignty enjoyed by the original States?

Ohio has waited twenty-five years under our land system, without murmuring: her population and wealth have increased under that system with a rapidity of which the history of the world affords no example. The State of Missouri has been not seven years in the Union—and the Senator from that State has been moving this bill four years. So that in less than three years, the State was impatient of its minority. Three years is but a small part of twenty-five years. It is somewhat singular that the greatest impatience should be expressed by the youngest State in the Union. The Senator from that State knows best the wishes and disposition of the People of that State, and he has exercised his power as he certainly has a right to do, to promote the interest of his constituents. By opposing this bill, I endeavor to protect the interest of mine.

But have these States a right to complain that their population is retarded by our land system? Ohio has added more than sixteen per cent. to her population, within the last four years: Alabama has nearly doubled hers in the last seven years. The other new States have increased somewhat less rapidly, but with a rapidity not known in the old States. New Jersey has increased fifty per cent. in thirty years. Several of the old States have been nearly stationary for twenty years past.

But Alabama, it seems, is not satisfied with her condition; but, as a Senator from that State [Mr. McKINLEY] informs us, will complain until she has all the rights of the other States—one of which is the ownership of all the soil within her boundary. He repeats the doctrine that the new States cannot be sovereign without this right—that it is theirs by the law of nations, which is the law of reason—that these States are as sovereign as the independent Kingdoms of Europe—that indeed there can be no greater sovereignty than that of the People.

The States, sir, are confederated—not independent sovereignties: a portion of sovereignty remains with each of the States—a portion has been yielded to the United States.

A sovereign independent State can make war and peace—can make treaties—lay imposts and duties. These and several other attributes of sovereignty have been yielded to the Union, without which, it could not exist. The Union is an independent sovereign State—but its parts cannot be distinct independent sovereign States. Their sovereignty is a modified one. When we speak of the sovereignty of the People, we mean the People of the United States, not the People of New York or Pennsylvania.

The cases cited from the law of nations, have no application to these States, except in their collective capacity as forming the Union.

The old States have looked upon these public lands as an inexhaustible fund of revenue to the Government. This delusion is passing away—they still hope, however, that they are not to be actual losers by acquiring these lands. For one, I do not wish to gain by them. But let the old States receive from the sale of these lands what they have cost us, before we cede them. I am willing to reduce the minimum to a dollar per acre, and the offer has been made in this body, but rejected. Why

should we reduce these lands to a lower price? The low price will neither increase population nor capital. If the lands were reduced to five cents the acre, there would still be more land than purchasers.

At the price of one dollar per acre, the new States hold out the strongest inducements to emigration. The People do emigrate as fast as they can possibly dispose of their property at home; but some must be left to purchase of the emigrants. Who will not go, that can go, to these delightful regions, where the most fertile lands upon the globe can be purchased for one dollar per acre? A country, too, that may become an empire by itself. I will close my remarks with reading a passage from the speech of the Senator from Indiana, and which I read for no other purpose than to exhibit a glowing picture of the immense advantages which these regions possess over the old States: "Suppose," says the Senator from Indiana, "the Union to be dissolved—where would be the public lands? All controversy about them would cease—they would belong to the States in which they lie. Look at the great inducement to this state of things. Look at the character and extent of this country. How capable of self government and its own independence. Seven of the largest States of the Union—the finest country on the earth—the whole valley of the Mississippi—the noblest rivers on the globe—with three millions of inhabitants—a safe and sheltered seaboard, with a commanding position for a large participation in the commerce of the West Indies, South America, and Mexico. But the People of these States are devoted to the Union."

Can emigrants ask or desire more than the privilege of purchasing such lands, in such regions, for one dollar per acre?

Mr. TAZEWELL replied to the remarks of Mr. DICKERSON, in relation to the sovereignty of the States.

Mr. BERRIEN also replied to some of the observations of Mr. DICKERSON.

Mr. DICKERSON rose again, in explanation and reply.

The question being then taken on engrossing the bill, it was rejected, by the following vote:

YEAS.—Messrs. Benton, Berrien, Boulogny, Cobb, Eaton, Ellis, Harrison, Hendricks, Johnson, of Ken., Johnston, of Louisiana, Kane, King, McKinley, Noble, Ridgely, Rowan, Ruggles, Tazewell, Thomas, White, Williams.—21.

NAYS.—Messrs. Barnard, Barton, Bateman, Bell, Branch, Chandler, Chase, Dickerson, Foot, Hayne, Knight, McLane, Macon, Marks, Parria, Robbins, Seymour, Silsbee, Smith, of Md., Smith, of S. C., Tyler, Van Buren, Webster, Willey, Woodbury.—25.

WEDNESDAY, APRIL 23, 1828.

#### GRADUATION OF THE PUBLIC LANDS.

Mr. MACON said that he considered that the question was never taken on the first section of the bill to graduate the price of public lands, disconnected from the rest of the bill. He was in favor of the first section, and therefore moved to reconsider the vote on the bill, with the view of striking out all but the first section.

Mr. WEBSTER said, he thought a motion to reconsider, for any particular purpose, was rather novel.

The CHAIR said, that the motion for reconsideration ought to be distinct.

The motion was then laid on the table.

#### BALTIMORE AND OHIO RAIL ROAD.

On motion of Mr. SMITH, of Md. the bill authorizing the Baltimore and Ohio Rail Road Company to import iron for the construction of that work, was taken up, and an amendment offered by Mr. SMITH, of Md. extending

SENATE.]

*Baltimore and Ohio Rail Road.*

[APRIL 23, 1828-

the same privilege to all States and Rail Road Companies, for similar purposes, was agreed to.

Mr. S. said a rail road was like a ship, both being constructed of the same materials—timber and iron—and made by the same description of mechanics, and bound alike by iron. The use of both were similar—to facilitate commerce between foreign countries.

Some gentlemen were disposed to think that this was a speculation, calculated to afford an opportunity to some speculators, when the duty was taken off iron, to sell out at a considerable profit. The persons interested in this project are not of that class. The object was the universal interest of the country, by uniting the trade of the different States. The persons who are termed speculators have sold out their shares after the first deposit, not considering it an advantage to hold them. The gentlemen who compose the Directors of the Baltimore and Ohio Rail Road Company, are not likely to become speculators in objects of national utility. The Directors are: Charles Carroll, of Carrollton, William Patterson, Robert Oliver, Alexander Brown, Isaac M'Kim, William Lorman, George Hoffman, Philip E. Thomas, Thomas Ellicott, John B. Morris, Talbot Jones, and William Steuart. All gentlemen of large private fortunes, and nothing could induce them to part with their stock. Some of the subscribers have advanced from 20 to 150,000 dollars each. Baltimore subscribed half a million of dollars—certain gentlemen have subscribed 3000 dollars, not for individual advantage, but the general good of the country. The Committee are sworn to conduct the business conformably to the provisions of the charter.

It is provided by the bill, that previous to the importation of such iron and machinery, the President of any such rail road company shall file, with the Collector of the port into which the importation may be intended, a copy of the order for the same, signed by such President; which order shall be sent to the Secretary of the Treasury, who shall cause a copy of the same to be preserved, and return it to the Collector (with his signature) granting its importation. It also provides, that on taking out at the custom house, of any such iron or machinery, the President of any such incorporated company shall swear "that the entry subscribed with his name, and delivered by him to the Collector of the particular district, contains a just and true account of all the iron and machinery, imported for the sole use of the said rail road, and that the same will not be used for any other purpose whatever." The President and Directors have a right to increase their stock—they have done so, from a million and a half to three millions. The rail road is exempt from all taxes, on the part of the States. This road goes through the States of Virginia and Pennsylvania, and connects both States. It will be highly advantageous to the Western States.

The granting this boon involves no new principle.—[Here Mr. S. read a statement of the articles imported duty free for the advantage of manufactures.]

A variety of States in the Union are contemplating rail roads, and it would be unjust to deprive the country of their very beneficial advantages. England had failed in two attempts to establish rail roads, but were eventually successful. No disadvantage can result to the States from the free importation of iron for these useful purposes, as the insufficiency of that article requires importation. The ordinary consumption requires the annual quantity of 25 to 30,000 tons; and without importation the price would be very considerably enhanced. The importation of iron was first suggested by one of the oldest and most intelligent manufacturers in this country—an importer of iron.

The immense quantity required cannot be procured in this country. This road will be of very great advantage to the manufacturers of iron—the road will extend about two hundred miles through a country abounding in iron, and there will be a stimulus to the manufacturers of iron

to stop the importation of iron duty free, by at least equalling the imported iron in quality and price. There are various rail roads to be made in Pennsylvania, New-York, New-Jersey, Maryland, Delaware, Ohio, &c. If he thought it would be productive of injury to any of the institutions of his country, he would not vote in its favor.

Mr. DICKERSON observed, that if it should be thought expedient to remit the duties upon iron, to be used in the formation of rail roads, the present bill ought not to receive the sanction of the Senate. It had been referred to the Committee of Finance, whose special province it is to guard our revenue, and had received their approbation—yet it contained no provision calculated to protect the revenue from the grossest fraud. Iron of any kind or form, and to any extent that a rail road company may think necessary, and the President of the company may sincerely and truly affirm is for the sole use of the rail road of the said company, and that the same will not be used for any other purpose whatever. And what control has this President over this iron after it is out of his possession, even if he should continue in office. But he may take his oath to-day, and die, or resign, or be turned out of office to-morrow—in which case his oath would be of no importance. There is no bond—no security that the iron should be applied to the purposes of the rail road.

When a drawback is to be allowed on the exportation of imported goods, the utmost caution is used to prevent fraud upon the revenue; the goods must be exported within one year of the time they are imported; notice must be given of the quantity of goods, and time when to be exported; they must be in the same casks, boxes, packages, &c. in which they were imported; bonds must be given for the duties, to be discharged on certificate that the goods have absolutely been delivered in a foreign port. These, and many other provisions, are to be found upon our statute books, where drawback is allowed upon goods sent to a foreign country; and yet no precaution is used in this bill to prevent this iron, spread over the country, from one end of a rail road to the other, from being appropriated to other purposes, than those of the rail road.

The Baltimore Rail Road Company are no doubt very honorable men, who would not defraud the revenue; but this bill extends to all rail road companies, formed and to be formed; and to all individuals disposed to make public or private rail roads. It is a very unsafe legislation, to presume upon the honor and honesty of all mankind. Our revenue laws seem to be founded upon an opposite presumption.

But why, said Mr. D. is this privilege of importing iron confined to those making rail roads? In making canals, which are the rivals of rail roads, very large quantities of iron and steel are consumed. The proposed tunnel thro' the Alleghany mountains, of five or six miles, would consume as much iron in its excavation as would make plates for a hundred miles of rail road. Why not suffer Canal companies to import iron, as well as machinery, duty free?

But why is this remission of duty confined to iron and machinery? Large quantities of lead will be required for fixing the iron to the stone work upon rail roads—why not admit that duty free? There will be a great consumption of cordage in the different machines necessary for raising and removing rocks, making excavations and removing earth from such rail roads. Immense quantities of gunpowder will be consumed in their operations. Why not remit the duty upon these articles? Vast quantities of ardent spirit will be consumed by the laborers employed upon their rail roads, the expense of which must fall directly or indirectly upon the companies or individuals constructing these roads. Why not remit the duty upon this article? And indeed upon all others necessary for the construction of rail roads? But why is not like favor to be extended to every branch of industry and enterprise

APRIL 23, 1828.]

*Baltimore and Ohio Rail Road.*

[SENATE.]

in this country—why not suffer the ship-builder to import his iron, cordage, and sails, duty free—why not suffer manufacturing and steamboat companies to import their steam engines, machinery, and iron, duty free? Why not suffer the farmer and planter to import the iron necessary for carrying on their business, duty free?

The gentleman from Maryland, [Mr. SMITH] has informed us that there is no speculation in this case, as it respects the Baltimore rail road company—that their stock is subscribed for partly by the State of Maryland—partly by the city of Baltimore, and partly by individuals of fortune, who have subscribed with a view to accomplish this great object of Internal Improvement—a rail road from Baltimore to the Ohio—that they are every way competent to the completion of this object, and that they will complete it. Nothing, he says, would tempt them to part with their stock—that their charter is secure, their rates of toll fixed—that their subscription is full, and that their scrip is selling at sixteen dollars for each dollar paid in, and yet nothing would induce the rich stockholders to sell out, and because they will not sell out, we are to presume there is no speculation in the case. Perhaps they consider it a better speculation to keep their stock, than to sell it at the present rate of sixteen hundred per cent. advance, but if we pass the present bill, their scrip will probably command a price of twenty for one; in that case the stockholders might be induced to sell out, and make a profit upon their money, such as has never been heard of in this country.

But if this company shall have no views of speculation, other companies to be formed may have—indeed, if these companies are to be thus encouraged, we shall have bubbles enough—rail road companies will be formed for the sole purpose of importing iron and machinery, duty free. The companies will, many of them fail, their iron, to the amount of thousands of tons, will be sold in the country, and be consumed without paying duty.

But, says the gentleman from Maryland, this company do not ask for money, but merely for a remission of the duties upon the iron and machinery they may want; that is, they do not want us to give them two or three hundred thousand dollars, but to release them from the payment of so much, which, otherwise, they would be obliged to pay to the government. To the company it is precisely the same thing as giving them so much—to the government and to the country it is much worse.

The gentleman informs, that the iron is not produced in the country—that the company have advertised for iron and have received but two offers, and but for a small part of what they demand. The capacity of this country to produce iron is without limits; Pennsylvania and Maryland alone can produce iron enough for this rail road, in addition to what they now make. The whole quantity necessary for the rail road could be furnished in one year; but it will take several years to complete the rail road, and there will not be the least inconvenience in furnishing the iron as fast as wanted. This road is to be made through the very region of iron works, where the article can be supplied in the greatest abundance.

In a very short period, the United States could produce twice the quantity of iron now produced. The article can be produced far beyond the wants of the country, rail roads included.

It is said that this company has been offered iron fit for their purpose, at \$75 per ton; but that they think that they can import it, if duty free, at \$65 per ton, that is, if the government will remit them \$18 per ton, on one kind of iron, or \$30 on another, they will be gainers by importing, rather than buying here, by \$10 on the ton.

The gentleman says, that the iron for rail roads must be made with the utmost accuracy, and that we have not the skill in this country for making it, and that it is not made here. It will not be made until it is wanted. But

when wanted, it can be made with as much nicety and exactness as it can be made in England. Our rolling mills are already brought to the highest state of perfection. Besides, if it were necessary to employ more skill and more capital, than are now in the country, for making iron for the rail roads, it would be much better to hold out inducements to that skill and capital to come here, than encourage it abroad.

The gentleman says, that we already admit a variety of articles duty free, for the advantage of agriculture and manufactures, as plaster of paris, fur, millstones, dye-woods, &c.; but it must be observed, that in those cases, the condition of duty free extends to the whole of each article, and not to a part; a manufacturer may import plaster of paris, or a farmer may import dye woods; there can, therefore, be no fraud upon the revenue; to make the present case parallel with those, all iron should be imported duty free.

The present bill, if it should pass, will lead to enormous frauds, without any beneficial result to the public, for the rail road will be made whether the bill shall pass or not.

Mr. HAYNE spoke at considerable length, and with peculiar force and energy, in favor of the bill. He said, in whatever aspect it presents itself, he was disposed to view it in the most favorable light. He believed there was no modern improvement of greater value than the rail road; it had effected much in England, and he thought was destined to produce still greater results in this country. From all he had been able to glean from the most authentic works, as well as persons capable of judging of the subject, rail roads were decidedly superior to canals. Mr. H. then went into a long and minute calculation to shew the advantages. He alluded to the route contemplated to be taken by this road, as more direct than a canal route could be, and would, consequently, insure a very great saving of time in transporting goods and passengers, from one part of the country to the other. He maintained that it was less liable to injury than canals, and repaired at much less cost. We overcome any ascent by means of an inclined plane and stationary engine, while the expense necessary to be incurred in surmounting this difficulty, contrasted with that of locks for a like purpose, would only be one half. Another advantage was, that the speed of the rail road might be increased at pleasure, while on canals, it was limited, at most, to three or four miles per hour. Steam was adapted to rail roads, which had, in a measure, changed the aspect of things, and so far as interchange was concerned, had almost annihilated, as it were, time and space.

Mr. BARNARD spoke at length in opposition to the bill. Although Pennsylvania, he said, had authorized rail roads to be constructed to a very considerable extent, and although the provisions of this bill will enable her to obtain the iron, free of duty, for the purpose of making these roads, yet he felt it his duty, as one of her representatives, for what he conceived to be very substantial reasons, to oppose its passage.

This measure, said Mr. B. is founded on a memorial from the Baltimore and Ohio rail road company, but the terms of the bill are general, and extends to all rail roads that are now contemplated and authorized, as well as all that may be projected and made at any time hereafter. Mr. B. said he admitted, to the fullest extent, the benefits to be derived from these roads, and he was decidedly friendly to the improvement of the country by this or any other proper means, but said he, the question now under discussion, is not in what degree these works will benefit and improve the country, and whether it will be politic and wise to have all the iron to be used in their construction, brought from foreign countries free of duty. Now, said he, is it necessary to enquire into the relative advantages of rail roads and canals? The advantages of both are admitted, nor would he pretend to say which will en-

SENATE.]

*Baltimore and Ohio Rail Road.*

[APRIL 23, 1828.]

sure the greatest facilities to commercial intercourse. Each are beneficial.

As a Pennsylvanian, he felt proud that his native State had embarked in the work of Internal Improvement, and he could not, therefore, but feel friendly to every undertaking having this for its object, and which promised national advantages, whether within the limits of the State or out of it. He was friendly to improvements generally.

The advocates of this bill, and the memorial to Congress from the Baltimore Company, asked for this exemption from the ordinary duties, on the ground, that iron of the kind required for the work could not be procured in the country, and because of the character and importance of the undertaking.

Now, Mr. B. said, he would endeavor to show that there can be no want of iron—that it can be furnished in any quantity, and to any extent for these improvements, without resorting to Europe for it. It is a well known fact, that our country abounds in iron ore—that the beds of it are inexhaustible. It is to be found in the States of Vermont, New-York, New-Jersey, Pennsylvania, Ohio, Kentucky, Tennessee and Missouri, in the greatest abundance—in any quantity required.

Mr. B. here referred to the evidence taken before the Committee of Manufactures, in the House of Representatives, to prove the quantities in New-York, New-Jersey, and elsewhere.

The Baltimore and Ohio Company, he said, alleged that 15,000 tons will be necessary to accomplish that work, but as the greatest distance of the road is only 330 miles, and 36 tons per mile is what is demanded, the quantity by this estimate will be less than 12,000 tons of bar or rolled iron. Now, said he, the State of Pennsylvania, alone, manufactures 21,800 tons of bar iron, annually, and in proof of this assertion, he referred to the members of the Manufacturing Committee of the other House. (Here Mr. B. read from the printed testimony, shewing the quantity made in Pennsylvania.)

What, said he, will be the time required to make this road? It is not to be made in a day, a month, or a year. The ground is to be levelled and prepared, and much work to be done before the iron will be called for. This is a work of great extent, embracing a distance of upwards of 300 miles. How long was the New-York canal in progress, with a distance no greater, before it was completed?—how many years did it take to finish this great work, with all the resources and activity of a great and powerful State called into requisition?

Look at the Union Canal of Pennsylvania. How many years were required for its completion? Pennsylvania commenced her canal system two years ago, to unite the East and the West together, but the work is scarcely yet begun. This rail-road will then require years for its completion; at the lowest computation five years, but allow that it can be finished in three years, and this will allow upwards of 100 miles, and an expenditure of more than two millions per annum. When, said Mr. B., we consider this extent, and this large sum to be laid out, in connection with the difficulties necessarily attendant upon a new and untried experiment in this country, it must be allowed that three years is the shortest possible time in which the work can be finished. He said he should be agreeably disappointed if it was finished within that period.

Now, sir, said Mr. B., it has been shown that Pennsylvania alone manufactures 21,800 tons of that bar iron annually: and he wished to be permitted here to say, that she can, even with her present works, manufacture one-third more, if there is a demand for it, by adding to the workmen, and giving additional force to the iron establishments. The quantity then required for the Baltimore rail road, supposing it to take three years to complete it, will be about 4,000 tons annually. If Pennsylvania furnishes this quantity from the amount now made,

there still will remain for ordinary consumption near 18,000 tons; the company can then be supplied without inconvenience or increase of price; and here he would observe, said Mr. B., the iron masters will gladly undertake to furnish this quantity annually, and of the best quality, too, for our iron ore is equal to any in the world. But, said Mr. B., they can very readily manufacture the present quantity, with all the increase that will be required by this company for its road.

Besides, said Mr. B., if a demand is made for this kind of iron, old works will be revived, and new ones put into operation, which, with those already in use, can supply to any extent wanted. It cannot be denied that our mountains are filled with the ore—the supply is inexhaustible. Timber is equally plenty; and water power and sites for iron works almost without limit. When the material, and the facilities for its manufacture, are so very great, can it be doubted that it can be supplied in any quantity required, and without the exorbitant price apprehended by the advocates of this bill?

But a supply is also necessary for the use of the rail-roads authorized by the Pennsylvania Legislature. The quantity will not be more than about 1000 tons annually. There cannot be the least difficulty in furnishing this additional quantity. Pennsylvania, if this bill passes, will, it is presumed, avail herself of its provisions, and obtain iron for her rail ways at the cheapest rate; but she does not ask for the bill; she does not think it necessary, and will never ask for any measure that will operate to the injury of her citizens, or be impolitic and injudicious in a national point of view.

The quantity of iron manufactured in this country will be in exact proportion to the demand for it. The materials lay in our soil to an immeasurable extent; it is only necessary to afford the necessary encouragement and create a market, and all that can possibly be required will be furnished; and that, too, as fast as these rail-roads can progress or stand in need of it.

Mr. B. said he had confined himself to the supply which Pennsylvania alone could furnish; but it must be borne in mind that Pennsylvania is only one of the many States of this confederacy which abound in this indispensable and highly useful article.

The ground, then, said Mr. B., that the country has not the capacity to furnish the iron necessary for the Baltimore rail-road, and which is one of the reasons urged for the passage of this bill, had, he conceived, entirely failed.

But, said Mr. B., is this work of such a character as to entitle it to this special privilege? He had already admitted that such works deserved every proper encouragement and aid not inconsistent with the interest and settled policy of the nation. What has been the policy of the Government from its first organization? Has it not been to produce within ourselves every article of necessity, which the country can afford in abundance, and not be dependent on foreign supply for our wants? Is not the tariff bill now before us, based on this principle? Its object is to give protection to our home productions.

But, said Mr. B., is not the bill now asked for, in direct opposition to this system of protection; and will it not establish a new, mischievous, and dangerous principle? It is alleged by the Senator from Maryland, [Mr. SMITH] that the principle is not new, and he has cited many instances to show that articles have been and are imported free of duty; but the difference between the cases mentioned by him (and it is a very essential one) and the case presented by this bill, is, that the articles are admitted into the country free of duty to all who choose to import them; but here a special favor is contended for—it is asked to import iron for certain purposes, free of duty, for the benefit of a large and wealthy corporation, while all the rest of the community are compelled to pay

APRIL 23, 1828.]

*Baltimore and Ohio Rail Road.*

[SENATE.]

this duty: it is a special exemption for the benefit of a few—it was granting exclusive privileges, and thereby establishing a precedent hitherto unknown in our revenue laws.

Will not the effect be, to do great injustice to all the citizens of the country who are not interested in these rail-road companies? Why this distinction?

It is perfectly well known, said Mr. B., that iron is an article used for all the purposes of life. The farmer, the mechanic, the manufacturer—all require its use. Why, then, shall they be compelled to pay a higher price than than these associations? and yet such will be the inevitable effect if this bill passes. Will they not have a right to complain? Will they not complain of this inequality and unfairness? Will they not say, we contribute our full proportion to all the expenses of the Government, as much so as any member of a rail-road company, and yet they can get their iron, free of duty, to construct a work which will yield them a very extensive profit, while we cannot. To make a distinction amongst our citizens is at all times injudicious. Let every burthen be equal and alike upon all. Place all on the same footing, and you will hear no complaints. But favor the few and the wealthy, at the expense of the many, and you act in opposition to the true principles of our republican institutions.

And, said Mr. B., do these works entitle them to these special favors? We all admit that great credit is due to the patriotic and enterprising spirit of the citizens of Baltimore in starting this rail-road. They deserve the highest commendation; and, said Mr. B., I would be the last to withhold it from them.

But is not this work undertaken for motives of interest? It is admitted by the Senator from Maryland, [Mr. SMITH] that the object is to secure the important and valuable trade of the West. This is all perfectly fair, but it shews that private gain is the moving principle. The intention is to benefit Baltimore and all its citizens, and none more so than the gentlemen composing the Baltimore and Ohio Rail-road Company. In addition to the benefit which which they will enjoy in common with all the rest of their fellow-citizens, will be the dividends arising from the tolls of the road; the stock has advanced to a very considerable sum above par already, and why? Because the trade is expected to be immense, and the profits in proportion; public good, then, is not the only object of this company; this will, undoubtedly, be the consequence, but the private profit and advantage to the individual members is not overlooked in this project.

Now, said Mr. B., why are iron works established? For precisely the same reason that rail-roads and all other monied associations are created, to profit the individuals, for ultimate gain. But do not iron establishments benefit the public and the nation? They produce from the bowels of the earth the ore which before was wholly valueless. The timber which covered the ground, and was an incumbrance to the soil and the owner, is felled and used. Thus, materials which in a state of nature were wholly useless, become of great value. The stock of national wealth is increased: it is true the proprietor reaps the advantage in the first instance, but it is a national gain in the end.

Are not the iron manufacturers, then, in a national point of view, on an equal footing with the members of a rail-road company? These last only furnish the means of transportation to a market what the former have converted into value and usefulness. Are not the iron works of our country, therefore, entitled to the fostering care of our Government? Pennsylvania alone has a capital of about \$15,000,000 invested in iron establishments. Shall we neglect, nay, injure, and perhaps ruin, this extensive business, by granting the favored privileges asked for by this bill?

To allow, said Mr. B., of partial importations, free of

duty, will operate as a check on our manufacturers of iron—it will depress their exertions, instead, as it ought to be done, of encouraging them. To allow of importations, free of duty, for all rail-roads now and hereafter (and such are the provisions of the bill) will be to affect very materially the whole iron establishments of the country. Importations for partial objects will have the same effect and operation as a general diminution in the duty. Will this be fair or just?

These works, said Mr. B., were erected in the full confidence that the existing duty on iron would not be lessened. Was there not an implied pledge on the part of the Government, that the duties should continue as at present established, and will not the passage of this bill be a violation of that pledge? The citizens of our country have a right to, and do expect, that when duties are established by Congress, they shall not be diminished, either by partial exemption, or otherwise, to the injury of the establishments created under the full persuasion that those duties will be continued. Can we, then, without doing manifest injustice, grant the special favors solicited by these rail-road companies? But there is another point of view, said Mr. B., in which this question presents itself. He had said before, it had always been the policy of this Government not to grant special favors for particular objects, but to deal to all alike in our public measures. Now, what has been the course of this Government with respect to articles necessary for national purposes? The iron used in the building of our ships of war; the artillery which floats on their decks; the anchors, and all other articles of iron, are the produce of our own country. Has the Government thought it proper or politic to obtain this iron cheaper, by importing it free of duty, although for strictly national purposes? Has it been thought wise or prudent to import, free of duty, the clothing necessary for our military force? Why, then, should we extend a privilege to local associations which we deny for general national purposes? Why break through a general established system, for a favored portion of our citizens, while the Government itself, and all the rest of our countrymen, are debarred from its benefits? That system cannot be right which deals unequally with those who are entitled to equal privileges.

Again, said Mr. B., by the provisions of this bill we send abroad about a million and a half of dollars, to obtain that which can be very readily and conveniently furnished at home. We establish our workshops in Europe, instead of keeping them in our own country. The sum required to purchase the iron for the Baltimore and Ohio Rail-road Company and the Pennsylvania rail-roads alone, would furnish employment and support to about 30,000 of our own citizens for one year, if the iron was obtained in the country—if brought from abroad we give so much to foreigners.

This large sum expended in the country would be sensibly felt. Besides the employment offered to the workmen who would be engaged in the manufacture of the iron, the farmer would be materially benefitted by having a new market for his grain, flour, and other provisions. The sum would be laid out among ourselves, and not sent to foreign countries to enrich their subjects, instead of our own people. But as the provisions of the bill are general, and extends to all rail-roads to be constructed, we cannot foresee the sums that will be sent to other countries to the great injury and impoverishment of ourselves, and this, too, to obtain a material that our country can furnish to an unlimited extent. We undertake a great domestic improvement, and we send for a foreign material to accomplish it, when the article is at our own door. I must confess, said Mr. B., I do not like the idea of having our roads made by foreign hands and foreign materials, and when the professed, and no doubt actual object is the general improvement of the country. These

SENATE.]

*Baltimore and Ohio Rail Road.*

[APRIL 23, 1828.]

rail-roads were undertaken without any expectation, at least without any assurance, that they could procure from Congress an act of this kind. No special privilege could have been anticipated, so that there will be no injustice in denying it. If, said Mr. B., it is deemed expedient to assist these companies, it will be much better to do it by a direct donation from your Treasury, by subscription to the stock; and the Government will have the benefit of any profit that may accrue from dividends, besides favoring our own countrymen, by making it necessary to obtain the materials at home instead of in Europe. Begin, said Mr. B., the system of granting special privileges to these companies, and you cannot foresee the end and consequences of it. Application after application will be made to Congress for similar favors. This bill will be referred to as a precedent, and you may as well repeal your revenue laws at once, and withdraw all protection from our own domestic industry and manufactures, as to go on and abolish partially and in detail.

Mr. B. said, when this bill was first introduced, considering that, sir, our State had engaged to some extent in rail-roads, and that works of this kind would benefit the nation at large, he had thought favorably of it. But a little reflection had convinced him of the impolicy of the measure asked for, and he had determined to oppose it. Mr. B. concluded, by trusting that the Senate would negative the bill.

Mr. CHAMBERS briefly replied to the remarks of Mr. BARNARD. He considered that the manufacturers had no concern in the bill, as it was out of their power to supply the article. The question was, in his opinion, whether the United States would generously release the company from the duties, in order that this experiment, of great importance to the country, might be made as advantageously as possible.

Mr. DICKERSON replied to the observations of Mr. HAYNE.

Mr. TYLER spoke in favor of the bill. If the advocates of the encouragement of manufactures had hitherto acted upon a correct principle, and desired to enable the industry of our own citizens to supply the consumption of the country, they ought to support this measure, as any plan which should facilitate the construction of this work would have a tendency to open the resources of the country to a vast extent, as the rail-road would pass through one of the richest mineral regions of the country, and have the effect to increase the manufacture of iron beyond conception, and as it would enable the manufacturer to carry it to market at a trifling expense.

Mr. McLANE said, he did not rise with a view to enter into any discussion on the general merits of the bill, but simply to reply to some objections which had been urged by the opponents of the measure. He had no idea that the operation of the bill would be to diminish the revenue, as there was no guard in the drawback system which was not embraced in the subject before them. Mr. McL. went into an exhibit of the quantity of iron used in the country, the number of tons produced by our own manufactures, and the number annually imported, shewing how far the native production fell short of the absolute wants.

He did not think it possible to lay such a protecting duty on the iron manufacture of this country, as would bring the produce to the demand, unless he went further than he was disposed to go, or the Senate would sanction. Gentlemen seem to go on the supposition that if we refuse to adopt this measure the rail-road company will be obliged to purchase the iron necessary for this work from our own manufactures. But such, said Mr. McL., will not be the fact. Compel it to pay this duty, which it asks to be relieved from, it must necessarily seek for iron abroad, because it cannot be had here, and then the com-

pany will remunerate itself by an increase of tolls, so that gentlemen must at once see the burden will ultimately fall on the nation, and be paid from the pocket of the farmer, mechanic, and manufacturer.

Mr. SMITH, of Maryland, rose simply to make a brief reply to the observations of the gentleman from Pennsylvania, [Mr. BARNARD.] He had been told, said Mr. S., that it will take three years to make this rail road, and in that time iron would be supplied from our own manufactories. He could tell gentlemen, if we had to depend on our own manufactories for that article, they would have to wait twenty years before they could accomplish it. The intelligent men at the head of the rail-road company knew the value of interest too well to wait for our own manufactories, and would immediately proceed to import.

Mr. S. said, the bill before them better provided against fraud upon the revenue than any drawback bill he ever knew. The gentleman has told us that Pennsylvania is a great iron country. True it is, sir, but yet she does not supply as much as is imported into the United States annually.

The quantity furnished by her is twenty-one thousand tons. The gentleman has assumed what is not warranted by the facts before us—'tis, that Pennsylvania can increase the quantity adequate to our wants. If such be the fact, Mr. President, why has she not done so? Surely there has been an ample demand for it.

Mr. SMITH here dwelt with peculiar energy on the advantages likely to be derived from the contemplated work to the nation at large, as well as the States in common, and he brought to the minds of gentlemen the towns of Manchester, Sheffield Birmingham, which from small villages had increased in a few years to be large towns, and chiefly, he believed, in consequence of the facilities afforded them in the transportation of heavy articles.

Mr. DICKERSON.—The honorable Senator from Maryland [Mr. SMITH] informs us that this bill cannot injure the iron masters in this country, because whether it passes or not the iron for this company will be imported. It is not conceived that the iron masters will be injured by this bill; but if it were so, the revenue will be injured, as the amount of duties upon the imported iron will undoubtedly come into the Treasury if we do not pass this bill, and as certainly lost to it if we do. The gentleman says, that even if from the immense abundance of the material for making iron in this country, we have not the means of rolling it; that a rolling mill will cost from fifty to a hundred thousand dollars. If the gentleman had made himself acquainted with the subject, he would know that the rolling of the iron is the least difficulty in the case—that one rolling mill requiring one hundred thousand dollars capital, could roll all the iron that could be made in as many forges and furnaces as would require a capital of a million of dollars.

The Senator from Delaware [Mr. McLANE] thinks that the iron cannot be produced in this country, which he says is evident from this fact, that we do not produce enough for the consumption of the country, notwithstanding the high duty laid in 1824 upon this article. The fact is that this country could in a few years produce twice as much as is wanted for our own consumption. It would be increased rapidly if demanded; but so far from that, it is crowded out of the market by foreign iron, notwithstanding the duties upon iron, the price is as low as it was ten years ago. There is no inducements to erect new iron works, but the old works have been repaired, and the manufacture of iron has been increasing, although slowly, for the last four years. If the duty on iron should be repealed, our market would be supplied almost exclusively by foreign iron. It would not follow from that, however, that the country has not the capacity of producing iron.



APRIL 24, 1828.]

Tariff Bill.—Adjournment of Congress.

[SENATE.]

But the gentleman informs us that the bill is guarded with sufficient caution to protect the revenue; and that if the iron should be sold in the country for consumption, it would not affect the revenue—inasmuch as our iron masters do not produce the article, at least in sufficient quantities for the country. But if that is the case, this iron so sold would take the place of so much that would otherwise be imported and pay a duty to the Treasury. Frauds may be committed by such sales to an enormous amount, if we remit the duties, except upon iron absolutely laid and used in the constructing of the rail-road. The gentleman also thinks, that, if by this bill we relinquish to this company a large sum which would be received as duties upon their iron, we can well afford it, as our Treasury is full, and the object to be effected is important. The object will be effected without our aid; and a full Treasury affords no reason for making donations, especially as we have yet a national debt to pay.

The gentleman from South Carolina [Mr. HAYNE] has shown to us by a great variety of facts and arguments the immense advantages which rail-roads possess over canals, and the small expense at which they can be made when compared with canals, but all that goes to show that it is unnecessary to give the aid to this company proposed by the bill. If the company were to make a free road, or to give any advantage to the public in consequence of this aid, it would alter the case; but this is not proposed, and will not be done. The privileges granted to this company already, have made their stock more valuable than any in the United States. By this bill we still make it more so, under the idea that we are giving aid to the making of the rail-road, when in fact we are doing no more than enriching the present stockholders, who may sell out at a great advance to those who will finish the work, without the least benefit from the aid given by this bill.

As yet we have not heard one word as to the kind of machinery that it is intended to import; whether of iron or of wood; whether to be driven by the force of steam or of man, or of horse; whether cranes, wheels, pulleys, or capstans; and yet we are called upon to vote for the bill without information on this important item.

The question being put on engrossing the bill—

Mr. MARKS moved an adjournment, but withdrew the motion at the request of Mr. DICKERSON, who said there was a very important bill which had come from the other House this morning, and he hoped this bill would be laid on the table, that the bill to which he alluded might be read. Mr. D. then moved to lay the bill under consideration on the table; which was agreed to—20 to 17.

#### THE TARIFF BILL.

The bill imposing duties on imports was read; and, on the question of reading a second time, a division took place—and 26 being in favor, it was ordered to a second reading.

THURSDAY, APRIL 24, 1828.

#### THE TARIFF BILL.

The bill to levy duties on imports was read a second time, and Mr. DICKERSON moved its reference to the Committee on Manufactures.

Mr. BRANCH opposed the motion.

The question being taken, it was referred to the Committee on Manufactures.

#### ADJOURNMENT OF CONGRESS.

A resolution of the other House in relation to the adjournment, having been read and agreed to, and on the question of appointing a committee,

Mr. McKINLEY moved to postpone the appointment until Monday.

Mr. BRANCH opposed the motion.

Mr. NOBLE said he disliked the resolution, coming, as it did, on the very heels of the Tariff. He thought the conclusion of the public would be, that the Senate intended to stifle the American System. He wished that the resolution might lay on the table, and allow the Chairman of the Manufacturing Committee to bring out his budget, and weigh the sectional question, and, if possible, do justice to all. He moved that it lay on the table, and let each man march up to the investigation of the subject. He did not wish to hurt the interests of the South or the North, but to deal fairly by all. If the Senate now displayed a desire to go home, when such a measure came before them, the People would mark it with reprobation.

Mr. McKINLEY said his objection was, that the resolution not only related to the adjournment, but to a selection of the business; and, on this point, the Senate ought not to act precipitately. The business of the other House had been interrupted by the discussion of the Tariff, and it would also be obstructed here by the same subject. He thought the matter of selecting business ought to be delayed. He moved to reconsider the vote on agreeing to the resolution.

Mr. SMITH, of Maryland, said, that, when committees had been formerly appointed to fix upon the business to be acted upon, their recommendations had not been regarded. Each House had taken up the business as it thought fit. From this experience he was convinced that a selection of subjects by a committee would be of no benefit. The Senate was placed in a peculiar situation this year. They had completed nearly all their business, and had nothing left but to act upon subjects which would come from the House of Representatives. They had done but little as yet, and much was before them, which would require at least a month. It would be difficult to select those subjects which would be best entitled to be acted on. As to the Tariff Bill, he should be willing to give a silent vote upon it. He should think that thirty days would suffice for its discussion.

Mr. CHANDLER said he thought it better to delay acting upon the resolution.

Mr. KING said, that, hitherto, all business had been smothered in the other House by the Tariff Bill. On former occasions, when committees had fixed upon the business to be acted upon, instead of taking up those matters which had been matured in one House, they fixed upon new subjects, and, in consequence, bills which had already been acted upon by one body, were neglected. He himself had suffered from this course, last year, from the rejection, by the committee, of bills that had already passed the Senate. A great mass of business had been sent this session to the House, and he wished to see what course they took, before this resolution was concurred in, and, therefore, was desirous that it might be delayed.

Mr. JOHNSON, of Ky., said, that, by a reference to the proceedings of Congress, in the year 1824, he found that the Tariff of that year came into the Senate on the 19th of April, and on the 21st, a resolution passed, fixing the adjournment on the 20th May. This resolution was not a decision to adjourn; but a preparatory step towards it. When he had offered a resolution on a former day, in relation to the same object, he had been met by a remonstrance against agitating any such proposition, until the House first made it; and that the Senate ought to wait and see what disposition the House made of the Tariff; and now he was told, that they must wait and see how the House got along with the other business. He hoped there would be no delay in deciding upon this resolution. He would add one word in relation to the Tariff. He presumed it would be fully discussed in the Senate, and that various pro-

SENATE.]

Baltimore and Ohio Rail Road.

[APRIL 24, 1828-

positions would be made to modify it; but he should vote against it if it should have been materially modified.

Mr. WEBSTER said, that sufficient for the day was the evil thereof; and he should, therefore, now confine himself to the resolution itself. He was in favor of the part of the resolution which provided for a concert of the two Houses, as to adjourning. But he should move to amend, so as to strike out that portion which related to the arrangement of the business; because experience had demonstrated its inexpediency. Each House, in regard to the business, would act for itself on the subject before it. And he was against mixing the business of the two Houses. It appeared to him to be a very strange proposition to appoint a Joint Committee to consider of the business necessary to be acted upon. The Senate sent a large number of bills to the House, and could not judge which of them they would be disposed to act upon. They have sent business to the Senate which has not yet been decided. And [said Mr. W.] shall we take upon ourselves to say to the House what bills they shall pass, and what reject? Or shall we authorize them to dictate to the Senate what business we shall act upon? Sir, I am against it—wholly and decidedly against it. I think we should neither take advice nor give it, as to what business shall be acted upon. If we approve of bills, we shall pass them—if they approve of them, they will pass them. He could imagine all the inconvenience alluded to by the gentleman from Alabama. If the examination were submitted to a committee, a contest would arise as to whose bill should come on, and whose bill come off. He should vote for the reconsideration, and should that motion prevail, he would move to amend the resolution, so as to strike out that part which relates to the selection of business. He saw no way in which the two Houses could agree upon this point. The Senate doubtless thought all the bills they had passed worthy of being acted upon; and the House probably thought the same of theirs.

Mr. BRANCH spoke in opposition to reconsidering.

Mr. BENTON said he had similar objections to the resolution as those expressed by the Senator from Massachusetts. He therefore hoped the motion to reconsider would prevail; and that it then might be put before the two Houses in its proper form. They could adjourn at any time. But a committee of the kind proposed, were not the best judges of what business ought to be done. Each House could better decide on the subjects as they came up. The opinion of a few individuals, at the close of the session, who would probably judge from their own feelings, could not well be relied on to settle this question. Mr. B. then moved a substitute for the resolution, in which the portion relative to a choice of business was omitted.

Mr. WEBSTER said that it appeared to him to be a novel question, and he doubted whether it was the practice to concur in a resolution of the other House, which was not a joint resolution.

The CHAIR said that it was a question of practice altogether, whether the Senate could reconsider, or whether it was the practice of concurring in a resolution of the House.

Mr. WEBSTER said, that it seemed questionable whether the Senate could amend a resolution passed by a vote merely of the other House. He moved to lay the resolution on the table.

Mr. FOOT said there could not be a question as to the matter. It was not in the power of the Senate to amend a resolution of the House of Representatives.

Mr. KING asked the nature of the difficulty, and whether the vote could be reconsidered?

The CHAIR stated that there was no need of reconsidering; because the concurrence would have been by appointing a committee.

Mr. KING asked whether the reconsideration was unnecessary because the concurrence was improper?

The CHAIR said it was so.

Mr. BRANCH inquired whether the motion to lay on the table was intended to delay the resolution, or to obtain information?

The CHAIR replied that it was to examine the record, and act upon the resolution according to former practice.

The resolution was then ordered to lie on the table.

#### BALTIMORE AND OHIO RAIL ROAD.

Mr. SMITH, of Maryland, moved to take up the bill authorizing the Baltimore and Ohio Rail Road Company to import iron and machinery.

Mr. DICKERSON said he hoped the Senate would not take it up. It was one of great importance, and he considered it should not be hurried through. He wished some further time to examine the subject.

Mr. SEYMOUR wished there should be more time given for consideration before he was called on to give his vote. There was a bill lying on the table a long time, which was taken out of its regular course; it ought in justice to have the preference.

Mr. HAYNE said he was averse to the principle of taking up a subject, and then dropping it suddenly. If the bill should be postponed until next week, then the whole discussion must be commenced *de novo*. He hoped, for economy's sake, at this period of the session, the Senate would resume its consideration.

Mr. SILSBEE offered the following amendment, which he prefaced by some observations:

To add the following at the end of the last section: "And shall give bond for the amount of duties in the usual manner, subject to the condition, (to be expressed in the bond,) that, on satisfactory proof being given to the Secretary of the Treasury that such iron has been used in the construction of such rail-roads, such bond shall thereon be cancelled."

The amendment was then agreed to.

Mr. MARKS said he did not rise so much for the purpose of opposing the bill, as to explain the motives which would induce his vote. There was no certainty that the intended rail road would extend to Pittsburg: it would go entirely south to Pennsylvania. He would be the last man in the world to oppose a measure imparting so much general benefit. The Legislature of Pennsylvania, last session, directed a committee to make a rail-road, extending about ninety miles, from Philadelphia. Members are generally influenced by the votes of their constituents: they are the best judges of what is useful and necessary. They are composed of the manufacturing and agricultural portion of the community, and we should be entirely governed by their opinions. He had no doubt but Pennsylvania is as much entitled as Maryland or Ohio to the advantages of the privilege to make rail-roads. Although the roads are not at present so great in extent, yet Pennsylvania will be obliged shortly to make rail-roads as extensive as Baltimore or Ohio. Several rail-roads were authorized to be made in Pennsylvania. They were every where springing up. The capacity of the country for producing iron was commensurate with this increasing demand for it. Pennsylvania produced iron enough now for its own consumption, leaving a large surplus for the use of other States. If we remitted the duties on the iron and machinery imported for the use of this company, we should, of course, be obliged to do the same for all other companies, to the manifest disadvantage of the domestic production of iron. The corporation for whose benefit the remission was proposed to be made, was rich. They expected to profit largely by the enterprise, or they would not have invested their money in it. The Senator from Maryland had chosen to animadvert on the course which

APRIL 24, 1828.]

*Baltimore and Ohio Rail Road.*

[SENATE.]

Pennsylvania has taken in regard to the metropolis of Maryland. During the time that he was a member of the Legislature of Pennsylvania, no hostility was discovered towards Baltimore. A rail road had been authorized from York Haven to Baltimore. This did not indicate hostility.

Mr. SMITH, of Maryland, explained. He perceived yesterday, he said, from the looks of the Senator, he was mistaken by him. There were obstructions in the river Susquehannah, which rendered its ascent or descent difficult. The Legislature of Maryland voted a sum for the improvement of the navigation of the river, but the State of Pennsylvania would not permit it to be applied.

Mr. MARKS resumed. This was no proof of the existence of any jealousy, on the part of Pennsylvania, of the prosperity of Baltimore. He well recollected the case to which the gentleman alluded. The offer of the State of Maryland was refused because the State of Pennsylvania was not consulted, and because it was thought a violation of her rights to have improvements made in her limits without her consent. But, subsequently, the two States had an understanding on the subject. Maryland gave \$40,000 towards the improvement of the navigation of the Susquehannah, and Pennsylvania gave \$60,000. Certainly this was no evidence on our part of a disposition unfriendly to Baltimore. Many of our principal turnpikes, too, terminate on the Maryland line. This was no evidence of the hostility with which the gentleman accused us. This much he had thought it necessary to say, to obviate the impression which the remarks made by the gentleman might have produced. I have been anxious to remove that impression, because I know it is unfounded. I do know that our people are friendly to the State and the metropolis of Maryland, and would rather promote than retard that prosperity.

Mr. M. concluded with some further remarks on the impolicy of the proposed measure.

Mr. HARRISON rose not to make a speech; for he said there was at this period of the session no time for speech making—but to say two words in favor of the bill. The internal improvement of the country, and its agricultural improvement, would be greatly promoted by the proposed rail-road. It was not his wish to throw into the hands of the company any facility for the execution of this work which the general interests of the nation did not require.

Mr. BARNARD was, he said, as fully persuaded of the utility and importance of rail-roads as was the Senator from Ohio. The measure proposed would introduce a new principle, a new and mischievous system into our policy; a distinction in the distribution of the favors of the Government between one and another class of men. Such distinctions, however meritorious the favored party might be, were fraught with evil to free institutions.

Whether we exonerated the company or not from the duty, the tolls which they would charge on the country would be the same. The great argument used by the gentlemen in favor of the bill was that we have not the capacity to produce iron for our own consumption. The amount of iron used in the country is 97,000 tons, say 100,000; of this quantity 30,000 tons are imported from abroad. We have ourselves inexhaustible quantities of iron ore. In the single State of Pennsylvania there was ore enough, fuel and labor enough, to supply the whole Union with iron, even were the present consumption increased tenfold. I therefore contend that the ground assumed is not tenable.

The gentleman from Maryland says the argument heretofore used against this application, to wit, that the Government does not remit the duty on iron used for its ships of war, is of no avail, because we use for those purposes American iron. The argument is rendered the stronger by that circumstance; for the fact shows our capacity for producing good iron. I contend that in the price which the Government pays for this American iron

for their ships, is included the duty on imported iron; but it was not thought politic to make a distinction between the Government and individuals. We were, by this bill, appropriating money, not for specific objects, but to rail road companies of indefinite number. If this company had objects in view greatly beneficial to the nation, other companies might have objects of little or no public benefit in view. A road of a mile or two miles, for private purposes, would be just as much entitled to the bounty of the Government. Here Mr. B. proceeded to make further remarks on the observations of the Senator from Maryland, [Mr. SMITH.]

Mr. DICKERSON moved an amendment to the bill, not heard. The amendment, after some remarks from Mr. SMITH, of Maryland, was lost.

The bill was then reported to the Senate, and the amendments adopted in the Committee of the Whole were agreed to.

Mr. FOOT said, before he gave his vote, he wished to ascertain what would be the amount of the duties proposed to be remitted? By his own calculations they would amount to \$450,000. Why should such duties be remitted to companies rather than to the United States? What was the situation of the stock? It was sold at a great advance on the scrip, when sold at all. Most of it was kept up, and withdrawn from market. He would like to have some reason for the donation.

Mr. SMITH, of Maryland, said that the amount of the sum remitted would not exceed \$180,000.

Mr. DICKERSON asked whether this company was more meritorious than other companies? And whether rail-road companies were more worthy of the protection of the Government than other companies? Were not ships as important to the interests of the country as rail-roads? Why did we not then remit the duty on iron and hemp imported for the use of ships? Rail roads were about to become numerous in this country. We had the capacity to furnish the iron. The passage of the bill threw the whole property of the iron manufacturer into the hands of British iron masters. He protested against the policy of the bill, but he despaired of defeating it. He asked the ayes and noes on the question.

The call being sustained, the ayes and noes were ordered.

After some remarks from Messrs. FOOT and CHANDLER, Mr. MACON asked whether the remission of the duty would affect the toll of the rail-roads? It would be strange if the people, with the encouragement which the duty gave them, and having iron ore enough for the whole world, could not prepare iron enough for home consumption. He recollected that before the duty was imposed the iron business was very profitable. If the people were forced to get their iron here, the planting interest would be greatly benefitted. By planters, he meant all persons from Maine to Florida who cultivated their own lands with their own labor. He disapproved of the fashionable term "farmers," as applied to those who owned the soil which they cultivated. This bill gave a gratuity to the richest men in the country. If the bill did not lessen the toll of the rail-road, it was of no use to the community.

Mr. SMITH, of South Carolina, was, he said, placed in a dilemma by this bill. He was forced to vote against his doctrines in regard to internal improvements, or to vote for the protection of domestic manufactures. If we did not remit the duty, we imposed on the company the necessity of waiting till iron foundries were established; and then of taking the iron at whatever price the iron master should choose to demand. This was a most gross violation of justice. There were, no doubt, gentlemen who had voted for grants of hundreds of thousands of dollars to national roads who would vote against this application. Placed in this dilemma, the safest course for me is, I think, to vote for the bill.

SENATE.]

*Internal Improvements.—Survivors of the Revolution.*

[APRIL 25, 1828.]

Mr. VAN BUREN spoke in reply to the question of the Senator from North Carolina. The Senator, said Mr. V. B., asks whether the remission of the duty on the iron imported will produce a corresponding diminution of the toll charged by the company? The company, he replied, were entitled by their charter to charge a certain sum as a toll. There was no reason to believe that they would lessen it. Their object was profit. It would hardly be expected of private individuals to become more careful of the interests of others than their own; and corporations, having no souls, could not be expected to be more liberal. The stock of this rail-road company was good stock, and it was owned by our richest capitalists. It was now worth sixteen for one. Private interest was the only motive which actuated men in undertaking these enterprises. They looked to the amount of the dividends they were to receive from the investment; or, in some instances, to the enhancement of the value of their lands. He would repeat, in reply to the Senator from North Carolina, that the remission of the duty would not lessen the tolls.

Mr. HAYNE spoke in reply to Mr. VAN BUREN.—There was a universal law of nature which applied to this case. Competition, or other causes, would bring down the tolls of this rail-road to a reasonable profit. The rail-roads would consume an additional quantity of iron to the extent of 20,000 tons yearly. If the duty were not remitted, the price of every article made from iron in the country would be greatly increased. The introduction of this manufacture would employ 300,000 hands; whereas the iron masters, if they furnished the iron, would employ but 30,000 hands. The manufacture of the iron wanted for rail-roads required particular nicety and skill. The reason why it could not be supplied by our iron masters, was, that they could not furnish iron prepared in the proper manner. The introduction of this principle into our legislation was not new. We had made a similar remission of duties on books imported, on philosophical apparatus, and on articles employed in manufactures, to the amount of eight millions of dollars. The company had advertised for a supply of the iron which they wanted, and but two offers were made, and those of very small quantities. It was considered that the iron could not be furnished in this country. The iron masters in Pennsylvania could not answer the orders which they already had. The rail roads were the most important improvement, excepting that of steam, which had been introduced in modern times. Whether this work should be undertaken by individuals, burdened by the laws of the country, was the question presented by the bill.

After some further remarks from Mr. VAN BUREN, in reply to Mr. HAYNE, the question was taken on ordering the bill to a third reading, and decided in the affirmative.

#### INTERNAL IMPROVEMENTS.

The bill making appropriations for internal improvements was returned from the House of Representatives; that House having disagreed to the amendments of the Senate, limiting the appropriations for surveys to such surveys as are already in progress.

The bill was recommitted to the Committee of Finance.

FRIDAY, APRIL 25, 1828.

Mr. JOHNSON, of Ky., submitted a resolution proposing to appoint a committee, to join that on the part of the House, to fix on a day on which this session of Congress should close.

Mr. J. requested the consideration of his resolution; which was not agreed to.

The CHAIR stated that, having directed the Secretary to examine the records, as to the practice in relation to resolutions of the other House, similar to that laid

on the table yesterday, the CHAIR entertained no doubt that the concurrence of the Senate in such resolutions, by vote, was not sustained by former practice. The appointment of a committee would be the proper act of concurrence.

#### SURVIVORS OF THE REVOLUTION.

On motion of Mr. WOODBURY, the bill providing for certain Surviving Officers of the Revolution was taken up. The following substitute for the original bill, reported by the committee on the subject, being before the Senate:

Strike out, after the enacting clause, and insert:

"Section 1. That each of the surviving officers of the Army of the Revolution, in the continental line, who was entitled to half pay by the resolve of October 21st, 1780, be authorized to receive, out of any money in the Treasury, not otherwise appropriated, the amount of his full pay in said line, to begin on the — day of —, and to continue during his natural life.

"Section 2. That, whenever any of said officers has received money of the United States as a pensioner, since the — day of — aforesaid, the sum so received shall be deducted from what said officer would otherwise be entitled to under the first section of this act, and any pension to which said officer is now entitled, shall cease after the passage of this act.

"Section 3. That every surviving soldier in said army, and non-commissioned officer, who enlisted therein for and during the war, and continued in the service until its termination, and thereby became entitled to receive a reward of \$80 under the resolve of Congress, passed May 15, 1778, shall be entitled to receive his full monthly pay, in said service, out of any money in the Treasury, not otherwise appropriated, to begin on the — day of —, and to continue during his natural life.

"Section 4. That the pay allowed by this act, shall, under the direction of the Secretary of the Treasury, be paid to the officer or soldier entitled thereto, or to their authorized attorney, at such places and days as said Secretary may direct, and that no foreign officer shall be entitled to said pay, nor shall any officer or soldier receive the same, until he furnish to said Secretary satisfactory evidence that he is entitled to the same, in conformity to the provisions of this act; and the pay allowed by this act shall not, in any way, be transferable or liable to attachment, levy, or seizure, by any legal process whatever, but shall enure wholly to the personal benefit of the officer or soldier entitled to the same by this act.

"Section 5. That so much of said pay as accrued by the provisions of this act before the — day of —, shall be paid to the officers and soldiers entitled to the same, as soon as may be, in the manner, and under the provisions, before mentioned: and the pay which shall accrue after the — day of —, shall be paid semi-annually, in like manner, and under the same provisions."

Several amendments to the substitute proposed by the committee, were then proposed; and the question being on filling the blank with the "3d March, 1826,"

Mr. SMITH, of South Carolina, said, that when, on a former occasion, the bill had been before the Senate, it had expressed, by three several votes, on different sums proposed, its disapprobation of the form in which the bill was then presented. He had understood, at that time, that, if the Senate did not grant the claim then advanced, they would retire and not urge their claim again. It was, however, now brought forward, and in a manner which rendered it far more objectionable than formerly. It was an accession to the pension system of the country, and he believed that the amount of money which it would eventually call for, would far

APRIL 25, 1828.]

*Survivors of the Revolution.*

[SENATE.]

exceed any computation that the committee had made. He also objected that some of the officers were men of wealth, and stated that he knew one who was worth \$50,000.

Mr. BERRIEN considered the objections of the gentleman from South Carolina applied rather to the conduct of the friends of the bill, than to the claim itself. Mr. B. did not recollect that any pledge was given that the claim should not be further urged; but he did recollect, that one of the advocates of the bill declared that the officers would not consent to be placed on the pension list. He would repeat what he had said before: that he had arrived at a conviction that these officers had an equitable claim on the Government; and he, therefore, was disposed to acquiesce in any plan, by which they should receive it, in a form not revolting to their feelings. As to the objections of the gentleman from South Carolina, that these officers were men of wealth, he would ask if that was a good reason for not granting the claim? He stated that some of them had large fortunes. I should be happy, said Mr. B. to know that these men who have served their country so faithfully, were in the enjoyment of the blessings of competence. But it was not so general as to have any effect on the large mass of those for whom this bill provided. In reply to the objection that this bill would swell the pension list, he would remark, that, as it was a debt for the payment of which the faith of the Government was pledged, the manner in which it was discharged was not of the last importance. As to the supposition that the amount of pension would exceed the calculations of the committee, Mr. B. stated, that the number of officers was known, and the apprehensions of the gentleman from South Carolina would not be realized.

Mr. SMITH, of South Carolina, replied, and repeated his opinion, that it was understood that the bill would not again be pressed.

Mr. HARRISON said, that whatever pledge others might have given that they would not farther press this claim, he did not subscribe to any such pledge. He considered this bill as treated with great unfairness, and objected to in a spirit which looked like illiberality.

Mr. WOODBURY said in reply to the objections offered by Mr. SMITH, of South Carolina, that, at a former period, a meeting had been called of the surviving officers of the Revolution, at Baltimore, at which a Committee of Correspondence was appointed, to correspond with individuals in every State in the Union. This correspondence had taken place, and, from the data obtained, the number of those officers had been found to be about two hundred and thirty five—thus, with the knowledge of the number of officers at the close of the Revolution, afforded satisfactory evidence that the number could not essentially vary from this estimate. There could be no large error in this computation. As to any pledge having been given, that this claim should not be urged again, after its rejection, in the form originally proposed, he knew nothing that could be so construed, with the exception of a remark made by the gentleman from New York, [Mr. VAN BUREN.] He had stated, that they would withdraw their memorial if the only grant that could be obtained was the insertion of their names on the pension roll. And, as stated by the gentleman from South Carolina, on the other side of the House, the pride of these claimants revolted at the idea of being placed on the list of pensioners as mere paupers, when they considered that they had a claim on the Government under a promise formerly made by Congress. Under these circumstances, a plan had been projected, on a further meeting of the Committee—still retaining the ground of the rights of these memorialists, by which they might be spared from the degrading necessity of taking an oath of their poverty—an act which would have wounded their feelings to no

useful purpose; and the Senate could not, he thought, refuse this slight token of regard to the honorable pride of these veterans. The present arrangement would require a sum far less than would have been demanded had these officers been placed on the pension list from the commencement.

Mr. SMITH, of Maryland, observed, that the gentleman from South Carolina, [Mr. SMITH] seemed to fear that frauds would be committed under this act; and that unworthy objects would reap the benefits of the bill. But this was out of the question, as no individual could be embraced by this measure, who had not been on the commutation roll, and received the commutation. These individuals could easily be ascertained, so that there was no fear of the frauds the gentleman seemed to apprehend.

[Mr. SMITH, of South Carolina said, that he had only supposed that other persons would come in. He did not attribute fraud to any one.

Mr. SMITH, of Maryland, continued. It amounted to the same thing. No one could by possibility come in, but those for whom the provisions of the bill were intended. He thought the objection, that some of these officers were rich, had no application to the bill. There might be one or two instances of the kind; but what had they to do with the aggregate? As far as his knowledge extended, it was not the case. In Maryland he knew that the officers of the Continental line needed the pension. In that State the Cincinnati met every year, and at those meetings the death of every member was reported—this was the case in every State where there were Cincinnati. So that the numbers of the survivors could easily be ascertained. Where there were none other means could be used to obtain the information required. There could not, therefore, be any difficulty in ascertaining the individuals entitled to the benefits of the bill. He had stated before, that the computation of those who had been in the army three years, at the end of the war, had been correctly made, when the pension list was first agitated in Congress. There was no difficulty in making out the list—but the computation was destroyed afterwards, by introducing those who had served nine months.

Mr. CHANDLER inquired if those who received the commutation were the only class for whom this bill provided. He should like to know why those who served three years, should be preferred to those who served six years, and retired previous to the close of the war. The former lost, by the depreciation of the currency, no more than the latter.

Mr. WOODBURY, in reply, said, that the officers for whom this bill provided, not only lost, in common with all the other officers, the depreciation on their pay, but they also lost the reduction on their half pay. It was so with the soldiers. This bill applied to those only who, having been promised a bounty of eighty dollars, lost not only the depreciation upon their monthly pay, but the depreciation on their bounty.

Mr. VAN BUREN made some remarks, on rising, which the reporter could not hear. He thought there would be no end to the objections which this bill was doomed to meet. It seemed to be argued that there was an impropriety in pressing this claim in its present form. And, on this head, he would say a few words. These officers found their claim upon the commutation of the half pay for life which Congress had promised them. There are other considerations, which it is not now necessary to urge. He then detailed the circumstances under which the memorial of the officers had been brought forward, but in a tone of voice, which was not distinctly heard in the gallery. On proposing to the officers the acceptance of a place on the pension list, they said that all who had been driven by dire necessity to that resort, were there already. The present plan did not propose to give what they or their friends considered them entitled

SENATE.]

*Survivors of the Revolution.*

[APRIL 25, 1828.]

to; but, it afforded some relief to their necessities, and was an approach towards the payment of a debt formed under the most imposing circumstances, and to the payment of which, the memorialists were entitled by the highest and strongest considerations.

Mr. MACON said, that, at first, this claim had been put forth on legal grounds, which were maintained by the first lawyers in the Senate. Now, that ground appeared to have been abandoned, and he supposed the claim was founded on a debt of gratitude. Even granting that such a claim existed, and that, at any other time, it would be proper to grant it—this certainly was not the right period for making any such grants. There never was a time when the distresses of the People were greater. In his part of the country, it was greater than at any previous period, even than during the war. Money was never scarcer than now. He knew we could borrow; but we had not it in the Treasury to spare. Mr. M. also urged that there were other classes of People, who suffered from the ravages of war, and lost all their property. On these grounds he was opposed to this bill.

Mr. CHANDLER expressed himself dissatisfied with the reply which the gentleman from New Hampshire had given to his inquiry. When the officers who had served six years retired, they had lost on their pay. But here was another class, who, after having served a shorter period, and received five years' additional pay, with some depreciation, were to receive full pay for life. He thought it unjust and partial; and it could easily be perceived, that the officers and soldiers, who served six years, would complain. Therefore, while we are about it, why not provide for the whole?

Mr. HARRISON said, that the friends of this bill were assailed on all sides, and in the most contrary manner, by different opponents. Some gentlemen complain that the bill goes too far, while others, like my friend from Maine, reproach us that we do not go far enough. The provisions of this bill are not limited, because we do not think that there are other classes of officers to whom the country owes gratitude, who served a shorter period. But it was the peculiar nature of the claims of these officers which limited the bill to them. It seemed rather unfair, that the advocates of this measure should be assailed at once by complaints for doing too much, and for doing too little. The argument so often used by his friend from South Carolina, [Mr. SMITH] that the Government could not pay the whole amount of the depreciation on the pay of the army, was a sufficient reply to the opposite objection of the gentleman from Maine. It had been well said by the gentleman from Virginia, [Mr. TYLER] on a former day, that the Exchequer of the world would not supply the funds to defray the losses to which the gentleman from North Carolina has alluded. But, when that gentleman speaks of the losses of other classes, and the sacrifices of property which individuals suffered, would he compare the losses of these men who shed their blood, and risked their lives in the service, to losses of property? Would he compare the blood of an ox to the blood spilt by these devoted patriots? He hoped not. The bill provides for that class of men who suffered most, and who received a pledge which was never fulfilled.

Mr. WOODBURY replied to the questions put by Mr. MACON. There were none of the officers provided for by this bill who had not served three years. He was very frank to confess another fact, which was, that it had been ascertained that the officers who served the shortest period were those who now resided in the Southern States. If the discrimination was made, it would be in favor of those who resided in the Northern States. The committee had thought that all those who served to the close of the war ought to be provided for, without making distinctions in favor of those who served longer than others.

Mr. HARRISON called for the yeas and nays on the question of filling the blanks, which was sustained.

Mr. COBB said, that, if he understood the object of the present bill, it was to give the full pay of a captain for life, to these officers, and two years' pay as a previous gratuity. I, [said Mr. C.] shall vote against it; and I wish to explain why I shall do so. If this is a grant made upon the ground of a debt, there is no reason why it should not be extended to the legal representatives of those who have died, as well as to the survivors. I ask whether the present bill does not deal partially? Whatever may be said by the friends of the measure, I certainly did understand, that, when this question was settled a month since, by three several votes—the friends of the bill signified the determination of these officers not to accept of pensions. The gentleman from New York informed us, that they would not consent to be placed upon the pension list. Well, sir, it is now said, that they are to receive full pay for life—and will they say that this is not accepting of a pension? that this is not an extension of the pension system? They made the declaration, that these gentlemen were above accepting a pension. But now we find these high minded modest officers of the Revolution, discovering that the bill can pass in no other form, not averse to become pensioners. The features of this bill, [said Mr. C.] appear to me to be more offensive now than formerly: for, if any thing was to be given, it ought to have been given as a donation. The present plan extends the pension principle too far. And as he had been always against donations, viewing them as he did, as unconstitutional, he hoped the Senate would be inclined to consider this matter thoroughly, before they consented to carry the pension list of the country to such an enormous extent. He had perceived that the bill had been skilfully managed. Its advocates had watched the proper opportunity for calling it up; and had been peculiarly careful that the Senate should be full, when it came on for consideration. They had called it up, and laid it down again, as the Senate had been full or empty; and now it is pressed because all the members happen to be present. Still he hoped this measure would not be passed upon without deliberation. He thought that this subject had a farther scope than its mere intrinsic merits would indicate. He thought that the Presidential question was, to a great extent, made to depend on this bill. The friends of the administration advocate it, because the President recommended it in his message—and the members of the opposition are in favor of it, because, should they oppose it, their conduct would be the ground for reproach from their opponents, and would afford an argument against them. This bill was the most extravagant feature of this session, which was by far the most extravagant Senate in which he had ever served. They had given away immense tracts of land—they had given away vast sums of money; and they had enlarged all those powers which were considered by many, as dangerous and unconstitutional. In that part of Georgia in which he lived, but little more than *half crops* of cotton had been made in the last year, and he had seen a document from one of the commercial cities of the South, by which it would seem that the exports of cotton, of the crop of 1827, would be from 100,000 to 200,000 bales less than those of the year preceding. Is this the time then for extravagant expenditure? Is this the time for spending money? There was no fear that these applicants would come upon the poor list. They were not in so bad a condition as many thousands of those who fought with them, and performed equally meritorious services; but whose claims were forgotten. He felt bound to oppose this bill, as unjust, inexpedient, and a wanton expenditure of the money of the People.

Mr. FOOT merely rose to state the grounds on which he should oppose the filling of the blank as proposed.

APRIL 25, 1828.]

*Survivors of the Revolution.*

[SENATE.]

He was a member of the committee on Pensions—and many hard cases had come before them, in which it was proposed to go back in granting pensions—and in one instance only had the Committee consented to go back. And he would ask whether the Senate would adopt a principle which had never been acknowledged, in favor of these officers, which had been refused in many instances where individuals were poor and suffering?

Mr. HARRISON said, he rose to make but a single observation in relation to the remarks of the gentleman from Georgia. If there was a scramble upon the floor of the Senate, as that gentleman intimated—if the majority of the Senate were in favor of the bill, he thought it a fair inference that they acted from a knowledge of the wishes of their constituents; it was a fair conclusion, that the majority of the People were in favor of the bill.

Mr. CHAMBERS said, he had been induced to take the floor by the remarks of the honorable gentleman from Georgia, [Mr. Cobb.] With some of those remarks he had nothing to do, not exactly perceiving their application. If the cotton crops had failed in the South, he much regretted it; and the more so, as he had relatives, and very good friends, engaged in its cultivation; nor did he mean to defend the Senate from the charge of having been extravagant, wild, and wasteful; that duty must devolve on some member who had more agency in the introduction of the measures acted on, than himself. He did not admit that any vote he had given required him to plead guilty; he did not either intend to remark on the suggestion, that this was to be a question to affect the Presidential election, further than to say, that the honorable member from Georgia must allow him to find motives for his own conduct. What were the motives of that gentleman, or whether they had any connexion with the election of President, were subjects for his especial consideration—far be it from him to conjecture. But, for himself, he claimed the privilege to assign his own motive, and that motive was, "a deep conviction of the justice of this claim." He had declared, and still declared, his opinion, that the claim was founded in the established principles of law; and, if the party from whom it was due could be made amenable to the ordinary administration of the law, it would be recovered by its process. In this case, however, the claim is due from the Government who makes the law, administers the law, and decides the law.

The officers have approached you, and properly, with a manly and candid representation of the facts, and claiming what they allege is due to them. Having the sole power to decide, you have said their claim shall not be granted, as matter of right, and now, their friends on this floor have presented this bill, which proposes to give them a small sum in gross, and a small annuity, for the residue of their lives. How is this received? The honorable gentleman from Georgia impeaches their motive—tells you their authorized agents, on this floor, had avowed their intention to abandon all claim, except as founded on principles of law, and their determined unwillingness to occupy a place on the pension list. Sir, said Mr. C., the gentleman has certainly the privilege to clothe his ideas in what words it may best please him; but he could not but think some of the expressions of the honorable gentleman entirely uncalled for by the occasion. Is it not enough that these men have, for a life time, been denied justice? That many of them have been permitted to go off the stage of life neglected and penniless? That their survivors are now obliged to make their continued appeal to your generosity and your justice, in vain asking from you a pittance of your abundance? Must they, also, be made to hear harsh remarks and imputations of sinister and deceptive means to promote their object? Sir, these officers are above the

reach of suggestions which would impeach their honor. They have done nothing, in relation to this matter, which is wrong, or which requires apology.

It has always been, and still is the opinion of the officers who are here as the representatives of their compatriots, that they would never consent to come upon your pension list, which they can only do by the humiliating process of swearing themselves unable to subsist without such pension. Is this the case made by the amendment now before you? Not at all. It requires no previous humiliating ceremony, or any preliminary whatever. It is the direct unqualified grant of a gross sum and a subsequent annuity. Less it is true, than the amount due to them—less than, by your own estimate of their claim, they have lost—less than in your adjustment of their accounts you have taken from them. The Government made the officers a proposal to commute their half pay for life for five years full pay, for which certificates were issued to them. These certificates, we all know, were not paid, but were funded at an amount much below their nominal value. All this operation was conducted by the Government. The officers were passive, and obliged to submit to whatever you were pleased to direct, and to receive whatever you were willing to give; and thus by your own acts, the result was a loss to them of the difference between the nominal amount of their certificates, and the actual sum at which they were refunded, and this sum came into your Treasury, and has been disbursed in your service. Now, give them this sum, with interest on it, and they will much prefer it to the advantages of this bill.

As to the suggestion that Senators had committed themselves to abandon the interest of these officers, on any contingency, he had only to say, he had never designed such abandonment, and, while he had breath to expend in their service, he should hold himself bound to raise his voice in advocating what he believed ought to be granted. If he could not get all, he would get as much as he could—now, hereafter, and at all times, and under all the varieties in which this question shall be agitated, he was the determined advocate of these injured and meritorious claimants. It had appeared to him somewhat remarkable, that the adversaries of this bill, although he believed (and he said this under correction) they were all opposed to any and every proposition to extend relief to these officers, have, nevertheless, placed their objections on the forms in which this relief is proposed. In any form, it would be objectionable to these gentlemen. One gentleman says, this is not the proper time. In that opinion he entirely concurred—the proper time had long since gone by—but the present was more proper than any future time, for the very reason, that it was less proper than any past time. Another gentleman had urged, that all who were engaged in the struggle had equal merit, and the representatives of such as were deceased ought to be provided for, as well as survivors. The object of this was apparent; you can't provide for all—your means are not adequate. An attempt to do so must be abortive. Shall you, therefore, refuse to do what you can? Again, it is objected that the ground of legal right is abandoned, and a pension substituted. The tone and temper in which this word pension was used, evidenced the manifest design to present the officers who may accept it, in an odious character—Names will not alter facts. There is nothing in this proposition, the acceptance of which can crimson with a blush the cheek of these veterans—save only the proof it may furnish of the contracted pitiful pretence of justice or liberality which it may boast for the Government. They may blush for us, not for themselves. The sensibilities of the honorable gentleman from Georgia are excited without cause. These officers are not now, at the close of a long life, full of honor and virtue, rich in the regards of their countrymen, and in the consciousness of their own



SENATE.]

*Survivors of the Revolution.*

[APRIL 25, 1828.]

integrity—however destitute of the means of comfortable subsistence—they are not now to be warned against an act which is to strip them of all they have left and make them bankrupt in reputation, as they are in purse. They feel themselves perfectly competent to determine their own course on this occasion; and, if they were to take counsel on the subject, they would probably still feel indisposed to place themselves under the guardianship of the honorable gentleman from Georgia.

Sir, there is nothing in the offer now proposed to them at which they can feel difficulty, except the limited amount granted. The bill assumes that they have great merit; that exact justice in a pecuniary settlement has not been extended to them; that they are poor. These are facts admitted by them, but they do not involve reproach. The sum, in gross, is but a pittance; but, small as it is, it may serve to give decent burial to many. They are daily dropping from the stage of life—some have not left the means of providing the most common necessities for the usual offices at the grave. Here and there one may linger out a few years more—and shall we turn these from our door, to drag along the little remnant of their decrepid old age in poverty and want, or shall we strew the short step, that must presently conduct them to a better world, with some of those comforts which our abundance can spare, and which will blunt the thorns, and smooth the roughness of the path which ends their earthly pilgrimage? Their toils, their blood, have furnished us plenty and happiness: it is but a small return to keep them from actual want. He hoped the proposition of the Committee would prevail.

Mr. COBB said, in reply: the gentleman from Maryland is of opinion that I imputed improper motives to those who are the claimants in this case. In forming such an opinion he is indebted to his own imagination, and not to my expressions. I only stated facts; I conveyed no censure. I repeat, again, that it was declared, by the gentleman from New York, [Mr. VAN BUREN] that these officers were not willing to be considered as pensioners, and that, if their claim was not granted, they would withdraw from further solicitations. Now, they are placed in the position of pensioners. If this is all true, it may, or it may not, convey an imputation of improper motives. It is as the gentleman pleases. I stated the facts; I did not impute motives; with the latter I have nothing to do, farther than they may be drawn from the former. The gentleman supposes I have assumed the guardianship of these officers: but I assume no such office. My opinions are these: I do not believe that, in strict equity, there is any thing due to these claimants. I think it is improper to extend the pension system beyond its present limits. I think and I have often so expressed myself, that the Government has no right to give away the public money, and that such donations are unconstitutional, and, consequently, dangerous.

Mr. CHAMBERS said, the honorable gentleman had mistaken him—he made no inferences for the honorable gentleman. He had assumed, that the words used by him, “modest and high-minded officers,” were used ironically, and intended to impute conduct to them the reverse of that which “modest and high-minded officers” should use. He believed the honorable gentleman would not deny the correctness of that assumption. In relation to the unwillingness of the officers to become pensioners, he had thought they ought not to agree to approach the Government in the attitude of mendicants, swearing to their poverty, and asking for the charity, which, by the existing law, is provided in such cases. But this bill proposes a grant to them, not as beggars, but as meritorious claimants on the generosity, if not the equitable justice of the Government.

Mr. WEBSTER then addressed the Senate as follows: It had not been my purpose to take any part in the dis-

cussion of this bill. My opinions, in regard to its general object, I hope, are well known, and I had intended to content myself with a steady and persevering vote in its favor. But, when the moment of final decision has come, and the decision is so likely to be nearly equal, I feel it to be a duty to put, not only my own vote, but my own earnest wishes, my fervent entreaties to others, into the doubtful scale.

It must be admitted, sir, that the persons for whose benefit this bill is designed, are, in some respects, peculiarly unfortunate. They are compelled to meet, not only objections to the principle, but, whichever way they turn themselves, embarrassing objections also to details. One friend hesitates at this provision, and another at that; while those who are not friends at all, of course, oppose every thing, and propose nothing. When it was contemplated, heretofore, to give the petitioners an outright sum, in satisfaction of their claim, then the argument was, among other things, that the Treasury could not bear so heavy a draught on its means, at the present moment.

The plan is, accordingly, changed—an annuity is proposed—and then the objection changes also—and it is now said, that this is but granting pensions, and that the pension system has already been carried too far. I confess, sir, I felt wounded—deeply hurt—at the observations of the gentleman from Georgia. So, then, said he, these modest and high-minded gentlemen take a pension at last! How is it possible, that a gentleman of his generosity of character, and general kindness of feeling can indulge in such a tone of triumphant irony towards a few old, grey-headed, poor, and broken warriors of the Revolution! There is, I know, something repulsive and opprobrious in the name of pension. But, God forbid that I should taunt them with it! With grief, heartfelt grief, do I behold the necessity which leads these veterans to accept the bounty of their country, in a manner not the most agreeable to their feelings. Worn out and decrepid, represented before us by those, their former brothers in arms, who totter along our lobbies, or stand leaning on their crutches, I, for one, would most gladly support a measure which would consult at once their services, their years, their necessities, and the delicacy of their sentiments. I would gladly give, with promptitude and grace, with gratitude and delicacy, that which merit has earned, and necessity demands.

Sir, what are the objections which are urged against this bill? Let us look at them, and see if they be real; let us weigh them, to know if they be solid. For, sir, we are not acting on a slight matter. Nor is what we do likely to pass unobserved now, or to be forgotten hereafter. I regard the occasion as one full of interest and full of responsibility. Those individuals, the little remnant of a gallant band, whose days of youth and manhood were spent for their country, in the toils and dangers of the field, are now before us, poor and old, intimating their wants with reluctant delicacy, and asking succour from their country, with decorous solicitude. How we shall treat them, it behooves us well to consider, not only for their sake, but for our own sake also, and for the sake of the honor of the country. Whatever we do, will not be done in a corner. Our constituents will see it—the people will see it—the world will see it.

Let us candidly examine, then, the objections which have been raised to this bill; with a disposition to yield to them, if, from necessity, we must; but to overcome them, if, in fairness, we can.

In the first place, it is said that we ought not to pass this bill, because it will involve us in a charge of unknown extent. We are reminded that, when the general pension law for Revolutionary soldiers passed, an expense was incurred, far beyond what had been contemplated; that the estimate of the number of surviving Revolution-

APRIL 25, 1828.]

*Survivors of the Revolution.*

[SENATE.]

any soldiers proved altogether fallacious; and that, for aught we know, the same mistake may be committed now.

Is this objection well founded? Let me say, in the first place, that, if one measure, right in itself, has gone farther than it was intended to be carried, for want of accurate provisions, and adequate guards, this may furnish a very good reason for supplying such guards and provisions, in another measure, but can afford no ground at all for rejecting such other measure altogether, if it be in itself just and necessary. We should avail ourselves of our experience, it seems to me, to correct what has been found amiss; and not draw from it an undistinguishing resolution to do nothing, merely because it has taught us, that, in something which we have already done, we have acted with too little care. In the next place, does the fact bear out this objection? Is there any difficulty in ascertaining the number of the officers who will be benefited by this bill, and estimating the expense, therefore, which it will create? I think there is none. The records in the Department of War and the Treasury furnish such evidence as that there is no danger of material mistake. The diligence of the Chairman of the Committee has enabled him to lay the facts connected with this part of the case, so fully and minutely before the Senate, that I think no one can feel serious doubt. Indeed, it is admitted by the adversaries of the bill, that this objection does not apply here, with the same force, as in the former pension law. It is admitted that there is a greater facility in this case than in that, in ascertaining the number and names of those who will be entitled to receive that bounty.

This objection, then, is not founded in true principle; and if it were, it is not sustained by the facts. I think we ought not to yield to it, unless, which I know is not the sentiment which pervades the Senate, feeling that the measure ought not to pass, we still prefer, not to place our opposition to it on a distinct and visible ground, but to veil it under vague and general objections.

In the second place, it has been objected, that the operation of the bill will be unequal, because all officers of the same rank will receive equal benefit from it, although they entered the army at different times, and were of different ages. Sir, is not this that sort of inequality which must always exist in every general provision? Is it possible that any law can descend into such particulars?

Would there be any reason why it should do so, if it could? The bill is intended for those, who, being in the army in October, 1780, then received a solemn promise of half pay for life, on condition that they would continue to serve through the war. The ground of merit is, that, whensoever they had joined the army, being thus solicited by their country to remain in it, they at once went for the whole; they fastened their fortunes to the standards which they bore, and resolved to continue their military service until it should terminate, either in their country's success, or their own deaths. This is their merit, and their ground of claim. How long they had been already in service, is immaterial and unimportant. They were then in service; the salvation of their country depended on their continuing in that service. Congress saw this imperative necessity, and earnestly solicited them to remain, and promised the compensation. They saw the necessity, also, and they yielded to it.

But, again, it is said, that the present time is not auspicious. The bill, it is urged, should not pass now. The venerable member from North Carolina says, as I understood him, that he would be almost as willing that the bill should pass, at some other session, as be discussed at this. He speaks of the distresses of the country, at the present moment, and of another bill, now in the Senate, having, as he thinks, the effect of laying new taxes upon the people. He is for postponement. But it appears to me, with entire respect for the Honorable Member, that this

is one of the cases least of all fit for postponement.—It is not a measure, that, if omitted this year, may as well be done next. Before next year comes, those who need the relief may be beyond its reach. To postpone, for another year, an annuity to persons already so aged—an annuity, founded on the merit of services which were rendered half a century ago; to postpone, for another whole year, a bill for the relief of deserving men, proposing not aggrandizement, but support; not emolument, but bread—is a mode of disposing of it, in which I cannot concur.

But it is argued, in the next place, that the bill ought not to pass, because those who have spoken in its favor have placed it on different grounds. They have not agreed, it is said, whether it is to be regarded as a matter of right, or matter of gratuity, or bounty. Is there weight in this objection? If some think the grant ought to be made, as an exercise of judicious and well deserved bounty, does it weaken that ground that others think it founded in strict right, and that we cannot make it without manifest and palpable injustice? Or is it strange, that those who feel the legal justice of the claim should address to those who do not feel it, considerations of a different character, but fit to have weight, and which they hope may have weight? Nothing is more plain and natural than the course which this application has taken. The applicants themselves, have placed it on the ground of equity and law. They advert to the resolve of 1780, to the commutation of 1783, and to the mode of funding the certificates. They stand on their contract. This is perfectly natural. On that basis, they can wield the argument themselves. Of what is required by justice and equity, they may reason, even in their own case. But, when the application is placed on different grounds; when personal merit is to be urged, as the foundation of a just and economical bounty; when services are to be mentioned; privations recounted; pains enumerated; and wounds and scars counted; the discussion necessarily devolves to other hands. In all that we have seen from these officers, in the various papers presented by them, it cannot but be obvious to every one, how little is said of personal merit, and how exclusively they confine themselves to what they think their rights under the contract.

I must confess, sir, that principles of equity, which appear to me as plain as the sun, are urged by the memorialists themselves, with great caution and much qualification. They advance their claim of right without extravagance or overstraining; and they submit it to the unimpassioned sense of justice of the Senate.

For myself, I am free to say, that, if it were a case between individual and individual, I think the officers would be entitled to relief in a court of equity. I may be mistaken, but such is my opinion. My reasons are, that I do not think they had a fair option in regard to the commutation of half pay. I do not think it was fairly in their power to accept or reject that offer. The condition they were in, and the situation of the country, compelled them to submit to whatever was proposed. In the next place, it seems to me too evident to be denied, that the five years' full pay was never really and fully made to them. A formal compliance with the terms of the contract, not a real compliance, is, at most, all that was ever done. For these reasons, I think, in an individual case, law and equity would reform the settlement. The conscience of chancery would deal with this case as with other cases of hard bargains; of advantages obtained by means of inequality of situation; of acknowledged debts, compounded from necessity, or compromised without satisfaction. But although such would be my views of this claim, as between man and man, I do not place my vote for this bill on that ground. I see the consequence of admitting the claim, on the foundation of strict right. I see at once, that, on that ground, the heirs of the dead would claim, as well as the living; and that other public creditors, as

SENATE.]

*Survivors of the Revolution.*

[APRIL 25, 1828.]

well as these holders of commutation certificates, would also have wherewith to complain. I know it is altogether impossible to open the accounts of the Revolution, and to think of doing justice to every body. Much of suffering there necessarily was, that can never be paid for—much of loss that can never be repaired. I do not, therefore, for myself, rest my vote on grounds leading to any such consequences. I feel constrained to say, that we cannot do, and ought not to think of doing, every thing, in regard to Revolutionary debts, which might be strictly right, if the whole settlement were now to be gone over anew. The honorable member from New-York [Mr. VAN BUREN] has stated, what I think, the true ground of the bill. I regard it as an act of discreet and careful bounty, drawn forth by meritorious services, and by personal necessities. I cannot agree, in this case, with the technicality of my profession; and because I do not feel able to allow the claim, on the ground of mere right, I am not willing, for that reason, to nonsuit the petitioners, as not having made out their case. Suppose we admit, as I do, that, on the ground of mere right, it would not be safe to allow it; or suppose that to be admitted, for which others contend, that there is, in the case, no strict right, upon which, under any circumstances, the claim could stand; still, it does not follow that there is no reasonable and proper foundation for it, or that it ought not to be granted. If it be not founded on mere right, it is not to be regarded as being, for that reason alone, an undeserved gratuity, or the effusion of mere good will. If that which is granted be not always granted on the ground of mere right, it does not follow that it is granted from merely an arbitrary preference, or a capricious beneficence. In most cases of this sort, mixed considerations prevail, and ought to prevail. Some consideration is due to the claim of right; much to that of merit and service; and more to that of personal necessity. If I knew that all the persons to be benefited by this bill were in circumstances of comfort and competency, I should not support it. But this I know to be otherwise. I cannot dwell, with propriety, or delicacy, on this part of the case; but I feel its force, and I yield to it. A single instance of affluence, or a few cases where want does not tread close on those who are themselves treading close on the borders of the grave, does not affect the general propriety and necessity of the measure. I would not draw this reason for the bill into too much prominence. We all know it exists; and we may, I think, safely act upon it, without so discussing it as to wound, in old, but sensitive, and still throbbing bosoms, feelings which education inspired, the habits of military life cherished, and a just self-respect is still desirous to entertain. I confess I meet this claim, not only with a desire to do something in favor of these officers, but to do it in a manner indicative, not only of decorum, but of deep respect—that respect which years, age, public service, patriotism and broken fortune, command to spring up in every manly breast.

It is, then, sir, a mixed claim of faith and public gratitude; of justice and honorable bounty; of merit and benevolence. It stands on the same foundation as that grant, which no one regrets, of which all are proud, made to the illustrious foreigner who shewed himself so early, and has proved himself so constantly and zealously, a friend to our country.

But then, again, it is objected that the militia have a claim upon us; that they fought at the side of the regular soldiers, and ought to share in the country's remembrance. It is known to be impossible to carry the measure to such an extent as to embrace the militia; and it is plain, too, that the cases are different. This bill, as I have already said, confines itself to those who served, not occasionally, not temporarily, but permanently; who allowed themselves to be counted on as men who were to see the contest through, last as long as it might, and

who have made the phrase of 'lasting during the war, a proverbial expression, signifying unalterable devotion to our cause, through good fortune and ill fortune, till it reaches its close. This is a plain distinction; and although, perhaps, I might wish to do more, I see good ground to stop here, for the present, if we must any where. The militia who fought at Concord, at Lexington, and at Bunker's Hill, have been alluded to, in the course of this debate, in terms of well deserved praise. Be assured, sir, there could with difficulty be found a man who drew his sword, or carried his musket, at Concord, at Lexington, or Bunker's Hill, who would wish you to reject this bill. They might ask you to do more, but never to refrain from doing this. Would to God they were assembled here, and had the fate of this bill in their own hands! Would to God the question of its passage was to be put to them! They would affirm it with a unity of acclamation, that would rend the roof of the Capitol.

I support the measure, then, Mr. President, because I think it a proper and judicious exercise of well merited national bounty. I think, too, the general sentiment of my own constituents, and of the country, is in favor of it. I believe the member from North Carolina himself, admitted, that an increasing desire that something should be done for the Revolutionary officers manifested itself in the community. The bill will make no immediate or great draught on the Treasury. It will not derange the finances. If I had supposed that the state of the Treasury would have been urged against the passage of this bill, I should not have voted for the Delaware Breakwater, because that might have been commenced next year; nor for the whole of the sums which have been granted for fortifications; for their advancement, with a little more, or a little less, of rapidity, is not of the first necessity. But the present case is urgent. What we do should be done quickly.

Mr. President, allow me to repeat, that neither the subject, nor the occasion, is an ordinary one. Our own fellow citizens do not so consider it; the world will not so regard it. A few deserving soldiers are before us, who served their country faithfully through a seven years' war. That war was a civil war. It was commented on principle, and sustained by every sacrifice on the great ground of civil liberty. They fought bravely, and bled freely. The cause succeeded, and the country triumphed. But the condition of things did not allow that country, sensible as it was to their services and merits, to do them the full justice which it deserved. It could not entirely fulfil its engagements. The Army was to be disbanded; but it was unpaid. It was to lay down its own power; but there was no government with adequate power to perform what had been promised to it. In this critical moment, what is its conduct? Does it disgrace its high character? Is temptation able to seduce it? Does it speak of righting itself? Does it undertake to redress its own wrongs, by its own sword? Does it lose its patriotism in its deep sense of injury and injustice? Does military ambition cause its integrity to swerve? Far, far otherwise.

It had faithfully served, and saved the country, and to that country it now referred, with unhesitating confidence, its claim and its complaints. It laid down its arms with alacrity; it mingled itself with the mass of the community; and it waited till, in better times, and under a new Government, its services might be rewarded, and the promises made to it fulfilled. Sir, this example is worth more, far more, to the cause of civil liberty, than this bill will cost us. We can hardly recur to it too often, or dwell on it too much, for the honor of our country, and of its defenders. Allow me to say again, that meritorious service in civil war is worthy of peculiar consideration; not only because there is in such war usually less power to restrain irregularities, but because, also, they

APRIL 25, 1828.]

*Survivors of the Revolution.*

[SENATE.]

expose all prominent actors in them to different kinds of danger. It is rebellion, as well as war. Those who engage in it must look not only to the dangers of the field, but to confiscation, also, and attainer, and ignominious death. With no efficient and settled Government, either to sustain or control them, and with every sort of danger before them, it is great merit to have conducted with fidelity to the country, under every discouragement on the one hand, and with unconquerable bravery towards the common enemy, on the other. So, sir, the officers and soldiers of the Revolutionary Army did conduct.

I would not, and do not, underrate the services or the sufferings of others. I know well that, in the Revolutionary contest, all made sacrifices, and all endured sufferings; as well those who paid for service, as those who performed it. I know that in the records of all the little municipalities of New England, abundant proof exists of the zeal with which the cause was espoused, and the sacrifices with which it was cheerfully maintained. I have often there read, with absolute astonishment, the taxes, the contributions, the heavy subscriptions, often provided for by disposing of the absolute necessities of life, by which enlistments were procured, and food and clothing furnished. It would be, sir, to these same municipalities, to these same little patriotic councils of Revolutionary times, that I should now look with most assured confidence for a hearty support of what this bill proposes. There the scale of Revolutionary merit stands high. There are still those living who speak of the 19th of April, and the 17th of June, without thinking it necessary to add the year. These men, one and all, would rejoice to find that those who stood by the country bravely, through the doubtful and perilous struggle which conducted it to independence and glory, had not been forgotten in the decline and close of life.

The objects, then, sir, of the proposed bounty are most worthy and deserving objects. The services which they rendered were in the highest degree useful and important. The country to which they rendered them is great and prosperous. They have lived to see it glorious; let them not live to see it unkind. For me, I can give them but my vote, and my prayers; and I give them both with my whole heart.

Mr. FOOT observed, that this bill, from the commencement of its discussion at an early period of the session, until the present moment, had been before the Senate, under peculiar circumstances; and, to him, extremely embarrassing; held fast by the Chairman of the committee, and strongly fortified against amendments, by motions merely to fill the blanks. The original bill embraced a certain portion of the officers only, to whom half pay for life had been promised; but, on their own application, this half pay had been commuted for full pay for five years; and it was contended that the United States were under a legal obligation to make further provision for these officers. Mr. F. said, he had voted against filling the blank in the original bill, with every sum which had been proposed; and should have voted against even the smallest sum, for the exclusive benefit of these officers. He never could consent to degrade the soldiers of the Revolutionary Army, by elevating the officers: They were not mere mercenary hirelings, like the soldiers of ordinary standing armies. Many of these soldiers were of the best blood of the country—equal to the officers—and fighting side by side for their dearest rights. It was a common cause—and one spirit pervaded the whole. The officer was most fortunate: he had a commission, and could at any time resign and leave the army. And, sir, we all know the origin of the half pay, and the commutation for five years' full pay. The soldier could not resign; he could not compel Congress to increase his pay, by threats to resign and disband the army. These officers were as well paid on their

first contract for service as the soldier—which indeed was poor enough. But the soldier was compelled to serve out his enlistment upon the terms of his contract. How is the case with the officer? Was not half pay offered for life, to prevent resignation? And this commuted, at their request, for five years' full pay, amounting to twice the original sum contracted for their services? And does this form a ground for this claim for additional compensation? Mr. F. declared that he never should vote for any additional compensation to the officers alone, but would assure the Chairman he was ready to go with him in making any suitable provisions for these Revolutionary heroes, which would do equal justice to the soldier as well as the officer.

The bill has now assumed a new shape, but is still held upon a motion to fill a blank. The Chairman informed us some time since, "that at a proper time the bill would be open for amendments." This time, it appears, has not yet arrived. But we are told by the Senator from Ohio, [Mr. HARRISON,] we may now amend the bill; and the Senator from Massachusetts, [Mr. WEBSTER,] who has just taken his seat, has cast some imputations upon those who have opposed this bill, to which they are not justly liable. He says, "we have opposed, but have not proposed, any amendments." Sir, the gentleman must certainly be aware that no opportunity has been offered for a single amendment. If the time shall ever arrive when we can offer amendments, the Senators will find us not so had hearted, ungrateful, and unkind. Mr. F. did not believe there was a Senator on this floor, nor a single individual in the country, who would be unwilling to make full compensation to all the officers and soldiers of the Revolutionary Army, if it was in the power of Government to do equal justice to all. But, for one, he never would consent to give additional compensation to those only who had already received more pay, more credit, and more favors than those equally meritorious. If they were really poor, the present pension law provides for their support. He never believed in the legality of the claims of these officers, and this seemed now to be abandoned by the committee.

The Senator from Massachusetts has very justly said, if it be a legal claim, it will extend to the legal representatives of deceased officers. The amendment now offered as a substitute for the original bill, embraces a certain portion of the soldiers; and, with some amendments which will be offered to this amendment, embracing officers and soldiers with legal claims, Mr. F. said he would cheerfully vote for the bill, but not in the present shape, confined to those officers and soldiers only who had already received additional compensation, and more pay than those who, in the darkest period, had fought the battles which led to the successful termination of the contest. It must embrace all, and do equal justice to all, before it would receive his support.

Mr. SMITH, of South Carolina, replied to some of the remarks of Mr. WEBSTER. He considered that these claims could not be established in a court of equity, and remarked, that the panegyric bestowed by the gentleman from Massachusetts on the conduct of the officers at the close of the war, was not entirely deserved, as there had been, to a certain extent, a revolt among them, which nothing but the presence and influence of Washington had overcome. Besides, he maintained that the officers could not better themselves by any course of violence. There was nothing left of which they could possess themselves, the country having been ravaged, and the property of the citizens having been destroyed. He repeated what he had said in relation to an individual among the claimants who was worth a large fortune.

Mr. SMITH, of Maryland, said, that there were but twelve of these officers who were residents in Maryland, yet, were he to vote against this bill, he might be cer-

SENATE.]

*Adjournment of Congress.—Survivors of the Revolution.*

[APRIL 28, 1828.]

tain of never being returned to Congress again. His constituents were in favor of it. They were desirous that something should be done to smooth the way to the grave of these veteran servants of the country. There might be one gentleman in South Carolina who was possessed of a fortune, but this was no reason why the other claimants should be neglected, nor did it alter the justice of the claim. There was not one of these officers who resided in Maryland that was possessed of property. There was, formerly, one rich officer in Maryland, who had lately died. But he would not have received this annuity had he been living. I say this annuity, because it is not, as it has been denominated, a pension.

Mr. WHITE said, that if this was solely an equitable claim, the legal representatives of deceased officers had an equal right to claim the provision, as the surviving officers. For this reason he had not voted against the bill in its former shape. It was now placed in a position in which he could conscientiously record his vote in its favor. He should, therefore, state, as concisely as possible, the grounds on which his vote would be given. He considered this was a gratuity to the officers and soldiers of the Revolution, in consideration, that a promise made to them by the Government had not been complied with as far as was intended. If this was intended as a gratuity, it did not extend to the legal representatives of the deceased. But, sir, said Mr. W., I see in existence the men who have rendered these services to their country. I see them in want, and I cannot refuse to succor them. They have conferred benefits upon the country, upon which we cannot place too high an estimate. Those services have not been compensated according to a former promise of the Government. This compact has been fulfilled in form, but not in substance. Others may have served the country with equal fidelity and zeal, but not having the promise which these men had, their claims are placed on other and weaker grounds. They cannot have an equal claim with these officers. I have always considered, said Mr. W., that the victories achieved by these men over the enemy, were not their greatest victories. The greatest of their triumphs was that which they achieved over themselves, their wants, and interests, when, at the close of the war, they delivered up their arms, and retired to the private walks of life, trusting in the justice of their countrymen, and fully believing, that, when the time arrived, they would receive the compensation pledged to them by the Government. That time has arrived. We are now able to render this tribute of justice. And if it were the last dollar in the Treasury, I would give it for this purpose. This opinion is, I think, founded on principle. It may be said that I am actuated by feeling; but, if so, it is a feeling which I think I ought to entertain. As to any other motives, I do not entertain them. I came here dressed in no man's livery; but as the Representative of a sovereign State, to act according to my conscience and the will of my constituents alone. Any imputation to the contrary I cannot admit, as I should feel myself degraded by allowing myself to act on other grounds; and I should think it beneath me, to look upon the decisions of Senators as arising from any other views.

Mr. BRANCH then explained his reasons for opposing the bill.

Some further conversation took place between Messrs. BRANCH, SMITH, of S. C., and SMITH, of Md.

Mr. MACON made a few remarks, as was understood, in reply to Messrs. CHANDLER and WEBSTER.

Mr. BELL moved to fill the blanks in the bill with "3d March, 1828," and spoke briefly in opposition to carrying the pensions of the claimants back.

The CHAIR stated that the question must be first taken on the motion to fill the blanks with "3d March, 1826."

Mr. MACON spoke in reply to the remarks of Mr. WEBSTER; when, the question being put on filling the blanks with "3d March, 1826," it was decided in the affirmative.

Mr. CHANDLER moved to amend the 3d section, so as to confine the operation of this bill to soldiers and non-commissioned officers who had served three years, or during the war, and had been honorably discharged.

Mr. MACON moved to lay the bill upon the table, which was negatived, 22 to 20.

Mr. CHANDLER explained the object of his motion, and asked the yeas and nays, which were ordered.

Mr. WOODBURY made a few remarks, when the question being put, Mr. CHANDLER's amendment was adopted.

Mr. CHANDLER then moved to amend the bill by adding a proviso, that no officer or soldier on the Pension List shall be entitled to the benefits of this bill. Adopted.

Mr. WOODBURY offered a proviso to the third section, that no officer, under this bill, shall be entitled to receive a larger sum than full pay of a Captain of the Line. Adopted.

Several other amendments were adopted.

Mr. BELL then moved to amend, by striking out the words "full pay," and inserting instead, "half pay;" on which, the yeas and nays having been ordered, the question was taken, and decided in the negative.

On motion of Mr. VAN BUREN, the bill was ordered to lie on the table, and be printed as amended.

On motion of Mr. BARNARD, it was ordered, that, when the Senate adjourn, it adjourn to Monday next.

MONDAY, APRIL 28, 1828.

#### ADJOURNMENT OF CONGRESS..

The resolution submitted on Friday by Mr. JOHNSON, of Kentucky, authorizing the appointment of a committee to meet a committee on the part of the House to fix upon a period at which Congress shall adjourn, was taken up.

Mr. McKINLEY moved to lay the resolution on the table; which was negatived—22 to 13.

The question being on agreeing to the resolution, it was supported by Messrs. FOOT and JOHNSON, of Ky.

Mr. NOBLE then moved to lay the resolution on the table; which was agreed to.

Mr. MACON moved to appoint a Committee to meet the Committee appointed by the House under the resolution of the House to fix the period of adjournment, and to select the business to be acted on; which was agreed to—20 to 17.

#### SURVIVORS OF THE REVOLUTION.

The bill for the relief of certain Revolutionary officers and soldiers was again taken up; and, having been further amended, on motion of Mr. WOODBURY, the question occurred on striking out, and inserting the amendment offered by the committee, as amended; which was agreed to without a division.

The bill having been reported to the Senate, Mr. WOODBURY moved to strike out the amendment of Mr. CHANDLER, inserting the words, "for three years, or during the war," and to restore the words of the original bill.

Mr. WOODBURY explained his views in offering the motion. The bill was confined to those officers who served to the close of the war—and ought to be confined to the same class of soldiers. A bill had been introduced in the other House which provided for the class of men pointed out by the amendment of the gentleman from Maine.

APRIL 30, 1828.]

Cumberland Road.

[SENATE.]

Mr. CHANDLER said he now perceived what he had not perceived before, that this bill was to be carried through on the principle which was rejected by the Senate formerly, that there was a debt due to these soldiers. He thought the distinction an unfair one between these and other classes of soldiers.

Mr. WOODBURY said; that this distinction was made by the Congress of 1784, which this bill was merely following up.

Mr. BERRIEN made a few remarks in support of Mr. WOODBURY's motion: urging the claim of the officers and soldiers included in the original bill, as founded on a contract which the Government was bound to fulfil.

On motion of Mr. COBB, the yeas and nays were ordered upon the motion.

Mr. CHAMBERS stated the grounds on which he should vote for the proposition to amend.

Mr. CHANDLER replied to some remarks of Mr. CHAMBERS—and after a few observations from Mr. HARRISON, the question was taken, and decided in the affirmative.

Mr. COBB offered to amend the bill, by an additional section, providing for the payment of a sum equal to four years' full pay of a Captain to the representatives of each of the deceased officers. The motion was briefly explained by Mr. C., and, after having been opposed by Messrs. WOODBURY, CHANDLER, and BERRIEN, and supported by Mr. SMITH, of South Carolina, the yeas and nays being ordered, on motion of Mr. COBB, the question was taken, and decided in the negative.

Mr. COBB then moved to amend the bill, by the insertion of a section providing for the payment of a sum not exceeding four years' full pay of a Captain to the legal representatives of such of the officers of the Revolution, entitled to half-pay under the resolution of 1784, as have died since the year 1810.

This motion was briefly supported by Messrs. COBB and BERRIEN, and opposed by Mr. WOODBURY, when the question being taken by yeas and nays, it was negative.

The question then occurred on striking out the original bill, and inserting the substitute agreed to in Committee of the whole, as amended.

Mr. CHANDLER moved the division of the question, which, having been agreed to, the motion to strike out was agreed to; and on inserting, the yeas and nays being ordered on motion of Mr. CHANDLER, it was decided in the affirmative, by the following vote:

YEAS.—Messrs. Barnard, Bateman, Berrien, Boulogny, Chambers, Chase, Dickerson, Eaton, Harrison, Hayne, Johnson, of Ken. Johnston, of Lou. Kane, King, Marks, Parria, Robbins, Rowan, Sanford, Seymour, Silsbee, Smith, of Md. Thomas, Van Buren, Webster, White, Willey, Woodbury.—28.

NAYS.—Messrs. Barton, Bell, Benton, Branch, Chandler, Cobb, Ellis, Foot, Hendricks, McKinley, Macon, Ridgely, Ruggles, Smith, of S. C. Tazewell, Tyler, Williams.—17.

The question on engrossing being then put; and the yeas and nays having been ordered, the bill was ordered to be engrossed for a third reading by the following vote:

YEAS.—Messrs. Barnard, Bateman, Bell, Berrien, Boulogny, Chambers, Chase, Dickerson, Eaton, Harrison, Hayne, Johnson, of Ken. Johnston, of Lou. Kane, King, Knight, Marks, Parria, Robbins, Rowan, Sanford, Seymour, Silsbee, Smith, of Md. Thomas, Van Buren, Webster, White, Willey, Woodbury.—30.

NAYS.—Messrs. Barton, Benton, Branch, Chandler, Cobb, Ellis, Foot, Hendricks, McKinley, Macon, Noble, Ridgely, Ruggles, Smith, of S. C. Tazewell, Tyler, Williams.—17.

TUESDAY, APRIL 29, 1828.

[Nearly the whole of this day's sitting was occupied in the discussion of the Indian appropriation bill, and the bill for the relief of T. L. Winthrop and others, Directors of the Mississippi Land Company; the former of which was ordered to a third reading.]

WEDNESDAY, APRIL 30, 1828.

Mr. BERRIEN, from the committee appointed to join a committee from the other House for the purpose of fixing upon a time for the adjournment of the two Houses, reported the following resolution:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the Senate and Speaker of the House of Representatives do adjourn their respective Houses on Monday, the 26th May next.*

Mr. DICKERSON, from the Committee of Manufactures, to which was referred the bill in alteration of the several acts imposing duties on imports, reported the same, with sundry amendments.

Mr. DICKERSON also laid on the table a comparative statement of the duties under the bill altering the several acts imposing duties on imports, and the present rate of duties.

The amendments and statement were then ordered to be printed.

CUMBERLAND ROAD.

On motion of Mr. MARKS, the bill for the preservation and repair of the Cumberland Road (to erect turnpike gates on the road) was taken up, and the amendments reported by the Committee on Roads and Canals having been agreed to, it was explained by Mr. MARKS.

Mr. JOHNSON, of Kentucky, supported the bill, and read a letter from the Postmaster General, enclosing a letter from a mail contractor, detailing the bad state of repair of some sections of the road.

Mr. MARKS further supported the bill, and argued that the road would be ruined if suffered long to remain in its present condition. It would be little better than to allow the road to return to its wilderness state, to neglect repairing it through another Winter like the last. There were three courses that might be taken. The United States could make appropriations for the repair of the road; they could erect toll gates; or to turn over the whole matter to the States in which the road lies. If the latter course were pursued, there was no certainty that the States would undertake to keep the road in repair, as they looked upon the road, having been made by the General Government, as a work of a national character, and Congress as bound to provide for its repairs. The question before the Senate was, whether Congress should allow a work which had cost two millions of dollars, to fall into decay for want of repair, or would take measures to perpetuate the benefits of the road. It was true, that the work done last year was becoming dilapidated, and going to ruin, while they were going on with the other parts of the work. There was no gentleman present, he believed, who would not be convinced of the necessity of doing something to prevent the road from going to destruction. He knew that it had been argued that Congress had not the power to do this; but, he considered, that, as it had been decided by repeated votes, that Congress had the right to make the road, it could hardly be maintained that Congress had not the right to repair it.

Mr. BRANCH objected that the Senate had no power to originate a bill for the levying of taxes.

Mr. MARKS replied, that it was not the design of the bill to bring any thing into the public coffers, as all the money collected from tolls would be expended in repairs upon the road.

SENATE.]

*Adjournment of Congress.*

[MAY 1, 1828.]

Mr. BENTON objected to the late period at which this bill had been taken up. He said he held in his hand a set of resolutions, which he thought would meet the views of the friends of the bill. He, therefore, moved to lay the bill upon the table until to-morrow, when his resolutions would come up for consideration.

Mr. HARRISON objected to the resolutions, and considered that the tendency of their introduction would be to retard the bill, and probably to postpone it until next session.

Mr. SMITH, of Maryland, said he wished this bill tried on its merits; because, if it was rejected, the Senate would virtually say that they would vote money for the repair of the road. He had no choice as to the manner in which the object was effected. One way or another the road would doubtless be repaired, as it could not be supposed that they would allow all the expense which the road had cost to be lost for want of repair.

Mr. MACON thought the Senate was going rather too fast. He rose to ask the President whether it was competent to the Senate to frame and act upon a bill of this kind; whether it was not a bill which ought to originate in the other House?

The CHAIR observed that it was a question of great magnitude; he should be desirous of referring the decision of the question to the Senate. Whether the Senate had the power to frame such a bill, under the Constitution, was a point of some doubt and much importance.

Mr. KING said he doubted whether the President was competent to decide the question, as it was a constitutional point, and not a question of order.

The VICE PRESIDENT said he was by no means covetous of the duty of deciding.

Mr. HENDRICKS expressed a wish that the bill might not be postponed, and that it might be disposed of without a constitutional argument. The constitutional question had often been decided by the Senate, and he thought its agitation would be useless now.

The PRESIDENT said he would be governed by the Senate. The reason why the Chair had supposed that the question came under the rules of order, was, that those rules regulated the practice of the body. The article of the Constitution to which it referred, established that certain bills could not be framed in the Senate, and hence the Chair was of opinion, that a question as to the power given in this respect, would come under the regulation of the business of the Senate. He might be in error, but such was his impression.

Mr. BRANCH moved to lay the bill upon the table; but withdrew the motion at the request of Mr. HARRISON who made a few remarks.

The VICE PRESIDENT again rose, and stated that the question presented a new point of order. It appeared to him that the decision would not turn upon the constitutionality of the bill, but upon the practice of the Senate. He wished the Senators to consider the question.

The motion being renewed by Mr. BRANCH, the bill was ordered to lie on the table.

The VICE PRESIDENT then gave notice, that, when the bill should come up, as it presented a new point, and as the constitutional question was one of great magnitude, he would submit to the Senate whether or not it came within the rules of order.

THURSDAY, MAY 1, 1828.

## ADJOURNMENT OF CONGRESS.

The resolution reported yesterday by Mr. BERRIEN, from a committee appointed to join a committee from the other House, for the purpose of fixing upon a time for the adjournment of the two Houses, (recommending the 26th May,) was taken up.

Mr. BERRIEN stated, that it was believed by the committee that all the business before the two Houses might be transacted previous to the 26th May. It was also the opinion that the business would be more promptly acted upon, if the time were fixed at which the session should be brought to a close.

Mr. RUGGLES opposed the resolution. There were many important bills in both Houses yet to be acted upon, which would probably be passed over, if the time for adjournment were now fixed upon. He had formerly seen the bad effect of fixing a day for adjournment. Bills were generally passed upon in a hurried manner, or were deferred to the next session. He was as anxious to adjourn early as any gentleman could be; and should be willing to do it as soon as the business of the session was closed. Before that time he did not believe the People were desirous that Congress should close their labors. He moved to postpone the resolution until Wednesday next.

Mr. BRANCH opposed the motion, and asked for the yeas and nays; which were ordered.

Mr. NOBLE said, he believed there was a bill now before the Senate which would take up nearly all the time between this and the 26th of May. Gentlemen must speak upon it; and they would go on from day to day, and from week to week. Well, he had no objection to it. When the question was taken, he would vote upon the bill, and he would do it openly and above board. He should not endeavor to conceal his opinions. He was astonished that his friend from North Carolina should oppose the delay, when his Ocracock project, which had been a long time before the Senate, was not yet decided, which was to let the People of North Carolina out to the ocean. They say they are ground to the dust, and are in a suffering condition, and yet Congress was to adjourn before they were relieved, and their Ocracock channel cut out. What, he would ask, was to become of the Muscle Shoals? He presumed they were to hang upon the willows. And what was to become of his [Mr. N.'s] road in Indiana, if a sudden adjournment took place? He, for one, did not wish to be exposed to the editorial remarks, and the newspaper paragraphs, which this resolution, if passed, would give rise to. It would be said, that the moment this Tariff bill came up from the other House, this resolution for an adjournment was presented; and that it was done to prevent the passage of the bill, while some long winded member spun out the session to its close.

Mr. JOHNSON, of Ky., called Mr. NOBLE to order. He thought the gentleman's language indecorous. I will not, said Mr. J., sit in my seat, and hear the gentleman from Indiana speak of Senators as long winded. It is not fit language to be used here. I, for myself, will not be denounced as speaking to delay the business of the Senate.

Mr. NOBLE requested the gentleman to reduce the words to writing at which he had taken offence.

Mr. JOHNSON, of Kentucky, then sent to the President, who stated the expressions objected to by the Senator from Kentucky, were, "denouncing Senators as long winded, endeavoring to prevent the business of the Senate, and attempting to speak down the Tariff and other bills."

The CHAIR said, he would decide on the question of order, unless the gentleman from Indiana objected to the correctness of the words.

Mr. NOBLE said, he did object to the correctness of the words. If he was allowed to speak, he would state, that he had spoken only of the effects of passing the resolution, and the manner in which it would go forth to the People through the newspapers. He had referred to no Senator, and had accused no one of making long winded speeches, but had only supposed what would be said in relation to the measure.



MAY 1, 1828.]

Cumberland Road.

[SENATE.]

Mr. JOHNSON, of Kentucky, said, he would withdraw his motion to call to order, and was happy that he had misunderstood the remarks of the gentleman from Indiana.

The CHAIR said, that he did not understand the Senator from Indiana in the sense in which his remarks were taken by the Senator from Kentucky. He understood those remarks as applying to the effect of the resolution, and not as directed to Senators.

Mr. NOBLE further explained. He supposed that the editors and political parties might make use of the defeat of the Tariff bill, should it not pass, to say that the long winded speeches had put down the Tariff.

Mr. BRANCH made a few remarks.

Mr. DICKERSON expressed a belief that the business could be transacted before the 26th of May. He did not think, however, that the resolution need be acted upon for a few days.

The question was then taken on postponing to Wednesday next, and was decided in the affirmative.

#### CUMBERLAND ROAD.

The following resolutions, submitted yesterday by Mr. BENTON, were considered :

*"Resolved,* That no right of soil or of jurisdiction over the ground on which the Cumberland Road runs, was acquired by the United States, by the acts of Maryland, Pennsylvania, and Virginia, granting their consent to the making of said road.

*"Resolved,* That it is not expedient for the United States to exercise a permanent superintending care over the repair and preservation of the roads made by it within the limits of the different States.

*"Resolved,* That the repair and preservation of the Cumberland Road, and of all other roads made, or to be made, under the authority of the United States, be left to the States through which the same may pass."

The resolutions having been read :

Mr. SMITH, of Maryland, suggested to the mover (Mr. BAXTON) that the resolutions being of an abstract character, and not likely to lead to any practical results, and the session being now far advanced, it was better to postpone their consideration, and proceed with the bill for erecting toll gates on the road to which the resolutions referred.

Mr. BENTON answered, that the resolutions were not of an abstract character; that they were intended to settle great questions—questions which had agitated Congress for seven years, and were again to agitate it in the discussion of the bill, to which the Senator from Maryland, [Mr. SMITH,] had called his attention. These questions ought to be settled, and no vote which Congress could give upon the bill would settle them. The experience of seven years proved the truth of this assertion. At the same time it was due to the States through which the road passes, it was due to the United States, it was due to the Congress itself, to settle the questions which his resolutions presented. The end and object of them was to fix upon the authority which was to be charged with the care, repair, and preservation of this road. This was a very different question from the question of making the road, and the sooner it was known whose business it was to take care of the road, the better for all parties concerned; for while the States were waiting for Congress to do it, and Congress was waiting for the States, or the people of the vicinage to do it, the road itself was going to ruin; and injuries upon which a few days work timely applied, or a few dollars timely expended, would have checked and prevented, afterwards required, as our statute book would prove, some thirty thousand dollars to repair. He could not, therefore, consistently with his sense of duty to the public, yield to the suggestion of the Senator from Maryland, [Mr. SMITH,] plausible as that suggestion seem-

ed to be, respectable as the source was from which it came, and anxious as he was to give renewed evidences of his respect for the gentleman who made it, by publicly deferring to his wishes.

Mr. B. then went into an argument of great length and research in support of his resolutions, the intrinsic interest of which might deserve an ample report, but of which nothing but the general outline and essential substance, can here be attempted.

He sat out with giving something like his creed on the road, making power of the Federal Government. He was in favor of the exercise of the power—with some qualifications which he would mention, but he could not give that proof of his adhesion to the cause which the ultras of the party seemed to demand, namely, a blind and fanatical support of every bill, no matter how got up, or how got in, which had the word "road" or "canal" in it. He was in favor of the federal power to make roads and canals of national importance, such as where designated by Mr. Gallatin in his report of 1807, and such as he (Mr. B.) himself had specified in a proposed amendment to the survey bill of 1824, and which did not exceed eight or ten in number, and were so eminently national as to preclude all dispute, or difference of opinion, upon the point. He was in favor of the construction of such roads and canals by the Federal Government; provided the States through which they would pass, assented to it, as Maryland, Virginia, and Pennsylvania, assented to the construction of the Cumberland road within their limits, by legislative acts in the years 1806—7; not that he entertained any opinion that the assent of a State could confer a power upon Congress, not derived from the Constitution; but because it was decent and becoming to consult the wishes of the State in all such cases, because its assent would do away all that class of objections to the exercise of this power, which were founded upon a real or supposed violation of State sovereignty, and a real or supposed violation of State territory.

Having finished what he called his creed, Mr. B. gave a history of his first acquaintance with the gate bill, which was now again before the Senate, and of his first vote upon it. This acquaintance was made in the session of 1821—2, being the first session of his service in the Senate. The bill came up from the House of Representatives, and went through the Senate with little or no discussion. All, or almost all, seemed to be for it. Neither constitutional barriers, nor objections of inconvenience or inexpediency, rose up to impede or arrest its progress. Many such barriers and objections rose up in his (Mr. B's) mind; but he recollected that he was the youngest Senator from the youngest State in the Union; that he had just got in after a hard struggle to keep him out; and he considered it neither decent nor becoming in him, thus fresh from the prairies of Missouri, to harangue the conscript fathers of the republic upon constitutional law. So he said nothing. Others said but little. The bill was put to the vote. The vote was taken by yeas and nays. He found himself to be the first to say nay, and among the few to say nay; for when the result was announced, only seven votes were found in the negative; but that seven comprehended the voices of MACON, of North Carolina, SMITH and GAILLARD, of South Carolina, and WALKER, of Alabama; a gentleman, unhappily too short a time a member of this body, too short a time a tenant of this life, to permit his moral and intellectual worth to be known to the world as they were known to his intimate acquaintances and affectionate friends.\* The bill floated through the Senate, as it had done through the House of Representatives, upon the swelling

\* The names of the whole seven were, Macon and Stokes, of N. C. Smith and Gaillard, of S. C. Walker and King, of Ala. and Benton, of Missouri.

SENATE.]

Cumberland Road.

[MAY 1, 1828.]

tide of an overwhelming majority, and went up to the President, Mr. Monroe, to receive the final touch in the impress of his approbation. But here it was destined to receive its first check, and, as it turned out, its death blow. Instead of the President's approval, it received his veto—was returned to the House in which it had originated with his objections annexed; and, on reconsideration, fell to the ground; receiving, on this second trial not even a simple majority of the votes, instead of the majority of two thirds, which the emergency required. So much, said Mr. B. for my first acquaintance with this Gate bill, and first vote upon it; a piece of history rather personal for the occasion, but excusable in times when every man that failed to vote for every bill that had the word "road" or "canal" in it was denounced for "an unprincipled and factious opposition to the present administration."

Mr. B. then adverted to the early period at which the Gate bill, now before the Senate, had been brought in, the long time it had lain on the table, and the suddenness of its resurrection in the forenoon of yesterday. It had been brought in at the very commencement of the session, had lain on the table an hundred days—about as long as Napoleon reigned the second time in France, and called up at a time when he was looking for a different subject. While it was reading he had to consider and determine in what form to oppose it; and the result of his deliberations was, the submission of the resolutions now on the table. It seemed to him, that to reject the bill would settle nothing; to pass it would settle nothing; either vote would be the decision of an individual case, depending upon its own circumstances, and any number of bills could be brought in afterwards, depending upon new circumstances, and not coming within all the facts and reasons of the prior decision. A set of declaratory resolutions, covering the whole ground of such bills, seemed to him to present the only means of obtaining such a decision as the occasion required; he had accordingly drawn up the resolutions now under consideration, and made a motion strictly parliamentary though it seemed to be heard with surprise in some parts of the chamber—a motion to postpone the consideration of the bill for one day, in order to consider and decide upon the resolutions. The resolutions were not abstract, as they had been called; but were as practical as the bill itself, and more so, for they would have more general and more decisive results; they were not intended to defeat the bill by postponement, nor could they have that effect; for the debate on the resolutions would be the debate on the bill, and the decision of the resolutions would be the decision of the bill. He could not be blamed for bringing them in at a late period of the session, for he had brought them in the first day that the Gate bill, the passage of which they were intended to prevent, had been taken up for discussion.

Mr. B. then took up his resolutions, and examined and supported them, one by one.

The first resolution asserted,

"That no right of soil or jurisdiction over the ground on which the Cumberland road runs, was acquired by the United States, by the acts of Maryland, Pennsylvania, and Virginia, granting their consent to the making of said road."

The decision of this resolution in the affirmative would cut up the Gate bill by the roots; for these gates could not be erected without a right to the soil on which they were to be placed; and laws could not be made for their protection, and for the collection of toll, without a right of jurisdiction over the soil as well as a right to the soil itself. On the other hand, the decision of this resolution in the negative would admit the right of the federal government, as owning the soil and jurisdiction, to erect the gates, to appoint keepers,

to enact a code of civil and criminal law for the collection of tolls, and punishment of offenders, or to provide for the preservation of the road in any way they pleased, by ordering the neighbors to work upon it, or levying a county tax for keeping it in order.

At this part of his speech, Mr. B. went into an argument of constitutional law, of which the heads and main points were as follows:

1. That a right of soil within the limits of the State, would only be acquired by the United States by cession from the State, and then for the limited purpose of erecting forts, magazines, arsenals, dockyards, other needful buildings, and for the permanent seat of government for the Union, as specified in the federal constitution.

2. That no right of jurisdiction could be acquired even over ground ceded for such purposes, except by an express act of the State Legislature.

3. That the acts of Pennsylvania, Virginia, and Maryland, granting their assent to the construction of the Cumberland road, were limited to the expression of that assent, and did not in point of fact, and could not in point of constitutional power, confer any right of soil or of jurisdiction upon the government of the United States. They only waived the trespass, real or supposed, which might be committed in making the road without such assent.

4. That the act of making the road conferred no such rights. It was made upon contract, by the United States, and for hire, and for the use of the new States in the North West. These new States stipulated for it in their compacts, and paid a most unconscionable price for it, in a partial surrender of their sovereignty, and in their agreement not to tax the lands of the United States, nor to interfere with their primary disposition. The road when made was no more the property of the United States, than a pair of boots made to order, paid for, and delivered, is the property of the maker. Title to another's property cannot be acquired by making an improvement upon it. Lawyers know this from their books; men of common sense know it from their reason; and if it were not so, the Federal Government might take all the soil and jurisdiction of the States; and the rich might take all the lands of the poor. If there is consent to the improvement, the consent is limited to its object, and cannot be extended by construction to a fee simple conveyance of the land itself.

5. The entire soil and jurisdiction of a State might be usurped by the Federal Government under the power to make roads without its consent, and afterwards to take to itself the right of soil and jurisdiction over the road so made. It had only to multiply the number of its roads, and to increase their breadth, in order to cover the entire superficies of the State, and reduce it to the political condition of the District of Columbia.

6. The jurisdiction claimed for the United States over the roads made by it, must be either concurrent with that of the State or exclusive. To be concurrent, would be to subject the people to a double set of contradictory laws and penalties; and to be exclusive, would be to oust the State of all right to take cognizance of any offence arising upon the road.

7. The negative of this resolution, and the passage of the Gate Bill, would be to subject every individual who could be involved in any quarrel, or supposed offence about the gates, any affray with the gate keepers, or charged with any violation or evasion of the gate regulations, or non-payment of toll, to be seized by the Federal Marshal, conducted to the Federal District Court, and thence have his case sent, by way of appeal, to the Supreme Court at Washington City, to abide the decision of the Federal Judges upon his property, life, and liberty. Further, it would subject any citizen that chanced to get into an affray with a drunken gate-keeper, to be hung

MAY 1, 1828.]

Cumberland Road.

[SENATE.]

up, like a dog, for high treason against the United States. As thus: The federal constitution makes it high treason to levy war against the United States; the judges who administer the constitution, say that to resist a statute of Congress is to levy war against the United States within the meaning of the constitution; that the quantum of force employed in the resistance neither diminishes nor increases the crime; and that any forcible opposition to such a statute, constitutes the offence. (Decision of the Federal Judges in the cases of the Western insurrection. 2 Dallas, 4 Cranch's reports. Ingersoll's abridgment of the laws of the United States, title, Penal laws, note.) The people have no conception of this. They think that, to levy war requires an army—"an army with banners," terrible to behold, dreadful to encounter, arrayed against the sovereign power of a country, and able to overturn that power, or to shake it to its foundations. But under the decision of the federal Judges a citizen who should chastise with his fist a drunken federal gate keeper for his insolence in the collection of toll, might be convicted of levying war against the United States within the meaning of the constitution, and hung as a traitor, unless public sentiment forced the President to pardon him, as it did to pardon the citizens condemned by the federal Judges about thirty years ago.

Passing from the constitutional and legal questions, Mr. B. next examined the practical effect of these toll gates upon the commerce of a State; and he here indulged for a while in a favorite topic, namely, the difference between mere book learning, and a knowledge of the people and their affairs. He considered it much more necessary for a lawyer to be acquainted with the living people of his own country, and their daily affairs, than to know the names and histories of the old Greeks and Romans, who had been dead two thousand years. This brought him to the declaration that he had learnt more from a wagoner at Hagerstown, about the expediency of setting up these gates, than all the bookworms in or out of Congress could teach him in their lives. What he had learnt from the wagoner was this: that it took sixteen dollars to pay the tolls upon a six horse wagon, going and returning upon that part of this road which is now subject to toll—the part between Baltimore and old Fort Cumberland—about one-third of the distance to Zanesville, where the road now terminates. This was the information. The use he made of it was this: that as the tolls of one-third of the road was sixteen dollars, so the tolls for the whole distance would be forty-eight dollars; and when this sum came to be added to the other inevitable expenses of horse-feed and horse-shoeing, ferrriages, diet, lodging and drink for the wagoner, there would be nothing left out of the sale of a load of flour, and not much left out of a load of whiskey, pork, or tobacco, for the farmer or merchant who sent it to market. The fact was, the commerce of the country could not stand the payment of the tolls contemplated in this bill, moderate and reasonable as they were intended to be. But there was another point of view in which to look at this subject; it was the abuse to which it was liable, and the ruin which might be inflicted upon the commerce of a State, within its limits, by the exercise of this toll-gathering power. Remember that the advocates of it claim the right to make as many roads and canals as they please within the limits of any State, without the consent or approbation of such State, and that the present administration has already traced about seventy routes for such roads and canals, and are calling furiously for fresh brigades of topographical engineers, and a new appropriation of \$30,000, to enable them to trace as many more. This being the case, all the lines of communication by land and water, all the avenues which lead from the interior of a State to its market towns, may be seized upon by the Federal Government, officers station-

ed over them, tolls imposed to any amount, and the transportation of the produce of the country checked and stopped under the weight of this new burthen. The Constitution of the United States wisely provides that Congress shall lay no tax or duty on the exports of any State; but this same Congress which cannot impose a farthing on a cargo of cotton, tobacco, or flour, after it has arrived at the point of departure from the limits of a State, may tax it to death in the shape of tolls and duties, before it gets to that point! And this may be done by members not coming from that State, having no interest in its welfare, peradventure, having a real or supposed interest in destroying its commerce, and not responsible, by elections, to the people thus taxed, oppressed, and ruined. Mr. B. warned the Senate to reflect upon the rock upon which so many confederacies had split—the oppression of the minority by the majority; and he earnestly begged them to pause in a career which might add the only remaining confederacy to the list.

Mr. B. then took up the second of his resolutions, to wit: That it was not expedient for the United States to exercise a permanent superintending care over the repair and preservation of the roads made by it within the limits of the different States.

He said that road-mending was a very different business from road-making. The construction of a road really national, such as those designated by Mr. Gallatin in his report of 1806; such as those specified by himself in 1824; and such as come under the character described by you, sir, [addressing himself to the Vice President, Mr. CALHOUN] when you were Secretary of War, and had to give a practical construction to the act of 1824. The construction of such a road is a great object, worthy to engage the time and the deliberations of the national legislature, and to draw upon the revenues of the Union to defray the expense of making it; but the mending of the same road, after it is once made, is a small business, demanding the presence of the local authority to watch the turning up of a stone, the breaking down of a side-wall, the washing away of some gravel or earth; and in which the prudent maxim emphatically applies, that a stitch in time saves nine. Congress cannot do this. It cannot watch these little matters. It is not until the injury has become excessive, that its attention can be roused, and then twenty, thirty, and even forty thousand dollars is demanded, and has been granted to repair injuries which a few dollars or a few day's work from the neighbors could have prevented in the beginning, if the State or the county had charge of these repairs, instead of the national legislature. It was only on the 2d day of March, 1827, that we appropriated thirty thousand dollars for repairing this road, and we are now called on again!

Mr. B. called on the friends of internal improvement, and besought them not to destroy the system under an accumulation of abuses. The present administration was doing that fast enough for the grief of its real friends and the joy of its enemies. They were destroying the system under the prostitution of it to the acquisition of a momentary popularity, in making a profusion of surveys never to be executed, in exciting universal hopes never to be realized, in creating a vast delusion which must soon be dispelled, and in the disappointment, disgust, and reaction which must follow the detection of all these impositions. The system could not, in addition to all this weight, carry the burthen of the gates, or the expense of annual appropriations of money out of the public treasury to repair all these roads. The gates would be odious to a great part of the community for their unconstitutionality: they would be deemed odious to all for the expense they would impose upon commerce and upon travellers. The annual appropriations out of the public purse to mend roads in a few favored States, would be seen with indignation by the people of other States who mended

SENATE.]

*Public Buildings.—Internal Improvements.*

[MAY 2, 1828.]

their own roads out of their pockets, or with their own hands. They would not see, without rising against the whole system, many more appropriations of \$30,000 at a time, for objects so unfit for federal legislation, and so exclusively belonging to the police of the county or of a State. Mr. B. had twice or thrice voted for these appropriations, but he did it with a notice at the last time that he should do it no more.

The third resolution, Mr. B. said, was a mere consequence of the other two. It asserted that the repair and preservation of all the roads made by Congress, ought to be left to the States through which they pass. He had used the words, "left to the States," in preference to any words implying a cession, surrender, or relinquishment of any right of soil or jurisdiction, because he held that the United States had nothing in these roads to cede, surrender, or relinquish, and all that the emergency required, was a declaratory resolution, which should let the States see that Congress would have nothing to do with the repairs of a road after it was once made, and that the State or county, through which it runs, must take charge of that business, and attend to it itself. Surely this would be no unreasonable burthen thrown upon the State. Surely the receiver of a great gift might be at the expense and trouble of taking care of it.

Mr. B. concluded with declaring that he submitted the resolutions in a friendly spirit to the road-making power; that he considered their adoption as necessary to the further success of the system; that the system could not carry the load of odium which the setting up of gates, or the further appropriation of great sums to the mere repair of these roads, would bring upon it; that a direct vote upon his resolutions was necessary to decide a question which was suffering for decision, to wit: whether the individual States or the Federal Government should be charged with the business of repairing and preserving these roads; and that he should consider any attempt to avoid the decision, by moving to lay the resolutions upon the table, or to postpone them, as an unfortunate attempt to avoid a serious question which must be met, sooner or later, and the sooner the better.

Mr. KANE replied to Mr. BENTON, and moved to lay the resolutions on the table; on which question, the yeas and nays having been ordered, it was decided in the affirmative.

#### PUBLIC BUILDINGS.

On motion of Mr. EATON, the bill making appropriations for public buildings was taken up.

Mr. DICKERSON moved to strike out that portion of the bill which provided for the construction of a door in the western front of the Capitol, on a level with the terrace.

Mr. DICKERSON supported his motion with a few remarks, tending to show that no necessity existed for such an entrance, and that the appearance of the building would be injured by it.

Mr. RIDGELY said a few words in opposition to the motion.

Mr. BENTON spoke at length against the motion, and assigned many reasons why the alteration ought to be made. He had last year opposed the project, on the supposition that the wall of the building would be injured by it; but he had since formed a different opinion, and was convinced that the improvement might be safely made, and would be altogether eligible.

Messrs. DICKERSON and MACON further advocated the motion.

Mr. CHAMBERS observed that he had opposed this plan last year, but had since been convinced of its utility. He believed that the improvement would at some period be made, and that it would be economy to provide for its completion at the present time.

The motion was then rejected.

Mr. BELL moved to commit the bill to the Committee on the Judiciary, with a view to the consideration of the provision giving to the Commissioner of the Public Buildings certain powers and duties in regard to the police of the Capitol.

This motion was sustained by Messrs. BELL, WEBSTER, and FOOT, and opposed by Messrs. EATON and CHAMBERS, and was rejected.

Mr. BARNARD moved to strike out from the second section, the words "when required by the President of the Senate, the Speaker of the House, or the Commissioner of Public Buildings," so as to make the operation of the criminal laws of the District, generally, operative on offences committed within the Capitol Square, instead of restricting its operation to cases where its interposition was required in the manner stated in the words proposed to be stricken out.

The motion was opposed by Messrs. CHAMBERS, DICKERSON, and EATON, and defended by Messrs. BARNARD and WEBSTER, when it was negatived.

The question being then put on ordering the bill to a third reading, it was agreed to on a division—18 to 15.

Mr. EATON stated that the bill was already engrossed, and, as it was essential that it should pass forthwith, he moved that the bill now have its third reading; which being agreed to by unanimous consent, the bill was read a third time.

On the question, Shall this bill pass? the yeas and nays were ordered, on motion of Mr. SMITH, of South Carolina, and the question being taken, it was decided in the affirmative, by the following vote:

YEAS.—Messrs. Barnard, Bateman, Benton, Boulogny, Chambers, Chase, Eaton, Harrison, Hayne, Hendricks, Johnson, of Kentucky, Johnston, of Louisiana, King, McKinley, McLane, Marks, Noble, Ridgely, Rowan, Rugles, Sanford, Silabee, Smith, of Maryland, Van Buren, Webster, White, Williams.—27.

NAYS.—Messrs. Barton, Bell, Berrien, Chandler, Dickerson, Foot, Kane, Knight, Macon, Parria, Seymour, Smith, of S. Carolina, Tazewell, Thomas, Tyler, Willey, Woodbury.—17.

FRIDAY, MAY 2, 1828.

Mr. DICKERSON gave notice that, on Monday next, he would ask for the consideration of the Tariff bill.

#### INTERNAL IMPROVEMENTS.

Mr. SMITH, of Md. from the committee on Finance, reported the bill making appropriations for Internal Improvements, (which had been returned from the other House, the amendments made by the Senate not having been agreed to) and moved that the Senate recede.

The question being put on receding from the first and second (amendments of minor import) it was agreed to.

On the motion to recede from the third amendment, to limit the surveys under the appropriation of 30,000 dollars, to those already commenced, a long and interesting debate took place, in which Messrs. JOHNSTON of Lou. WEBSTER, McLANE, BRANCH, SMITH, of S. C. CHAMBERS, MACON, HARRISON, FOOT, and BENTON, participated.

The question being then taken on receding from the third amendment, it was decided in the negative, by the following vote:

YEAS.—Messrs. Barnard, Barton, Bateman, Bell, Benton, Boulogny, Chambers, Chase, Harrison, Hendricks, Johnston, of Ken. Johnston, of Lou., Kane, Marks, Noble, Robbins, Rugles, Seymour, Silabee, Smith, of Md. Thomas, Webster, Willey.—23.

NAYS.—Messrs. Berrien, Branch, Chandler, Cobb, Dickerson, Eaton, Ellis, Foot, Hayne, King, McKinley, McLane, Macon, Parria, Ridgely, Rowan, Sanford, Smith,

MAY 5, 1828.]

Tariff Bill.

[SENATE.]

of S. C. Tazewell, Tyler, Van Buren, White, Williams, Woodbury.—24.

Mr. HARRISON moved to lay the bill upon the table, which was negatived.

Mr. JOHNSTON, of Lou. moved to recede from the other amendments; which was lost.

On motion of Mr. M'LANE the amendments were insisted on.

On motion of Mr. SMITH, of S. C. it was ordered that, when the Senate adjourn, it adjourn to Monday next.

MONDAY, MAY 5, 1828.

### THE TARIFF BILL.

On motion of Mr. DICKERSON, the bill to increase the duties on certain imported articles was taken up, and the first amendment reported by the Committee on Manufactures, as follows:

Sec. 1, line 11. At the end thereof, insert—"Provided that all Manufactures of iron, the duties upon an equal quantity of rolled iron, in bars and bolts, shall be rated as rolled iron in bars, and pay a duty accordingly; and all iron in slates, blooms, loops, or other form not particularly specified, shall be rated as rolled iron in bars or bolts, and shall pay a duty accordingly," being under consideration—

Mr. DICKERSON spoke briefly in its support, and read several letters and documents to enforce his arguments.

Mr. SMITH, of Maryland, replied to Mr. DICKERSON, and read the letters of Mr. Ellicott and Mr. McKim in corroboration of his statement, that the iron sought to be taxed by the proviso could not be obtained in this country. He moved to amend the amendment, by excepting "iron and machinery for Rail Roads."

Mr. DICKERSON replied, and further urged the propriety of the duty proposed by the proviso.

Mr. SMITH, of Md. then modified his amendment so as to omit "machinery."

The question being taken, the motion to amend was agreed to by yeas and nays—23 to 22.

The question being then taken on the amendment as amended, it was lost, on a division—18 to 24.

The second amendment being "Sec. 1, line 33. At the end thereof, insert, 'currying knives, tanner's fleshers, hatchets, and hammers,'" was rejected, on a division, 20 to 25.

The following amendment having been explained at some length by Mr. DICKERSON: "Sec. 2, line 21, Strike out the following words: 'Provided, that, on all manufactures of wool, except flannels and baizes, the actual value of which at the place whence imported shall not exceed 33½ cents the square yard, shall pay 14 cents the square yard,'" the question was then put, and the motion was rejected.

The following amendment, "Sec. 2, line 19. After 'yard' strike out the words 'there shall be levied, collected, and paid, 20 cents on every square yard,' and insert 'shall be deemed to have cost 50 cents the square yard, and be charged thereon with a duty of 40 per centum ad valorem, until the 30th June, 1829; and from that time, a duty of 45 per centum ad valorem,'" was adopted.

The following amendments were then considered:

"Sec. 2, lines 29 and 30. After 'yard,' strike out the words 'there shall be levied, collected, and paid, a duty of 40 cents on every square yard,' and insert, 'shall be deemed to have cost one dollar the square yard, and be charged thereon with a duty of 40 per centum ad valorem, until the 30th of June, 1829; and from that time, a duty of 45 per centum ad valorem.'"

Sec. 2, line 35. After "yard," strike out the words "there shall be levied, collected, and paid, a duty of

one dollar on every square yard," and insert "shall be deemed to have cost \$2 50 the square yard, and be charged with a duty thereon of 40 per cent. ad valorem, until the 30th June, 1829; and from that time, a duty of 45 per centum ad valorem."

Sec. 2, line 44. At the end thereof, insert, "until the 30th of June, 1829; and from that time, a duty of 45 per centum ad valorem."

Sec. 2, line 49. At the end thereof, insert, "until the 30th of June, 1829; and from that time, a duty of 50 per centum ad valorem."

And agreed to, by yeas and nays.

The following amendment was then considered:

Sec. 2, line 50, At the end thereof, insert—"and on woollen blankets, after the 30th of June, 1829, 40 per centum ad valorem."

Mr. DICKERSON having briefly explained the proposition, the yeas and nays were ordered on motion of Mr. SEYMOUR, and the question being taken, it was decided as follows: Yeas, 23, Nays, 23.

The vote being equal, the CHAIR voted in the negative. The amendment to fix a duty of 50 per centum ad valorem on ready made clothing, was agreed to.

The following amendments were agreed to without a division:

Sec. 2, line 57. After "patent," insert "printed or painted," so as to read, "on all patent, printed, or painted floor cloth carpeting, 50 cents per square yard."

Sec. 2, line 58. Strike out the word "carpeting," so as to read, "on oil-cloth, other than that usually denominated patent floor cloth, 25 cents per square yard."

The amendment to come in at the end of the 19th line of the 3d section, in these words: "And, in addition thereto, one half cent yearly, until the same shall amount to twelve and a half cents per square yard; and on all other manufactures of flax and hemp, 10 per centum ad valorem, in addition to the present duties on the same," was briefly explained by Mr. DICKERSON, who asked the yeas and nays; and, after a few remarks from Mr. SMITH, of Md. it was rejected.

The following amendment was then considered; and, on motion of Mr. PARRIS, the question was divided, so as to decide first on striking out—

Sec. 3, line 20. Strike out the words "ten cents," and insert "seven cents and a half," so as to read, "on molasses seven cents and a half per gallon."

Mr. ROBBINS spoke at considerable length against the duty upon molasses, as unnecessary, inexpedient, and oppressive, an odious tax upon a necessary article.

Mr. DICKERSON defended the imposition of the duty, and argued that it would lead to the production of the article in the country.

Mr. BENTON advocated the duty on molasses as an indirect encouragement to the landed, or farming interest. It would enable the distillers of the Western country, who used pains to compete with those in the Eastern States, who distilled from molasses. Among other remarks, Mr. B. said that whiskey was the healthiest liquor that was drank, as men were known who had been drunk upon it for forty or fifty years, while rum finished its victims in eight or ten.

Mr. CHANDLER said, that he understood the gentleman from Missouri that a man might be drunk on whiskey for forty years. This was the reason why he would vote against the duty, as he was in favour of that liquor which should soberest despatch the drunkard.

Mr. PARRIS expressed himself averse to the duty on molasses, which he looked upon as far more injurious to Maine, than it could be beneficial to Missouri. Mr. P. then gave some details in relation to the trade carried on by the State of Maine with the West India Islands, and contended that this duty would act as a death blow to that trade.

SENATE.]

Deported Slaves.—Tariff Bill.

[MAY 6, 1828.]

Mr. JOHNSON, of Kentucky, defended the measure, as extending to the West its share of the protection. He did not consider that the State of Maine would suffer, as her tonnage would be employed in carrying the molasses of Louisiana, instead of that of the West Indies. If the bill was amended and sent back to the other House, and should there be lost, he wished to know who would assume the responsibility.

Mr. PARRIS replied briefly to Mr. JOHNSON. He felt no anxiety as to the responsibility for having caused the bill to be lost. His constituents would be severely injured by it. Indeed, had a measure been framed for the express purpose of bearing down the interest of the State of Maine, it would not have been more successful. As to a responsibility of any other kind to which the gentleman might allude, he felt no anxiety. He maintained that Louisiana could not supply the West India trade in the article of molasses, or yield a market for the productions of Maine.

Mr. BENTON made some further remarks in favour of the provision.

The question being then put on striking out, and the yeas and nays having been ordered on motion of Mr. DICKERSON, it was decided in the negative.

The amendment at the 22d line of the 3d section, to insert "on vermicelli 50 per centum," being next—

Mr. DICKERSON explained this proposition. The article was not as unimportant as by some it might be supposed. He mentioned the fact of a manufacturer in the State of New Jersey, who exported large quantities.

Mr. SMITH, of Maryland, said, the gentleman from New Jersey will not even let us have our soup in peace. That too, must be taxed. He will think of taxing the air we breathe next. This article was to be taxed, because there was a manufacturer in New Jersey, who appeared to be doing very well, as the gentleman said that he exported large quantities.

Mr. BENTON said he would detain the Senate but a minute and a half; and he intended to tell a story instead of making a speech. When the tariff of 1824 was under discussion in the other House, a gentleman, whom he did not then know, but whom he afterwards learned was a member of Congress, came to him in his seat, and asked whether there were not caves in Missouri in which Epsom salts were found. He, [Mr. B.] answered doubtfully—and the gentleman said he had at home, a small manufactory of the article, and he argued that the caves in Missouri and his manufactory entitled the article to be protected. When the gentleman from New Jersey proposed this duty, because there happened to be a manufactory of vermicelli in New Jersey, his [Mr. B.'s] mind recurred to this circumstance, and he could not but ask whether there was any member of Congress interested in the business?

Mr. DICKERSON assured Mr. BENTON that no member of Congress had any concern in the manufactory of which he had spoken,

The amendment was rejected, 18 to 24.

TUESDAY, MAY 6, 1828.

DEPORTED SLAVES.

A message was received from the other House, communicating an amendment to the bill to provide for the settlement of claims under the 1st Article of the Treaty of Ghent, providing that the commission for the settlement of those claims should not continue after the 1st of September next.

Mr. JOHNSTON, of Lou. moved to recommend the bill to the Committee on the Judiciary.

Mr. TYLER opposed the reference. He stated that the Commission had suspended its operations, awaiting the decision of Congress; and he hoped there would be

no delay in acting upon the bill; and although he had no objection to laying the bill on the table to allow the gentleman from Louisiana to examine it, he hoped it would not be recommitted, as such a course would essentially delay the bill.

Mr. EATON said that the Commissioners had stated that they would close their labors in August, and he presumed this amendment was made conformable to that declaration.

Mr. VAN BUREN said a few words and moved to lay the bill on the table; which was agreed to.

#### THE TARIFF BILL.

The bill increasing the duties on certain imported articles was then taken up, together with the amendment offered by Mr. KANE, to lay a duty on lead in pigs, bars, or sheets, three cents per pound; on leaden shot, four cents per pound; on red or white lead, dry or ground in oil, five cents per pound; on litharge, and lead manufactured into pipes, five cents per pound.

Mr. KANE briefly explained the object of the amendment.

Mr. PARRIS opposed it, and made some statements relative to the amount of the importations of the articles named in the amendment.

Mr. BENTON spoke in favor of its adoption. He said he was a member of the Senate in 1824, when the existing tariff was enacted, and was in favor of a higher duty upon lead and its manufactures at that time, but was prevented from making any motion to that effect by the admonition, often repeated, that the whole bill might be lost if alterations were attempted. That tariff had been in operation four years, and except for the duty on lead, it had proved itself to be of no advantage to the State of Missouri. Being again under revision, and heavy duties proposed on many articles consumed, but not manufactured in Missouri, he considered it due to that State, and to the State of Illinois, to endeavor to obtain further protection for one of their principal staples, the article of lead; and the amendment now under consideration, having been well considered by himself, and the Senator from Illinois, (Mr. KANE,) he could say that the duty on the crude article, and all its manufactures, was adjusted upon a full view of their relative connexion and dependence on each other, and were believed to be fair and equal. The amendment had a further recommendation in including litharge, and several manufactures of lead, which were omitted in the tariff of 1824, and left open a door to various evasions of the act.

Mr. B. considered lead as one of the articles of domestic production on which the system of protecting duties might legitimately be carried to the prohibitory point against its foreign rival. It was an article of prime necessity in time of war, absolutely indispensable to our security and independence as a nation, and susceptible of being produced at home to the full extent of any possible demand. He would not repeat what every body knew about the variety, the extent, and the richness of the lead mines in the State of Missouri and on the upper Mississippi. It was sufficient to say that past discoveries authorized the belief that innumerable fresh discoveries may be made; that the supply of the article will increase in full proportion to the demand for it; and that the ultimate product may be set down as boundless and inexhaustible. This being the fact, there could be no valid objection to the absolute exclusion of the foreign article. The amendment, however, does not go that length, but probably may operate as a prohibitory duty in the lapse of some years.

Mr. B. said, that the reasons for granting this increased duty on lead, were, first, to secure to the United States an ample, certain, and regular supply of an article, indispensable in time of war; and next, to enable the States of Missouri and Illinois, in which this article abounded,

MAY 6, 1838.]

Tariff Bill.

[SENATE.]

to meet the additional burthens which this new tariff, if it became a law, would impose upon them. Lead furnishes the main part of these means. It will serve for remittances in payment of these woollen and cotton goods, which we are hereafter to receive at an augmented price from New England, and of course we should have augmented means of paying for them. Our ordinary productions of corn, wheat, pork, beef, whiskey and tobacco, would be in no demand there, even if they could bear the expense of transportation, as the present complaint of New England against old England is, that she takes no provisions from her, of course New England will take none of these articles from us, and we must either pay for her woollens in gold or silver, which we must get from the South, or in such articles as will bear transportation. Lead and shot are among the few articles produced in Missouri and Illinois, which will bear transportation to New England, or which will command the money which will have to be carried there; and as these States are to buy their woollen goods from her at a greatly augmented price, it is but distributive justice that they should have augmented means of paying for them. With this view, and to obtain something like the monopoly of the American market in furnishing it with lead, the Senator from Illinois (Mr. KANE) and himself had agreed upon the terms of the amendment now under consideration. It specified a higher duty on lead and shot, than had been offered and rejected in the House of Representatives. That duty was only 50 per cent. on the existing duty; the present amendment proposed 100 per cent. It might be thought high; but he could say that it was not too high for the benefit of Missouri and Illinois; and if rejected, there would be nothing in the bill to induce him to vote for it.

Mr. B. said, that he would avail himself of this occasion, when lead was the subject of debate, to rectify an erroneous inference, which had lately been drawn from one of his speeches, by a Senator from Louisiana, (Mr. JOHNSTON,) a speech in which he, Mr. B. had suggested that the public debt might be paid off in five years, and an extensive abolition of duties be made at that time. That Senator inferred, that the duty on lead, might be included in the list of abolition, and that he, (Mr. B.) might do a great injury to his own State. Mr. B. said, it was kind in that Senator to undertake to defend the State of Missouri from the improvidence of her immediate representative; but a slight attention to the rule he had laid down, would shew that there was no room for the exercise of his super-serviceable benevolence; the inference which he drew, being not only without premises, but against them, as would be seen by looking at the rule. The rule was this: "I am for abolishing duties in toto, as soon as the public debt is paid off, upon all articles of prime necessity, or ordinary comfort, which are not made at home at all, or not made in sufficient quantity to merit national protection; and I am for continuing them on articles of taste and luxury, and upon such rival productions of foreign countries as our security in time of war, and our general independence as a nation, require to be made at home." This is the rule, and the Senator's error arose from his omission to quote the last half of it. His quotation stopped in the middle of the rule, and therefore left him unacquainted with the fact that duties were to be continued upon a certain description of articles; that this description included those which were necessary to our safety in time of war; of which lead is certainly one; and therefore an article on which the duty was to be continued.

Mr. B. concluded with saying, that the mineral district in Missouri was at present in a languishing state. The government had lately reserved about 500,000 acres of land there, from sale, making a desert in the heart of the country; the old French and Spanish claims were yet unsettled; that the upper strata of mineral was much ex-

hausted, and the lower could not be got at without much expense, and considerable skill in mineralogy; that many of the miners had gone off to the new mines on the upper Mississippi, and that the increased protection which the amendment contemplated was essential to the extensive revival of mining in Missouri, and the restoration of a large district to its former prosperity. If this amendment should be adopted, and if a bill for the sale of the reserved lead mines which he had introduced, and passed through the Senate in the fore part of the session, should succeed in getting through the House of Representatives, then might the mineral region in Missouri become the centre of an immense attraction, the theatre of vast enterprise, the seat of unnumbered manufactories, the focus of incredible wealth, a market for a prodigious consumption of merchandise and provisions; and the whole country be made to rejoice in the profusion of benefits which it would disburse around.

Mr. DICKERSON considered that the amendment ought to be adopted.

Mr. JOHNSTON, of Louisiana, replied to Mr. BENTON, and explained his former remarks; and said he should vote for the amendment.

Mr. BENTON replied to Mr. JOHNSTON.

Mr. ROWAN said that he should vote against the proposed duty upon lead, and as it was a western product, and we might be supposed on that account, to be inclined to support it, he felt it his duty to give some of the reasons, which would induce him to vote against it.

He begged leave, however, to premise, that he was individually opposed to the whole system. He was opposed to the tariff, as a system of bounties, for the encouragement of certain classes of industry. He considered the protection, which it extended to one class of industry, as a correspondent depression upon other classes. Its professed object was to tax one part of the community for the benefit of another. Its operation is to impoverish one class of laborers, for the purpose of enriching another—or rather to tax the laboring, and more especially the agricultural portion of the community, to enrich the capitalists—to increase the poverty of those already poor, to enhance the wealth of those already rich—as a system, calculated to accelerate that state of wealth, in the hands of the few, which is incompatible with the happiness and liberty of the many—as a system, the tendency of which, is to inflict upon the people of this country the poverty, wretchedness, and vassalage, which characterize the people in governments less favorable to liberty than ours.

He was not, he said, opposed to the tariff as a system of revenue, honestly devoted to the objects and purposes of revenue—on the contrary, he was friendly to a tariff of that character; but when perverted by the ambition of political aspirants, and the secret influence of inordinate cupidity, to purposes of individual, and sectional ascendancy, he could not be seduced by the captivation of names, or terms, however attractive, to lend it his individual support.

It is in vain, Mr. President, said he, that it is called the American System—names do not alter things. There is but one American System, and that is delineated in the State and Federal Constitutions. It is the system of equal rights and privileges secured by the representative principle—a system, which, instead of subjecting the proceeds of the labor of some to taxation, in the view to enrich others, secures to all the proceeds of their labor—exempts all from taxation, except for the support of the protecting power of the government. As a tax necessary to the support of the government, he would support it—call it by what name you please—as a tax for any other purpose, and especially for the purposes to which he had alluded—it had his individual reprobation, under whatever name it might assume.



SENATE.]

Tariff Bill.

[May 6, 1828.]

It might, he observed, be inferred from what he had said, that he would vote against the bill. He did not wish any doubts to be entertained as to the vote he should give upon this measure, or the reasons which would influence him to give it. He was not at liberty, he said, to substitute his individual opinion for that of his State. He was, he said, one of the organs here, of a State, that had, by the tariff of 1824, been chained to the car of the Eastern Manufacturers—a State that had been from that time, and was now groaning under the pressure of that unequal and unjust measure—a measure, from the pressure of which, owing to the prevailing illusion throughout the United States, she saw no hope of escape, by a speedy return to correct principles—and seeing no hope of escaping from the ills of the system, she is constrained, on principles of self defence, to avail herself of the mitigation which this bill presents, in the duties which it imposes upon foreign hemp, spirits, iron, and molasses. The hemp, iron, and distilled spirits of the West, will, like the woollens of the Eastern States, be encouraged to the extent of the tax indirectly imposed by this bill, upon those who shall buy and consume them. Those who may need, and buy those articles, must pay to the grower, or manufacturer of them, an increased price to the amount of the duties imposed upon the like articles of foreign growth or fabric. To this tax upon the labor of the consumer, his individual opinion was opposed. But, as the organ of the State of Kentucky, he felt himself bound to surrender his individual opinion, and express the opinion of his State.

If upon this, or any other subject, he should substitute his own, for the well known will of his State, he should feel that he had been faithless to her interests, and unfriendly to the principles of our republican institutions. He had no doubt but the people of the State which he had the honor to represent, were, like him, opposed to taxation for any individual or partial purpose—for any purpose but the support of the government. They would submit to and pay any tax cheerfully, for the protection of all, but not to enrich a few. But they are reduced by the operation of this American System, as it is falsely called, to the condition of the planter whose farm, fences, and houses, are endangered by fire from the forest. They, like him, must fire against the encroaching fire. The exercise of will is not left them—they are under the influence of a dire necessity. He must, therefore, as their humble organ, vote for this bill; and would, on the same principle, vote for this duty on lead, if he could do it without disparaging his government. The mines of lead, with the exception of a few Spanish grants, which he had been told were nearly exhausted, belonged to the United States. To suppose that the government to whose strength we all look for protection, so weak as to need protection against foreign competition in the manufacture and sale of this vulgar metal, was not he thought very respectful to the government. He might be told that the government leases its mines, and that the lessees, and not the government, would be benefitted by this duty. His reply was, that when you raise the price of lead, you raise rents. This would be inevitable. The competition between the lessees would necessarily produce this result; and thus, while the consumers of this necessary and useful article would be taxed, the manufacturer of it would not be benefitted. The tax would go to the government, and not to them. The western section of our country would not be benefitted. It would be unjust; for the tax thus levied upon the consumers of that article, would be drawn from that region into the Treasury, and like all the very large sums, which under the tariff of 1824, and under the sales of the public lands have been drawn from that quarter, would be laid out upon the seaboard. Not intending, he said, to take any part in the discussion of this bill, he had taken this occasion to intimate the course he should pursue upon this measure, and to express, very briefly, some of the reasons by which he was influenced. He had forbore to go into detail. He had not attempted to depict the evils which had been inflicted upon the Southern and Western States by this new system—a system peculiar to aristocrats and to monarchists—kinds of government to which it naturally led, and to the support of which, it was as natural and necessary, as it was alien from and abhorred by republics. He repeated it as his opinion, that his State was driven to the acceptance of this bill, not as a good, which she approved, but as the softener of an evil, from which she cannot escape, and which, without the mitigation which it tenders, she is unable to bear.

Mr. BRANCH moved to amend the amendment by inserting, "and on gold dust 37½ per centum ad valorem."

Mr. DICKERSON made a few remarks in answer to Mr. Rowan. He was understood to contend that the objections of that gentleman to a duty on lead were not valid ones. As to gold, he did not think it possible to keep it out of the country. It would be as easy to attempt to "keep out the tide with a pitchfork." If the protection could be made effectual, he would go with the gentleman with all his heart. But he thought it an improper measure.

Mr. BRANCH maintained the claims of the manufacturers of gold, over those of the workers in iron, copper, or lead. Either of the latter was more profitable than gold.

Mr. ROWAN replied to Mr. DICKERSON. He did not wish to strengthen the arm of the General Government, and for this reason should vote against the duty on lead.

Mr. MACON made a few remarks, as was understood, in opposition to the motion of Mr. BRANCH.

Mr. BRANCH withdrew his motion.

After a few remarks from Mr. DICKERSON, on whose motion the yeas and nays were ordered, the question being taken, the amendment was adopted.

Mr. CHANDLER moved to amend the bill, by inserting a provision fixing the duty upon imported salt at 15 cents on the bushel, one year after the passage of the bill, and at 10 cents at the end of two years.

Mr. HARRISON opposed the amendment. It was well known that he had introduced a bill at an early period of this session for the reduction of the duty on imported salt; and that he had given notice in his place, and through the newspapers, that it would not be taken up again this year. This being generally understood by the manufacturers of the article, he did not think it proper again to agitate the question. He should therefore vote against the amendment.

The question being taken, the motion was rejected.

The bill was then reported to the Senate, and the question being taken on the five first amendments adopted yesterday in the Committee of the Whole, (levying duties on woollen cloths.)

On motion of Mr. RUGGLES, the yeas and nays were ordered, and the question being taken, it was decided in the affirmative.

The question then occurring on the duty of 50 per cent. on clothing ready made, and the yeas and nays being ordered, on motion of Mr. SMITH, of Md., it was decided in the affirmative.

The amendments on carpeting, &c. and on lead, were then agreed to.

Mr. BENTON moved to amend the bill by a provision laying a duty of 33½ per centum, ad valorem, on furs.

Mr. DICKERSON opposed the motion.

Mr. BENTON entered into a detail of the extent and value of the Northwestern fur trade, and the necessity under which the fur traders labored for protection from British competition.

Mr. DICKERSON moved to amend the amendment by substituting 45 per cent. instead of 33½.

MAY 7, 1828.]

*Internal Improvements.—Adjournment of Congress.*

[SENATE.]

Mr. BENTON accepted the modification.

Mr. DICKERSON moved to amend the amendment, by inserting 50 per cent. ad valorem, on foreign manufactured fur hats. He observed, that, at present, furs were admitted duty free, and there was a duty of 30 per cent. on imported hats. If a duty were laid on furs, and the duty on hats remained the same, the manufacturer must give up making them.

Mr. BENTON asked whether there was not, at present, a prohibitory duty on foreign hats?

Mr. DICKERSON said that great numbers were still imported. The motion was then rejected on a division, 15 to 24.

On Mr. BENTON'S amendment, the yeas and nays having been ordered on his motion, the question was then taken and decided in the negative.

Mr. DICKERSON, in proposing an amendment, said, that he had formerly stated that there were two methods of evading the duties on iron. The one was by manufacturing it a little above bar iron, and calling it manufactured iron; the other was by calling it slabs, blooms, loops, etc. The only difference was, that the bars were shorter and broader. He had yesterday read a letter, which stated that this process for defrauding the revenue, was now going on; and he could not sit still without making one further effort to prevent the success of these attempts to rob the Government of a portion of the revenue. He had, therefore, now moved to amend the bill by a portion of the amendment offered yesterday, leaving out iron in bars and bolts—and providing that "all iron in slabs, blooms, and loops, shall be rated as rolled iron, and shall pay duty accordingly."

Mr. EATON signified his intention to vote for the amendment. He had voted against it yesterday, because he thought that the friends of the bill would be content to pass it as it came from the other House. He therefore was averse to obstruct it by voting for any amendment which should send it back to the other House, and run the risk of its being lost. But finding that other amendments had been made, and that it must go back, he no longer refrained from assisting to amend it, and should vote for the present motion.

Mr. PARRIS opposed the motion, and went at length into the history of the duty on iron; its rapid progress; and its effects upon the community. He also argued, from the continual increase of the duty, that no point could be foreseen at which it would stop; that the duty was at present sufficient protection to the manufacturer; and that its increase would strike materially at the commercial interest of the country. He was, therefore, totally opposed to an increase of duty on iron, in whatever form, whether it were in pigs, or bolts, or blooms, or loops.

Mr. DICKERSON said, that the amendment was not to increase the duty, but to prevent frauds on the revenue. According to the letter from Baltimore, to which he had already alluded, the manufacturer was defrauded of the provisions in his favor, by the form in which the iron was imported. It was made two feet instead of eight, in length, very broad and flat, and was called a slab, when it was effectually a bar. The only object of the amendment was to prevent these frauds.

Mr. BARNARD advocated the amendment. It was to ensure to the manufacturer the protection which the law designed he should enjoy, and, without such a provision, it was useless to levy a duty on the foreign article.

The question being then taken, and the yeas and nays having been ordered, on motion of Mr. DICKERSON, the amendment was agreed to.

Mr. DICKERSON renewed the motion to amend, (rejected in the Committee of the Whole,) levying a duty on blankets, of 40 per centum, ad valorem.

Mr. BARNARD moved a substitute for the amendment, by providing for a duty of 2½ per centum per annum, until it shall amount to 40 per centum; but, Mr. DICKERSON not consenting to the modification, it was withdrawn by the mover.

The question being then taken on Mr. DICKERSON'S motion, by yeas and nays, it was decided as follows: Yeas 23—nays 23.

The vote being equal, the CHAIR voted in the negative.

Mr. BARNARD moved to insert in the 1st section, line 32, "tanner's knives"—on which he asked the yeas and nays, and the question being put, it was decided in the negative.

Mr. DICKERSON further moved to amend the bill, by inserting, at the end of the 19th line of 1st section, "on sail-duck, one-half cent per square yard, per annum until it shall amount to 12½ cents."

Mr. SILSBEE moved to amend the amendment, by inserting after the words "sail-duck," the words, "except ravens duck." If so amended, Mr. S. said, he would vote for the amendment, otherwise he could not.

The CHAIR decided that the motion of Mr. SILSBEE was not in order.

The question being then taken on Mr. DICKERSON'S motion, it was decided in the affirmative.

Mr. SANFORD moved to amend by striking out the last clause of the 4th section, allowing a drawback on cordage manufactured from foreign hemp.

This motion, having been slightly discussed by Messrs. SANFORD, WEBSTER, and DICKERSON, was agreed to, without a division.

Mr. PARRIS moved to strike out that portion of the 4th section which provides that "no drawback shall hereafter be allowed on spirituous liquors manufactured from molasses."

On this motion a long and animated discussion took place, in which Messrs. PARRIS, SMITH, of Maryland, WEBSTER, SILSBEE, SANFORD, EATON, FOOT, ROWAN, HARRISON, and BENTON, participated.

WEDNESDAY, MAY 7, 1828.

#### INTERNAL IMPROVEMENT.

A message from the other House was taken up, relative to a Committee of Conference on the amendments of the Senate to the bill making appropriations for Internal Improvement.

Mr. M'LANE moved to concur, and to appoint managers on the part of the Senate. He observed that he thought an arrangement might be made, satisfactory to all parties.

The Senate having agreed to the appointment of a Committee of Conference on their part, a ballot was then taken, and Messrs. M'LANE, TAZEWELL and SANFORD were appointed the Committee.

#### ADJOURNMENT OF CONGRESS.

The resolution of the Committee on the Adjournment was taken up.

Mr. DICKERSON moved to lay it on the table; which was lost—19 to 20.

Mr. NOBLE opposed the present consideration of the resolution. He was as anxious to go home as any other member; but he wished that the business which ought to be done should first be disposed of.

Mr. KING moved to lay the resolution on the table, but withdrew his motion on the suggestion of Mr. BERRIEN.

A message was received from the other House, informing the Senate that they had passed a resolution fixing the time of the adjournment at the 26th May, and asking the concurrence of the Senate.

SENATE.]

Deported Slaves.—Tariff Bill.

[MAY 8, 1828.]

Mr. BERRIEN said, he presumed the Senator from Alabama would see the propriety of not pressing his motion. He wished the resolution to be acted upon, and expressed an opinion that all the essential business of the Senate could be transacted previous to the 26th May.

Mr. KING observed, that the Senator from Georgia misconceived him. The resolution now before the Senate was a joint one, and must go to the other House for concurrence, and if acted on, would pass the other on its way. He wished that it might be laid on the table, so that the message just received from the other House might be taken up.

Mr. K. then renewed the motion to lay on the table, which was agreed to.

The message from the other House was then taken up.

Mr. NOBLE moved to lay it on the table; on which the yeas and nays were ordered, and the question was decided in the affirmative.

#### THE TARIFF BILL.

The bill making alterations in the several acts levying duties on imported articles, was then taken up as the unfinished business, the question being on the amendment offered by Mr. PARRIS, to retain the drawback on spirits distilled in this country from articles brought from abroad. On this question, Messrs. MARKS, MACON, VAN BUREN, WEBSTER, BRANCH, BARNARD, WOODBURY, SMITH, of Md. and ROWAN, took part. The question being then taken, it was decided in the negative.

Mr. ROBBINS moved to amend the bill by striking out the duty of 10 cents per gallon.

The question was then taken on the motion of Mr. ROBBINS, and decided in the negative.

Mr. SMITH, of Md. moved to strike out the 1st of June, and insert 1st day of September.

Considerable discussion took place, in which Messrs. DICKERSON, SMITH, of Md. and HARRISON, took part, when the motion was rejected.

TUESDAY, MAY 8TH, 1828.

#### DEPORTED SLAVES.

On motion of Mr. TYLER, the bill to settle the claims of individuals to slaves, provided for by the first article of the treaty of Ghent, was taken up.

Mr. TYLER explained the bill, and moved that the Senate concur in the amendments adopted by the House. He observed, that the bill had been passed in the Senate without any consultation of the Commissioners, and the time had been fixed for the conclusion of the commission at the 30th November. The bill had grown out of the desire of certain claimants, who had received three-fourths of their claims, to be allowed to take farther testimony against other claimants, (known as the Chesapeake claimants.) In the other House, a letter had been addressed to the Commissioners, and their answer, (which Mr. T. read) gave the opinion that the labors of the commission could be concluded by the middle of August. The 1st of September was therefore fixed on. He hoped the Senate would assent to the amendment.

Mr. JOHNSTON, of Lou. said, that he would propose an amendment to the amendment, in the shape of a proviso, which he hoped the Senator from Virginia would be disposed to accept. The Georgia and Louisiana claimants, although desiring a longer period, would assent to fixing the termination of the Commission at the 1st of September, if this proviso were granted. He then offered a proviso, authorising the filing of the deposition of any person which may be handed in before the 1st of June.

The motion was opposed by Mr. TYLER, who said, that, if this amendment were adopted, the Board would proceed in the decision of no case until after the 1st of

July. If it were not adopted, they would proceed immediately to decide upon such cases as were before them.

Mr. JOHNSTON, spoke at length in support of his motion.

Mr. TAZEVELL opposed the motion, on the ground that it would operate as a dictation to the Commission, a form of receiving testimony which it was not the province of Congress to make, and would overrule the judgment of the Commissioners.

Mr. COBB spoke at length in support of the proviso.

Mr. SMITH, of Md. asked whether the Chesapeake claimants were on the definitive list?

Mr. BERRIEN replied that they were.

Mr. BERRIEN then went into a detailed argument in favor of the proviso, and maintained the justice of granting to the Georgia and Louisiana claimants. He disagreed with Mr. TAZEVELL in the idea that this proviso would dictate to the Commission any form of taking evidence. It would only direct them to take further evidence until July, in the same form as had been established by the Commissioners themselves. The bill, as it was passed by the Senate, would have enabled the claimants to seek evidence beyond the Atlantic. This would only allow them to obtain such testimony as could be obtained in this country. But if the bill was to pass with an understanding that no further evidence was to be heard, it would operate as an exclusion to the Georgia and Louisiana claimants. This would be an act of injustice to them, which he could not consent to.

On motion of Mr. DICKERSON, the bill was then laid on the table.

#### THE TARIFF BILL.

The bill for the alteration of the several acts levying duties on imported goods was taken up; and an amendment, offered yesterday, by Mr. SMITH, of Md. to lay a duty of two cents per pound on sheathing copper, being under consideration.

Mr. SMITH asked for the reading of a memorial of the merchants of Baltimore on this subject; which was read. Its purport was to ask a duty on sheathing copper, as the crude copper of South-America could be manufactured into sheathing copper advantageously in this country.

Mr. SMITH, of Md. said, that brazier's copper paid now a duty of four cents per pound. When he was formerly in the other House, sheathing copper was declared free of duty. It was duty free at present, yet it could be made advantageously here. On receiving this memorial, he wrote to the manufacturers, inquiring as to the effect of the duty asked for, and they replied they were not peculiarly anxious upon the subject. We export large quantities of cotton goods and Windsor chairs to Lima, and our only returns are in silver and crude copper, and by far the largest amount is in the latter. When they bring it to this country, they get only the trade of the brazier. If they could supply also the sheathing copper, it would be advantageous to our commerce, as it would extend the trade. The American copper was the best; there being a portion of iron in the English copper, which caused little holes in the sheathing, and injured the bottoms of vessels. He was, therefore, desirous that this duty should be imposed.

Mr. PARRIS said that he could not feel that he had discharged his duty to his constituents, without making one more effort, however fruitless it might prove, to rid the bill of some of its most objectionable features. The great interests of the State in which he resided were at stake—interests which cannot be touched without affecting in some degree the whole of that community which cannot bear the heavy hand of Government, to the extent now proposed, without serious and irreparable injury. He, therefore, again asked the indulgence of the Senate while he would consider the extent, the nature, and magnitude of those interests—the manner in which their ope-

MAY 8, 1828.]

Tariff Bill.

[SENATE.]

rations are carried on, their importance to the country, and the hazard to which they would be subjected, if the measure should succeed in its present form.

My intention is, said Mr. P., to state facts, incontrovertible facts, with the hope that a consideration of the great and manifest inequality of this measure will induce to some modification more consonant to just principles and the interests of the country.

When the additional duty on molasses was under consideration the other day, I spoke at some length of the West India trade—of its vast importance to the country, to the consumer, to the lumberman, to the manufacturer of lumber, to the fisherman, and to those who barter the productions of our own soil for this article of foreign growth. I estimated the number of persons, and the amount of capital employed in carrying on this trade, and I then asserted, and now repeat, that if we go on imposing restrictions as we have done, and are now doing, ere long we shall not be able to spread a sail in the West India seas.

We have already lost the direct trade to the British Islands. I impute no blame to the Government for that loss—but we have lost it—it is gone, and there is no prospect of its being regained. The operation has been to throw the trade, which before was carried on with the British islands, into our markets in the other islands, and they have thereby been glutted. This is the natural effect of the measure; it was foreseen, it was expected, and the consequence is a diminution of the value of our exports in the foreign market. So say our merchants; such unquestionably is the fact. I say no more upon this diversion of trade, except that in connexion with the obstructions about to be thrown upon the trade with the Spanish islands, by the increased duty on molasses, it must fall with severity upon our navigating interest. If this bill answer the expectations of its friends, its operation upon navigation will be injurious in another direction.

The whole trade of this country, or nearly so, except with China, is founded upon barter; the exchange of our own produce, the growth of our soil, or the result of our labor for the production of other countries. In proportion as this trade of barter and exchange shall be diminished, our vessels will necessarily be thrown out of employment, and our sailors be turned from their accustomed pursuits, or compelled to follow those pursuits elsewhere. There are various items in this bill calculated to produce these effects. Such is the increased duty on molasses, bearing on the West India trade. Such is the increased duty upon iron and hemp, bearing on the trade in the Baltic. I lay it down as a postulatam, that if we would sell, we must buy—if we would export, we must import—and that, if by increased duties, or in any other manner, either direct or indirect, we diminish imports, we thereby diminish our exports. No nation will find trade advantageous with us, unless we take their products. We cannot carry on trade to advantage with other nations, unless they will take ours. Now, sir, the effect of the increased duty on molasses will be materially to diminish the importation of that article. It cannot be introduced with any profit under the proposed tariff. The avowed object is to diminish it, and to make way for the molasses of the Southern, and the whiskey of the Middle and Western States. What then must be the effect?—Who will purchase our lumber and our fish? Who will purchase all the various commodities which we now exchange for that article? The Islanders will not, unless we take their molasses in payment. Will our neighbors of the South and West become the purchasers? Certainly not: they will have no market for an additional supply of our produce. They cannot send it to the islands so advantageously as we can; they cannot consume it at home. The effect, the necessary and inevitable effect,

so far as it bears upon navigation, will be to diminish both our exports and our imports. Our lumber must remain in the forests, and our fishermen be withdrawn from the banks.

I will now call the attention of the Senate to some facts showing the importance of this trade to the tonnage interest of the country. The annual importation of molasses into the United States does not materially vary from fourteen millions of gallons; more than half of which is from Cuba. As our trade is greater with that than with either of the other West India Islands, I will exhibit in as few words as possible, the quantity and value of some of our principal exports to, and imports from that island, together with the amount of tonnage employed. During the last year of which we have any returns, we imported from Cuba 7,383,000 gallons of molasses, valued at that island at \$1,343,000. We imported from the same island, during the same period, 18,232,000 pounds of coffee, valued there at \$1,837,000, and also 44,392,000 pounds of sugar, valued there at \$2,857,000. The aggregate value of these three articles, imported in one year, as estimated at the place of shipment, exceeds three millions of dollars. How did we pay for them? Partly in the productions of our own country, and partly in the produce of other countries purchased with the productions of our own. During the same period we shipped to Cuba our own produce, our lumber, fish, oil, naval stores, beef, pork, flour, rice, &c. to the value of upwards of three millions seven hundred thousand dollars. We also supplied them with articles, the growth and production of England, France, Russia, South America, and other places, received in exchange for our produce, valued here at the time of exportation, at upwards of two millions three hundred and eighty-two thousand dollars. This trade with the island of Cuba is carried on wholly by ourselves. We furnish the ships and the seamen to navigate them. We are their carriers, not only of our own produce, but that of Europe and other parts of the world. The amount of American tonnage employed in this trade exceeds 122,000 tons. I have been thus particular, for the purpose of showing the magnitude of this branch of business with one island only; a business which will be most injuriously affected by the operation of the bill under discussion. Is it wise to embarrass a trade that gives so much employment to our people, so much revenue to the Treasury?

These proposed duties are to encourage labor, say gentlemen. The molasses of Louisiana and the whiskey of Kentucky are the products of our soil and of our labor, and therefore must be encouraged. This, sir, is the doctrine on which the bill rests; and this, to be sure, sounds well. But how stands the fact? Is not the molasses of the West Indies the product of our labor? Who cuts the timber in the forest? who manufactures the lumber at the mills? who transports it to the foreign market? who draws the fish from the ocean? who cures them on the flakes? This is done by our own labor, and by the operation of barter; the molasses, the coffee, and the sugar received in return, becomes the product of our labor. In all this process the advantage is on our side, inasmuch as we are carriers both ways. We supply the Islanders with our produce, carried to them by our vessels, and of course charged with the freight, and we supply ourselves with their produce, on which they obtain no freight. What becomes of this coffee and sugar, and molasses, the product of our labor? A part goes into the consumption of the country, but no inconsiderable proportion is withdrawn from our market, and exported with other articles forming assorted cargoes, calculated for the trade of the country to which they are sent; thus giving further employment to our people and our ships. Pursue this trade still further, and you find the product of our labor returning to the American market in the form of hemp, duck,

SENATE.]

*Tariff Bill.*

[MAY 8, 1828.]

and iron. Yes, sir, the very commodities that are taken in payment for the produce of our soil and our fisheries, form the basis of another branch of trade, and, I regret to say, one that is to be most severely taxed by this tariff. Our imports from the Baltic are purchased almost wholly by barter. We import from Russia to the amount of \$2,600,000 annually, as valued at her ports, principally in iron and hemp, and the manufactures of hemp and flax. How do we pay for these? We export no specie to Russia, or very little. Some years none; last year only \$9,000. We pay in the coffee, the sugar, and the commodities which we import from the West Indies, either by direct shipment to Russia, or through an intermediate trade, the product of which is carried to Russia. We pay in various articles derived through commerce from other nations in exchange for the productions of our country; so that the iron, the hemp, and the duck, which we import from Russia, is the ultimate product of the labor of our lumbermen, our fishermen, and our sailors.

Sir, we are also the carriers for Russia. Not a cargo of our imports to, or exports from that country, the last year, was borne by foreign tonnage. Now, what are we about doing? We are about to depart from the principles upon which this Government was first administered. In a time of peace, when revenue is abundant, when the public debt is fast disappearing, when our finances do not call for an additional dollar of revenue, we are adding one hundred per cent. to the existing duties on molasses, almost the like per cent. upon hemp, and an addition of four dollars and fifty cents per ton upon iron. The first article upon which we lay our hands, enters into the consumption of every family in the country, as food; the others enter into the construction of our ships, and constitute nearly one third of their expense. In one view, indeed, we do act consistently; for while, by heavy duties, we discourage ship-building, by the same duties we so shackle trade as to render ships unnecessary.

I will now show how we have departed from the original policy of the Government. Sir, the first Congress that was elected under this Constitution found the country involved with the debt of the Revolutionary war. With no money in the Treasury, with a heavy debt to be discharged, and the current expenses of the Government to be provided for, that Congress undertook to devise the ways and means; and the second act that was passed under this Constitution, was a tariff of duties on imports; and the third was an act imposing duties on tonnage. From these acts, and others that were passed soon after, the Senate will perceive that those who first legislated for us, were disposed to encourage and cherish trade, rather than destroy it. At that period, July, 1789, we had but few vessels employed in our merchant service—less than 124,000 tons. Trade was in other hands. The war had swept ours, what little we had, from the ocean. Its importance was seen—was felt—and the earliest and most efficient measures were taken to enable us to engage successfully in the competition. Ship-building was encouraged. Discriminating duties were imposed on foreign tonnage, and even a discrimination between foreign vessels built within the United States and foreign-built vessels. American vessels, on entry, paid six cents per ton, while foreign vessels, built within the States, paid thirty cents, and all other foreign vessels paid fifty cents per ton. A discriminating duty of ten per cent. was also imposed on all dutiable articles imported in foreign vessels. These acts may be considered as the life-giving power to the navigation of this country. They afford incontestible evidence that those who then directed the national concerns, foresaw the high importance of commerce to the prosperity of this people. Public sentiment went with them, and seconded their views. Our tonnage increased, and we became our carriers exclusively. In 1792 our own shipping employed in foreign trade had

increased to upwards of 411,000 tons. By this increase, we were not only enabled to monopolize our own trade, but prepared to participate in the profits of the carrying trade of Europe, thrown into our hands by the belligerent situation of the commercial powers of that quarter of the world. Sir, we engaged successfully in this business—our vessels being neutral, could carry for lower freight than those of the belligerent powers, and they consequently engrossed a large proportion of this profitable employment.

I mention these facts to shew what was the policy of those who first administered this Government, and how we have departed from that policy—to shew that they gave existence to our navigation—that they protected it, instead of loading it with burthens.

We all know what followed. By French decrees, British Orders in Council, non-intercourse, embargo, and war, our navigation suffered severely. Much of it was either captured or decayed at our wharves.

In this state of depression, at the restoration of peace, what of encouragement or protection did it receive from the Government? Did we adopt the course pursued under like circumstances after the Revolutionary war? Directly the reverse. By the law of March 3, 1815, all discriminating duties on foreign tonnage, and goods imported in foreign vessels, were provisionally repealed. All nations were thus invited to bring their produce to our market, and to take our produce to their market, upon the same terms as were imposed upon our own vessels—in other words, all nations were invited to become our carriers. The invitation has been accepted, and British, French, Dutch, Hanseatic, and Swedish, and other foreign vessels with their cargoes, now enter our ports upon the payment of the same duties of tonnage and impost as are chargeable on vessels owned by citizens of the United States. We have not stopped here. We have not merely departed from the early policy of the Government, by taking from our tonnage the benefit resulting from discriminating duties, but we have actually loaded it with burthens. I have shown how we have discouraged, and are still discouraging trade, by the imposition of heavy duties on various articles of import taken in exchange, either directly or circuitously, for our own productions. I will now show to what degree we are, by the same process, discouraging ship-building.

Sir, two of the most expensive articles that enter into the construction of a ship, are hemp and iron. It is estimated by those who are well acquainted with the business, that of the whole cost, one-third, at least, is in hemp, iron, and duck. It was the early policy of the Government, having in view the encouragement of the commerce of the country, to keep down the duties on these essential articles. The permanent duty on hemp never exceeded twenty dollars per ton, and that on iron never came up to nine dollars per ton, until since the late war with Great Britain. During all our commercial prosperity, when we were not only our own exclusive carriers, but almost the only neutral nation that could carry for Europe; when our flag claimed respect from every belligerent, and commanded a ready and profitable freight on every sea, those who administered this Government, still following the policy that gave life to our navigation, never even agitated the question of increasing the duties on these articles so important to that interest. No, sir, it was not until after that war that the hand of the Government was laid on the tonnage interest of the country. The first act was to abolish all discriminating duties; the next to form a new tariff. Against the first our merchants did not remonstrate. Conscious that American enterprise, if left free, could engage successfully in competition with that of any other nation, they yielded to the views of the Government, in this particular, without remonstrance or complaint. In the other measure they

MAY 8, 1828.]

Tariff Bill.

[SENATE.]

did not acquiesce with so much readiness. They saw, or thought they saw, the germ of a new principle, which in its growth and progress might so change our national policy as to embarrass an interest which had heretofore contributed more than any other to the wealth of the country.

The tariff of 1816 was, however, unlike the present in its origin, its provisions, and its objects. Its origin was in Congress: its provisions were equal; its object was revenue. We had just emerged from an expensive war; our national debt had been greatly increased; the double duties, the excise, and the direct taxes, were about expiring, when Congress, of its own mere motion, unsolicited from any quarter, directed the Secretary of the Treasury to prepare and report an entire new tariff of duties. Those of us who were in either House at that time, cannot have forgotten the masterly manner in which that duty was performed. Facts bearing upon the subject were collected from all parts of the country; from the seaboard, and the interior; from the merchant, the agriculturist, and the manufacturer. The whole were submitted to Congress, and resulted in the act of 1816. This was what the Senator from Missouri might well call a "whole tariff." It looked to the Treasury and the interests of the whole country. We have had no equal and general tariff since. The work has been that of patching and deforming, rather than improving the act of 1816.

Take iron, for instance: The duty on that article in 1816 was nine dollars per ton; in 1818 it was increased to fifteen dollars; in 1824 further increased to eighteen dollars per ton; and now the struggle is to get it up to twenty-two dollars and fifty cents per ton. An article which, in addition to its great use in ship building, enters into the construction of almost every implement of husbandry—of almost every kind of machinery—now paying an increased duty of one hundred per cent, on that laid in 1816, is about to be subjected to still higher imposition. So of hemp: This article, in 1816, paid a duty of thirty dollars per ton; in 1824 it was raised to thirty-five; and now it is proposed to carry it up to sixty dollars per ton—precisely one hundred per cent upon the duty of 1816.

There is no nation on earth that has gone on as we have for the last twelve years, in heaping embarrassment on our navigation. There is no interest that can stand against such heavy and increasing pressure. Do the ship owners deserve this from the Government? What would have been the situation of the Treasury, but for the streams which have supplied it through the instrumentality of navigation? What would have been the situation of the navy, but for the recruits it had drawn from the merchant service?

Sir, this bill will bear with unexampled, I may say, almost insupportable, severity upon the shipping interest of the State with which I am officially connected. That State owns 174,768 tons of shipping. By calculations furnished me from experienced riggers and ship builders, every hundred tons of vessel require four tons of hemp, and something exceeding that quantity of iron. To construct the amount of tonnage owned in Maine would therefore require upwards of 6,988 tons of hemp, and the like or a greater quantity of iron. The bare duties, as contemplated by this bill, that must be paid into the Treasury, upon this quantity of hemp, would amount to \$419,280, and upon iron to \$157,230.

Now, sir, I will proceed and show what will be the annual expense to the shipping interest of that State. It is estimated that of the whole tonnage of the country, from one-eighth to one-tenth, is annually lost or rendered unfit for employment, either by decay or marine casualties. To keep the original quantity good, there must be annually built a new supply, equal at least to one-tenth

of the whole. To construct this new supply requires seven hundred tons of iron, the duties on which, by this bill, would be \$15,750. It is also estimated that all the manufactures of hemp that are put upon a ship, must be replaced once in four years, in consequence of decay. Taking also into the account the losses at sea, this is not probably an extravagant calculation. To do this, to keep this tonnage properly rigged and found, requires the annual application of 1,747 tons of hemp, the duties on which, as contemplated to be increased by this bill, will amount to \$104,820, making an aggregate of \$120,570 tax on the ship owners of Maine, annually, in the form of duties, merely, on the articles of hemp and iron used in the construction of vessels—a sum much exceeding the whole civil expenditure of that State.

We have been told this is to be an equal, a "whole tariff;" that it is a great system for the benefit of the whole; and whatever of burthen may be involved in it, must be borne equally by all. I assent most fully to the principle of equality of burthens; but I deny pre-emptorily that there is any thing of equality in the bill under discussion. It has been asserted in the course of this debate, by the Senator from Pennsylvania, [Mr. MARKS,] that the country is to be benefitted to the amount of four millions of dollars—and that his State would derive a larger share of this benefit than any other. Sir, I have no doubt of the fact. I admit that portions of this community are to be benefitted; but it will be to the serious injury, if not the ruin, of great and important interests in other sections of the country.

Let us bring this "equal tariff" to the test: What proportion of the four millions of which the Senator speaks is to fall to the share of Maine? And what particular branch of her industry is to be benefitted? Is it her lumber trade? Is it her fisheries? Is it her tonnage interest? No, sir; all these are to be taxed—severely taxed—while Pennsylvania, with a few other States, is to derive the benefit. Within the State of Maine are twelve collection districts, the aggregate of whose tonnage is upwards of 174,000 tons. It has been shown to what extent this is to be embarrassed and taxed. The whole tonnage of Pennsylvania is but 73,000 tons, less than that of Maine by more than 100,000 tons. This, then, is to be the operation of the "equal tariff": Pennsylvania is to derive benefit, and Maine to pay for it.

In the course of the discussion much has been said about the origin of this great system. It has been repeatedly charged upon the Eastern or New England States; and it has as often been asserted, that, as New England projected the measure, as she got up the excitement, she must pay for it; that the bill must be so modified as to bear adversely upon her interests, and be carried at her expense.

Now, sir, I deny both the assertion and the inference. I deny that the New England States, generally, and especially that Maine had any exclusive agency in originating or promoting the measure. I deny that we are answerable, either directly or indirectly, for its origin or its progress. When this doctrine of protection was first advanced, in no part of this Union did it find more zealous advocates than in Pennsylvania and New Jersey. Were a State now to be named that has done more than any other to bring this subject before Congress and the American People, that State would be found west of the Hudson. I call the attention of the Senate, particularly the Senators from Pennsylvania, to what has been done in that State. Who originated the Convention at Harrisburg, to which this measure is to be directly traced, and which, in the course of this debate, has been eulogized as "the most enlightened and intelligent body that were ever assembled in this country?" Was it either of the New England States? No, sir; it was the "Pennsylvania Society for the promotion of Manufactures and Me-

SENATE.]

Tariff Bill.

[MAY 8, 1828.]

chanic Arts." I will not mention names, but will merely point the attention of gentlemen to a single individual in Philadelphia who has been laboring with ability on this subject for years, and who has done more with his pen to promote what is called the "American System," than has been done by any individual or association, in either or all of the six Eastern States. Proceeding further south, to Maryland, and what has been done there? The pen and the press in the hands of an able and distinguished editor in the city of Baltimore, have probably accomplished more than in all the other cities in the Union. I speak with high respect of these individuals. Far be it from me to doubt the purity of their motives, or the sincerity of their opinions. They are high minded men, who, when we were involved in war, came forward manfully and advocated the cause of the country. One of them did much by the influence of a work which he published in those doubtful times, to confirm the minds of the People and uphold their true interests. These men may well be called the fathers of the system.

Having thus shown, I think, that whatever of excitement may have been raging through the country, is not chargeable to New England—I will now speak of Maine. That State had no representation in the Harrisburg Convention. She has not petitioned for, but has remonstrated against, any change in the existing tariff. Her memorials are now on our tables. She has not been excitable on this subject. As a further evidence of her feeling, I refer to the vote of her Representatives in the last Congress, on the "woollen bill." Sir, of all the New England votes that were given against that bill in the House at the last session, four-fifths were from Maine. Her course still remains unchanged, and against this bill she has given an unanimous vote. Now, sir, I ask gentlemen who avow their intention of passing this bill in a shape to bear severely on the Eastern States, and such avowal has been made and reiterated, to consider what they are about to do. Will its operations be equal, even there? A stronger illustration cannot be given than by a statement of facts. It has been shown that its pressure will be most severe upon the commercial interest in connexion with lumber and the fisheries. What is the comparative tonnage of the Eastern States? Maine has 174,000 tons; New Hampshire only 24,000; Rhode Island 37,000; Connecticut 48,000; Vermont none. I invite the attention of the Senate to these facts, furnishing proof unanswerable, of the unequal and severe operation of this "system," even among neighboring and contiguous States.

Mr. President: The continual scramble that is excited among the States for the public lands—for extravagant appropriations from the Treasury for Internal Improvements, followed by this attempt to increase the revenue at the expense of some of the most important branches of industry, has almost made me a convert to a new opinion—I do not say to a new doctrine—for it is by no means certain, but it is the doctrine upon which this Government was founded and first administered. I allude to an idea advanced the other day by a Senator from Missouri, that it may become expedient to bring back the revenue of the Government to a sum barely sufficient for its support. In doing this, we should get rid of the almost innumerable applications upon which we are now called to legislate, highly calculated to produce sectional feelings, and sectional votes too. We should then remove even the suspicion that any portion of the revenue drawn from the pockets of the People, in one section of the Union, would be expended for the exclusive benefit of another.

It is by no means certain but that, by a recurrence on our part to the principles upon which and the objects for which this association of States was formed, this Government might again proceed as harmoniously as it did under its first administration. And how is this to be ac-

complished? Not by any unnecessary increase of taxation, more especially unequal taxation. No, sir; but by drawing no more from the People than the ordinary operations of the Government require. By discharging the public debt, and repealing the duties, instead of increasing them on articles of prime necessity—and by adhering to the principle that the resources of the nation are more safe under the control of the People than in possession of the Treasury. Following out this idea, I am opposed to the bill, because it will increase the revenue unnecessarily; because it will take from the People what the public service does not demand.

I have gone thus fully into this subject that the Senate might see the nature of the trade in which we are engaged, the importance and value of that trade, and the manner in which this bill will operate upon it.

I have shown how our shipping interest is to be affected, as well by curtailing its employment as by increasing its expense. I have shown the unequal operation of the measure, and that we are in no wise chargeable as having originated or supported it. I have been only anxious to discharge my duty to my constituents, to present their situation fairly to the Senate, under a hope that we may yet escape this impending danger.

Maine, sir, has always been willing—she is still willing—to bear her full proportion of the public burthens. When this nation was involved in war her citizens rallied round its standard. She furnished her proportion of means for the Treasury, of recruits for the army, and seamen for the navy. She is not blest, like the regions of the West, with a mild climate and luxuriant soil. If, therefore, her seamen and her fishermen whose farms have been upon the ocean, are driven from their accustomed employment, they can obtain but a scanty subsistence from farms on the land.

I take leave of this subject by adding, that, if we are let alone—if, by high duties and too much regulation, our fortunes are not prostrated, and our enterprise discouraged, we are a happy, and, if the word were proper in this country, a loyal People. Such we wish to remain—and, wishing this, we cannot look but with fear and deprecation upon the bill now before the Senate.

Mr. DICKERSON said that the prosperity spoken of as enjoyed by Maine, he was aware did exist. But how had they gained all this prosperity? He by no means denied them the merit of great enterprise and industry, but their commercial prosperity had chiefly arisen out of the discriminations in favor of American tonnage, and the protection to the fisheries. He did not wish to impose any unfair burthen on any State; and believed that it would not bear so heavily on Maine as the gentleman anticipated. The gentleman's calculations as to iron were not correct. The duty on foreign iron had obliged the importer to reduce the price of his iron, or to be driven out of the market by the domestic manufacturer. Mr. D. then alluded to the memorial presented by Mr. SMITH. He thought that it was for the benefit of a few persons in Baltimore. The rolling of copper was so easy a process that it hardly deserved the name of manufacture. He did not think the duty ought to be imposed.

Mr. SMITH, of Md. was very glad he had made his motion, as it had drawn from his friend from Maine one of the best speeches he had heard this session—a speech which could not be got rid of. It hung like a mill-stone round the neck of the gentleman from New-Jersey. He had said that it was from the discriminating duties that the prosperity of the ship-owners of Maine arose. It was not so. The merchants themselves, when they found they could do without it, came forward and said they could dispense with the discrimination. They knew that, with any thing like equality, they could compete successfully with any nation. But, he says, the fisheries also have contributed to this prosperity. In this he was also in er-



MAY 9, 1828.]

Tariff Bill.

[SENATE.]

ror. The bounty is not any advantage to the fisherman; its operation is upon the consumption of salt; and when the duty upon that article has been taken off, the bounty has been removed also. So that the argument in relation to the fisheries will not do. It is said that this duty reduces the price of iron—but it is erroneous. No man takes less profit than he can get, and every man makes all that he can. Is it then to be supposed that the manufacturer, when he has the market to himself, will not keep the article as high as he can? Other causes have operated. The Rail Roads in England, and water, instead of land carriage, in Denmark, Sweden and Norway. These are the causes of the fall in the price of iron, and not the moderation of the domestic manufacturer. The gentleman thinks my proposition is for the benefit of the merchants of Baltimore. He seems to suppose that we have copper mines, which we wish to work. I have often heard of them, but believe they exist chiefly in the imagination. I presume, when we explore the Rocky Mountains, we shall find them, and not before. As to the article of copper sheathing, it was one of no small importance, and it was essential that it should be of a good quality. Mr. S. concluded by a statement as to the cost of copper for sheathing a vessel of two hundred tons.

Mr. PARRIS replied to the remarks of Mr. DICKERSON. He considered that the commercial prosperity of the country grew up from the wars in Europe, and the advantages enjoyed by us in the carrying trade. And now I will shew, said Mr. P. what has been done for our commercial interests. The very first step taken after the peace, was to open our ports to all nations, on their reciprocating the privilege. England, France, and other countries, accepted of these terms, and carried on a trade with us upon them. I do not complain of this, because we can, with the industry and enterprise of our navigators, compete with any other country on fair and equal terms. It is plain, however, that the statement of the gentleman from New-Jersey, that our commercial prosperity is owing to discriminations in our favor, is not correct. But I do complain, that, at that very time the tax on iron was brought up to 18 dollars, and that on hemp to 35 dollars. Thus, while we were exposed to the competition of other countries, by the repeal of the discriminating duties on tonnage, a burthen was inflicted on our commerce, by increasing the price of the articles used in the building of ships. This was the protection to the shipping of which the gentleman speaks—and this was all.

Mr. NOBLE, in rising, asked whether it was proper, when they had been talking about adjournment continually, to allow themselves to be detained, on a single point, and a very trifling point of the bill. I said something the other day about long-winded speeches, and I was called to order for doing so. I thought it was a little hard—but I now think I was in the right; for it appears that we are to have them in plenty. When you talk of adjournment, and predict that much talking will prevent it, you are stopped. Yet we have had splendid speeches, going back for years into the history of this system; but we don't come to the point. I want people to come out. I am now ready to vote. I consider the subject matter of much of this debate got up for home consumption. I do not like the manner in which this debate goes on. Every thing seems to be crowded in upon one point. We cannot get along, it seems, unless, in considering a motion on copper, we are to hear a speech on war, peace, molasses, iron, commercial ruin, and a military road. I do not like this course—first one thing is read, then another. Molasses is fixed upon the bill to poison it. Maine is to bear all the evil. This is the burthen of the song; and the lamentation over Maine is to stop the bill in its progress. I hope not. Who ever dreamed that Maine could have borne all the sins of New-England? I don't think that possible, neither do I think she will suffer as

gentlemen seem to apprehend. I wish the business to go on, without interruption; and not the whole bill be delayed twenty-four hours upon a single point.

Mr. HAYNE said, that although he might incur the censure of the gentleman from Indiana, by prolonging the debate, he would apologize to the Senate for delaying the question a few moments. He sympathized with the gentleman from Maine, in the oppression which the bill threatened to inflict on that State; and he would say that the burthens with which she was threatened, should not be imposed with his [Mr. H's] consent. I have, said Mr. H. formerly expressed my opinion as to the operation of this system upon the South. I know that it is ruinous, that it is partial, that it is unjust. I agree with the gentleman from Maine entirely, that unless we come back to the sound principles of the country, which have so long been abandoned, the harmony, the peace, and the prosperity of the Union are endangered. In every view, this system is one of doubtful character. Its benefits are so concatenated with evils, that they can scarcely be separated. But I would ask of any gentleman who now advocates this bill, to turn to the act of 1824, and put his finger on one single item of the bill which has benefited the South? I will further ask you to look at the bill on your table, and shew me the item, except molasses, in which the South is now interested. There is not a provision that holds out a shadow of benefit to us, whilst Pennsylvania is to reap four millions from its operation.

The gentleman from Pennsylvania had made the avowal yesterday that the States interested in the articles to be protected by this bill would derive advantages from it equal to four millions of dollars. That, from a calculation Mr. H. had seen on the subject, he believed that the burthens imposed by the bill on those who were to bear them, did not fall short of that amount. The gentleman, after telling us that Pennsylvania was interested in iron and whiskey, the West in hemp, and New-England in woollens, had avowed his determination to vote for the duty on molasses, (although it entered into competition with the whiskey of Pennsylvania) because he believed that sacrifice to be necessary to obtain the support of New-England to the bill, without which the bill would fail, and the benefit of the four millions of dollars would be lost. As a Southern man, [Mr. H. said] he could not stand by and witness a compromise by which certain States were to gain such advantages at the expense of those he represented. In what way are we interested in this bill? In no possible manner. We are to suffer all; to bear the burthen patiently; and to do this that other parts of the country may grow rich upon our ruin!

The gentleman from New-Jersey, [Mr. DICKERSON] in answer to the complaints of the Senator from Maine, with respect to the oppressive operation of the bill on the shipping interest of New-England, had said, in the language of condolence, that they had only to transfer the tax to those in whose service the New-England shipping was employed—in other words, sir, don't mind the tax, put it on the South, make them pay for it. This is the principle throughout. The South must, and does, pay dearly indeed for this system of protection, which leaves her unprotected.

I say, sir, that in this business, from beginning to end, the interests of the South have been sacrificed, shamefully sacrificed! Her feelings have been disregarded; her wishes slighted; her honest pride insulted! I say that this system has created discordant feelings, strife, jealousy, and heart-burnings, which never ought to exist between the different sections of the same country. I repeat, that the feelings of the South have been disregarded, and her remonstrances slighted; and shall we sit coolly, and see the parties who are to benefit by this system, compromise with each other, while we are to be the losers under all circumstances? If the system be a

SENATE.]

Tariff Bill.

[May 8, 1828.]

good one, let its merits be fairly tested; let it be acted upon as it deserves; and, if its operation be not beneficial, let it be abandoned. Let it stand on its own merits. On such a principle, its operation would be less dangerous; as it is at present, it could scarcely appear more so.

Mr. BENTON made a few remarks, which were imperfectly heard. He was understood to say that the four millions of profits from the system spoken of by the Senator from Pennsylvania, could not be distributed over the whole country. It was impossible but it should work partially.

The question being then taken, and the yeas and nays having been ordered, it was decided in the negative.

Mr. DICKERSON moved to amend the bill by inserting a provision levying a duty of 50 per centum ad valorem on vermicelli; which was rejected, on a division—19 to 25.

Mr. SMITH, of Md, moved to strike out "30th June," and insert "15th of September," as the time at which the bill shall go into operation; which having been briefly discussed by Messrs. McLANE, SMITH, of Md. and DICKERSON, on whose motion the yeas and nays were ordered, the question was taken and decided in the negative.

Mr. FOOT moved to amend the bill by striking out the third section.

Mr. FOOT said, that he believed that the duty on every article in that section, bore very hard upon the commercial interest; and he therefore wished it struck out. It would have a highly injurious operation on the commerce of New-England. The charge had been made, that the excitement in relation to this measure had been produced by New-England. The charge had been made, tauntingly, he thought, perhaps jocosely—and many remarks had been made in the course of debate, which were any thing but palatable to the members from New-England. He was surprised, yesterday, to hear a gentleman from North-Carolina propose to give New-England a dose of medicine, which, at least, was not over courteous. But a remark had fallen from the gentleman from Missouri, [Mr. BAXTER] to which we are not entitled. He says that New-England originated these tariff bills, and consequently argues that we must not complain. This is not the case. As to the remarks of the gentleman from Pennsylvania, relative to the vote on the bill, and the motive which might induce it, he Mr. F. should always vote as he considered for the country, he hoped without views of a partial nature. He was averse to this section of the bill particularly. It laid heavy duties on articles essential to ship-building. On hemp, the tax would be seriously felt, and yet he did not think this very high duty would bring the domestic article into use. On flax, also, the duty was exorbitant, and he could see no competent reason for it. On sail duck, the duty was very high; at nine cents per square yard, it was about one hundred per cent. But, of all the duties, in all the tariff bills that had ever been passed, he considered the duty on molasses the most offensive. It was an article of necessity which ought not to be taxed. But, it is said, that it was manufactured into rum, and on this ground its taxation was defended. This was very true. But gentlemen should consider that it is already taxed by this bill, by the withdrawal of four cents drawback, which operated as four cents additional duty. It should also be recollected that, by far the largest quantity of the article was used for domestic purposes, and that, mixed with water, it made a pleasant beverage for the laboring classes in the warm season. And Congress ought to be cautious how they placed a high duty on an article from which no advantage could be gained by any class of manufacturers, and which might be replaced by ardent spirits. He could not believe that the manufacturer of whiskey needed this additional protection. The duty on molasses was now about eighty per centum, and it

was increased four cents on the gallon by this bill, at least so far as concerned the article converted into rum, by the withdrawal of the drawback. He had been informed yesterday, by the Senator from New-York, [Mr. VAN BUREN] that the manufacturer of rum would receive an encouragement from the duty on foreign spirits. This Mr. F. thought an error. The duty on the latter will exclude them from our markets, so that there will be no competition. But it is not for home consumption that this rum is manufactured. It is exported; and the export will be injured, if not destroyed, by this high duty on molasses. Besides, the molasses which was generally used in distillation, is of the poorest kind—sour and unfit for use—and upon this article the duty would be as heavy as upon that which was worth double its value. The closing remarks of Mr. F. were not heard by the Reporter.

Mr. BRANCH replied to the remarks of Mr. FOOT.

Mr. MARKS rose to explain some of the expressions which he had made yesterday, which had been so much tortured, as he considered, from their fair interpretation. He had merely intended to say, he thought there would be no advantage in the duty on molasses. It had been said previously, that this duty would be of great advantage to Pennsylvania and the Western States, by giving a vent to their spirits. But he had expressed a doubt as to such an effect. He also said, that if there would be some slight advantage from this measure, he was willing to forego it, rather than to risk the loss of the other and more beneficial effects of the bill. He thought that the encouragement of the manufactures would cause a consumption to agricultural productions which would overbalance the consideration of the tax on molasses. He made some further remarks upon the effects which the encouragement of manufactures would produce in reducing the price of commodities, consuming the products of the country. He observed that the manufactures of the country already made use of one-fourth of the cotton crop of the Union.

Mr. HAYNE said, he had replied solely to the remarks of the gentleman made yesterday. He had then made use of but two arguments—the one, that they had better relinquish the duty on molasses, rather than endanger the bill; and the other, that the duty was not recommended by the Harrisburg Convention. In this latter point, he was then corrected by his colleague, who read a resolution of the Convention, recommending the duty. As to the new argument that the high rate of duties would not enhance the prices of commodities, he would ask, why then does not the gentleman vote for the duty on molasses? By his own theory, the people of New-England could suffer no injury by it. If the gentleman is as unfortunate in all his facts, as in that in relation to cotton, they cannot be much depended upon. He says, that the manufacturers now consume one-third of the cotton produced in the country. This was an error. Mr. H. could prove to the gentleman, and would do it at a proper time, that not more than one-fifth was so consumed.

Mr. MARKS said that the gentleman could not have forgotten that he remarked, yesterday, in giving his reasons for opposing the duty on molasses, that he doubted the capacity of the manufacturers to supply the consumption of the country. It was, therefore, a different case from a manufactory which, with encouragement, might take the place of the foreign article.

Mr. FOOT replied briefly to some remarks of Mr. BRANCH, to which

Mr. BRANCH rejoined.

Mr. FOOT said a few words, and alluded to some remarks made yesterday by Mr. ROWAN.

Mr. ROWAN rose to reply. After a few remarks, he said, that, to come back to the woollens, he would ask what was the origin of the Harrisburg Convention? and

MAY 9, 1828.]

*Adjournment of Congress.—Deported Slaves.—Tariff Bill.*

[SENATE.]

who created the excitement? It was known that the sole object of that convention was ~~not~~ manufactures. It was, although people did not like to speak out, got up for political purposes. He would ask how many Jackson men were in that convention? It was true that the people of New England were interested in every article protected by the bill, with the exception of those articles in the section which it was now proposed to strike out. He believed that the people of New England had collected for the last three years a tax of four millions on the Southern and Western people in the articles of clothing. They ought to bear their share of these burthens. It might be said that the clothing was necessary, and must be had in time of war. So were flax, and hemp, and iron. They must be had for our ships. He was against the bill on principle. Manufactures produced wealth, and wealth unequally distributed, as an inevitable consequence, hekl by few, produced aristocracy, and aristocracy sapped the foundation of free institutions. Thus he argued, that inordinate protection to manufactures was dangerous to the best interests of the country.

FRIDAY, MAY 9, 1828.

## ADJOURNMENT OF CONGRESS.

Mr BERRIEN moved that the message from the other House relative to the adjournment be taken up; agreed to.

Mr BERRIEN had no intention to discuss the question. But he thought it but decorous to consider the question. He trusted there was no objection to fixing upon the day, nor was it probable that a later period would be decided upon by the Senate. He, therefore, moved that the Senate concur in the resolution of the House of Representatives, directing the presiding officers of the two Houses to adjourn on the 26th of May. He would not anticipate any discussion, and should say nothing farther, unless the motion were opposed.

Mr. DICKERSON thought a fortnight's notice of adjournment was sufficient, and that would be had by concurring in the resolution on Monday next. He asked the yeas and nays on concurring; which was sustained.

Mr JOHNSON of Ken. said, he was of opinion that no man believed the Senate could, or would, or ought to sit longer than the 26th May. It would be an advantage to know how many days the Senate was to sit, and would, he thought, expedite the business.

Mr. McKINLEY said, that he voted the other day against the resolution, and he would now state his reason for having done so. The State of Alabama was deeply interested in a bill which had been three years before Congress, and had now been acted upon by the other House. For this reason he had voted against the motion a few days since. He should now vote for it. He could not but remark that the friends of the Tariff bill seemed to look upon any motion to adjourn as a treasonable act. This, however, was no argument with him, and he was now in favor of fixing the time for the adjournment.

Mr. HARRISON rose to say, that he, for one, did not come under the remark of the gentleman from Alabama, although he was a friend of the Tariff.

Mr. DICKERSON said, that, as he did not think it expedient to take the final question on the resolution at present, he would move to lay the message and the resolution on the table.

The question being then taken by yeas and nays, it was decided in the affirmative.

## DEPORTED SLAVES.

On motion of Mr TYLER, the bill to settle the claims of individuals provided for by the 1st article of the Treaty of Ghent was taken up, and the proviso offered yesterday by Mr. JOHNSON, of Louisiana, being under con-

sideration, Mr. TYLER spoke at great length in opposition to the motion, when, on motion of Mr. DICKERSON, the bill was laid on the table.

## TARIFF BILL.

The unfinished business of yesterday was then taken up, being the bill altering the several acts laying duties on imports; the motion of Mr. FOOT, to strike out the 3d section still pending.

Mr. DICKERSON moved to divide the question so as to take the vote on each item embraced by the section, separately.

After some slight conversation, Mr. FOOT withdrew his motion; which was renewed by Mr. WEBSTER.

Mr. DICKERSON renewed his motion to divide the question; which was agreed to.

Mr. SILSBEE then spoke at considerable length in favor of the motion.

Mr. WEBSTER said:—This subject is surrounded with embarrassments, on all sides. Of itself, however wisely or temperately treated, it is full of difficulties, and these difficulties have not been diminished by the particular frame of this bill, nor by the manner, hitherto pursued, of proceeding with it. A diversity of interest exists, or is supposed to exist, in different parts of the country. This is one source of difficulty. Different opinions are entertained as to the constitutional power of Congress; this is another. And then, again, different members of the Senate have instructions, which they feel bound to obey, and which clash with one another. We have this morning seen an Honorable Member from New York, an important motion being under consideration, lay his instructions on the Table, and point to them, as his power of attorney, and as containing the directions for his vote.

Those who intend to oppose this bill, under all circumstances, and in all or any forms, care not how objectionable it now is, or how bad it may be made. Others, finding their own leading objects satisfactorily secured by it, naturally enough press forward, without staying to consider, deliberately, how injuriously other interests may be affected. All these causes create embarrassments, and inspire just fears, that a wise and useful result is hardly to be expected. There seems a strange disposition to run the hazard of extremes; and to forget, that in cases of this kind, measure, proportion, and degree, are objects of inquiry, and the true rules of judgment. I have not had the slightest wish to discuss the measure; nor believing that, in the present state of things, any good could be done by me, in that way. But the frequent declarations that this was altogether a New England measure, a bill for securing a monopoly to the capitalists of the North, and other expressions of a similar nature, have induced me to say a few words.

New England, Sir, has not been a leader in this policy. On the contrary, she held back, herself, and tried to hold others back from it, from the adoption of the Constitution to 1824. Up to 1824, she was accused of sinister and selfish designs, because she discountenanced the progress of this policy. It was laid to her charge, then, that having established her manufactures herself, she wished that others should not have the power of rivaling her; and, for that reason, opposed all legislative encouragement. Under this angry denunciation against her, the act of 1824 passed. Now the imputation is precisely of an opposite character. The present measure is pronounced to be exclusively for the benefit of New England; to be brought forward by her agency, and designed to gratify the cupidity of her wealthy establishments.

Both charges, Sir, are equally without the slightest foundation. The opinion of New England, up to 1824, was founded in the conviction, that, on the whole, it was wisest and best, both for herself and others, that

SENATE.]

Tariff Bill.

[MAY 9, 1828.]

manufactures should make haste slowly. She felt a reluctance to trust great interests on the foundation of Government patronage; for who could tell how long such patronage would last, or with what steadiness, skill, or perseverance, it would continue to be granted? It is now nearly fifteen years, since, among the first things which I ever ventured to say here, was the expression of a serious doubt, whether this Government was fitted by its construction, to administer aid and protection to particular pursuits; whether, having called such pursuits into being by indications of its favor it would not, afterwards, desert them, when troubles come upon them, and leave them to their fate. Whether this prediction, the result, certainly, of chance, and not of sagacity, will so soon be fulfilled, remains to be seen.

At the same time it is true, that from the very first commencement of the Government, those who have administered its concerns have held a tone of encouragement and invitation toward those who should embark in manufactures. All the Presidents, I believe, without exception have concurred, in this general sentiment; and the very first act of Congress, laying duties of impost, adopted the then unusual expedient of a preamble, apparently for little other purpose than that of declaring, that the duties, which it imposed, were imposed for the encouragement and protection of manufactures. When, at the commencement of the late war, duties were doubled, we were told that we should find a mitigation of the weight of taxation in, the new aid and succour which would be thus afforded to our own manufacturing labor. Like arguments were urged, and prevailed, but not by the aid of New England votes, when the tariff was afterwards arranged at the close of the war, in 1816. Finally, after a whole winter's deliberation, the act of 1824, received the sanction of both Houses of Congress, and settled the policy of the country. What, then, was New England to do? She was fitted for manufacturing operations, by the amount and character of her population, by her capital, by the vigor and energy of her free labor, by the skill, economy, enterprise, and perseverance of her people. I repeat, what was she, under these circumstances, to do? A great and prosperous rival in her near neighborhood, threatening to draw from her a part, perhaps a great part, of her foreign commerce; was she to use, or to neglect, those other means of seeking her own prosperity which belonged to her character and her condition? Was she to hold out, forever, against the course of the Government, and see herself losing, on one side, and yet making no efforts to sustain herself on the other? No Sir. Nothing was left to New England, after the act of 1824, but to conform herself to the will of others. Nothing was left to her, but to consider that the Government had fixed and determined its own policy; and that policy was protection.

New England, poor, in some respects, in others, is as wealthy as her neighbors. Her soil would be held in low estimation, by those who are acquainted with the valley of the Mississippi, and some of the meadows of the South. But in industry, in habits of labor, skill, and in accumulated capital, the fruit of two centuries of industry, she may be said to be rich. After this final declaration—this solemn promulgation of the policy of the Government, I again ask, what was she to do? Was she to deny herself the use of her advantages, natural and acquired? Was she to content herself with useless regrets? Was she longer to resist, what she could no longer prevent? Or, was she, rather to adapt her acts to her condition; and seeing the policy of the Government thus settled and fixed, to accommodate to it, as well as she could, her own pursuits, and her own industry? Every man will see that she had no option. Every man will confess that there remained for her but one course. She not only saw this herself, but had, all along, foreseen that if the system of

protecting manufactures should be adopted, she must go largely into them. I believe, Sir, almost every man from New England who voted against the law of 1824, declared, that, if notwithstanding his opposition to that law, it should pass, there would be no alternative but to consider the course and policy of the Government as then settled and fixed, and to act accordingly. The law did pass; and a vast increase of investment in manufacturing establishments was the consequence. Those who made such investments, probably entertained not the slightest doubt that as much as was promised would be effectually granted; and that if, owing to any unforeseen occurrence, or untoward event, the benefit designed by the law, to any branch of manufactures, should not be realized, it would furnish a fair case for the consideration of Government. Certainly they could not expect, after what had passed, that interests of great magnitude would be left at the mercy of the very first change of circumstances which might occur.

As a general remark, it may be said, that the interests concerned in the act of 1824, did not complain of their condition under it, excepting only those connected with the woollen manufactures. These did complain; not so much of the act itself, as of a new state of circumstances, unforeseen when the law passed, but which had now arisen to thwart its beneficial operations, as to them; although in one respect, perhaps the law itself was thought to be unwisely framed.

Three causes have been generally stated, as having produced the disappointment experienced by the manufacturers of wool, under the law of 1824.

First, it is alleged, that the price of the raw material had been raised too high, by the act itself. This point had been discussed at the time, and although opinions varied, the result so far as it depended on this part of the case, though it may be said to have been unexpected, was certainly not entirely unforeseen.\*

But, secondly, the manufacturers imputed their disappointment to a reduction of the price of wool in England, which took place just about the date of the law of 1824. This reduction was produced by lowering the duty on imported wool from sixpence sterling to one penny sterling per pound. The effect of this is obvious enough; but in order to see the real extent of the reduction, it maybe convenient to state the matter more particularly.

The meaning of our law was doubtless to give the American manufacturer an advantage over his English competitors. Protection must mean this, or it means nothing. The English manufacturer having certain advantages, on his side, such as the lower price of labor, and the lower interest of money, the object of our law was to counteract these advantages, by creating others, in behalf of the American manufacturer. Therefore to see what was necessary to be done, in order that the American manufacturer might sustain the competition, a relative view of the respective advantages was to be taken. In this view the very first element to be considered was, what is to each party the cost of the raw material. On this, the whole must materially depend. Now when the law of 1824 passed, the English manufacturer paid a duty of sixpence sterling on imported wool. But in a few days afterwards, the duty was reduced by parliament from sixpence to a penny. A reduction of five pence per pound, in the price of wool, was estimated in Parliament to be equal to a reduction of twenty six per cent. ad valorem, on all imported wool; and this reduction, it is obvious, had its effect on the price of home-pro-

\* Extract from Mr. Webster's Speech, on the Tariff of 1824. "This Bill proposes, also, a very high duty upon imported wool; and as far as I can learn, a majority of the manufacturers are at least extremely doubtful whether, taking these two provisions together, the state of the law is not better for them now than it would be if this bill should pass."

MAY 9, 1828.]

Tariff Bill.

[SENATE.]

duced wool also. Almost, then, at the very moment, that the framers of the act of 1824, were raising the price of the raw material here, as that act did raise it, it was lowered in England, by the very great reduction of twenty six per cent. Of course, this changed the whole basis of the calculation. It wrought a complete change in the relative advantages and disadvantages of the English and American competitors; and threw the preponderance of advantage, most decidedly on the side of the English. If the American manufacturer had not vastly too great a preference, before this reduction took place, it is clear he had too little afterwards.

In a paper which has been presented to the Senate, and often referred to; a paper distinguished for the ability and clearness with which it enforces general principles—the Boston Report—it is clearly proved, (what indeed is sufficiently obvious from the mere comparison of dates) that the British Government did not reduce its duty on wool, because of our act of 1824. Certainly this is true; but the effect of that reduction, on our manufactures, was the same precisely as if the British act had been designed to operate against them, and for no other purpose. (I think it cannot be doubted that our law of 1824, and the reduction of the wool duty in England, taken together, left our manufactures in a worse condition than they were before. If there was any reasonable ground therefore, for passing the law of 1824, there is now the same ground for some other measure; and this ground too is reinforced by the consideration of hopes excited, the enterprises undertaken, and the capital invested, in consequence of that law.)

So much, Sir, for this cause of disappointment.

In the last place, it was alleged by the manufacturers, that they suffered from the mode of collecting the duties on woollen fabrics at the Custom Houses. These duties are *ad valorem* duties. Such duties from the commencement of the government, have been estimated by reference to the invoice, as fixing the value at the place whence imported. When not suspected to be false or fraudulent, the invoice is the regular proof of value. Originally this was a tolerably safe mode of proceeding. While the importation was mainly in the hands of American merchants, the invoice would, of course, if not false or fraudulent, express terms and the price of an actual purchase and sale. But an invoice is not necessarily an instrument expressing the sale of goods and their prices. If there be but a list or catalogue, with prices stated by way of estimate, it is still an invoice, and within the law. Now the suggestion is, that the English manufacturer, in making out an invoice, in which prices are thus stated by himself, in the way of estimate merely, is able to obtain an important advantage over the American merchant who purchases in the same market, and whose invoice states, consequently, the actual prices, on the sale. And in proof of this suggestion it is alleged, that in the largest importing city in the Union, a very great proportion, some say nearly all, of the woollen fabrics are imported on foreign accounts. The various papers which have come before us, praying for a tax on auction sales, aver that the invoice of the foreign importer is generally decidedly lower than that of the American importer; and that, in consequence of this and of the practice of the sales at auction, the American merchant must be driven out of the trade. I cannot answer for the entire accuracy of these statements, but I have no doubt there is something of truth in them. The main facts have been often stated, and I have neither seen nor heard a denial of them.

Is it true, then, that nearly the whole importation of woollens is, in the largest importing city, in the hands of foreigners? Is it true, as stated, that the invoices of such foreign importers are, generally, found to be lower than those of the American importer? If these things be

so, it will be admitted that there is reason to believe that under-valuations do take place; and that some corrective for the evil should be administered. I am glad to see that the American merchants themselves, begin to bestow attention to a subject, as interesting to them as it is to the manufacturers.

Under this state of things, Sir, the law of the last session was proposed. It was confined, as I thought properly, to wool and woollens. It took up the great and leading subject of complaint, and nothing else.

It was urged indeed, against that Bill, that although much had been said of frauds at the custom house, no provision was made in it for the prevention of such frauds. That is a mistake. The general frame of the bill was such, that, if skilfully drawn and adapted to its purpose, its tendency to prevent such frauds would be manifest. By the fixing of prices at successive points of graduation, or minimums, as they are called, the power of evading duties by under-valuations would be most materially restrained. If these points, indeed, were sufficiently distant, it is obvious the duty would assume something of the certainty and precision of a specific duty. But this bill failed, and Congress adjourned, in March last year, leaving the subject where it had found it.

The complaints which had given rise to the bill, continued; and in the course of the summer, a meeting of the wool-growers and wool-manufacturers assembled in Pennsylvania, and agreed on a petition to Congress. I do not feel it necessary, on behalf of the citizens of Massachusetts, to disclaim a participation in that meeting. Persons of much worth and respectability attended it from Massachusetts, and its proceedings and results manifested, I think, a degree of temper and moderation, highly creditable to those who composed it.

But while the bill of last year was confined to that which alone had been a subject of complaint, the bill now before us is of a very different description. It proposes to raise duties on various other articles, besides wool and woollens. It contains some provisions which bear, with unnecessary severity, on the whole community; others which affect, with peculiar hardship, particular interests; while both of them benefit nobody and nothing but the Treasury. It contains provisions, which, with whatever motive put into it, it is confessed are now kept in, for the very purpose destroying the bill altogether; or, with the intent to compel those who expect to derive benefit, to feel smart from it also. Probably such a motive of action has not often been avowed.

The wool manufacturers think they have made out a case, for the interposition of Congress. They happen to live, principally, at the north and east; and, in a bill, professing to be for their relief, other provisions are found, which are supposed, (and supported, because they are supposed,) to be such as will press, with peculiar hardship, on that quarter of the country. Sir, what can be expected but evil when a temper like this prevails?—How can such a hostile retaliatory legislation be reconciled to common justice, or common prudence? Nay, sir, this rule of action seems carried still farther. Not only are clauses found, and continued in the bill, which oppress particular interests, but taxes are laid, also, which will be severely felt by the whole union; and this too with the same design, and for the same end before mentioned, of causing the smart of the bill to be felt. Of this description is the molasses tax; a tax, in my opinion, absurd and preposterous, in relation to any object of protection; needlessly oppressive to the whole community; and benefitting nobody on earth, but the Treasury. And yet, here it is, and here it is kept, under an idea, conceived in ignorance, and cherished for a short lived triumph that New England will be deterred, by this tax, from protecting her extensive woollen manufactures; or, if not, that the authors of this policy may at least have

SENATE.]

Tariff Bill.

[MAY 9, 1828.]

the pleasure, the high pleasure, of perceiving that she feels the effect of this bill.

Sir, let us look for a moment at this tax. The molasses imported into the United States amounts to thirteen millions of gallons annually. Of this quantity, not more than three millions are distilled; the remaining ten millions being consumed, as an article of wholesome food. The proposed tax is not to be laid for revenue. That is not pretended. It was not introduced for the benefit of the sugar planters. They are contented with their present condition, and have applied for nothing. What then, was the object? Sir, the original professed object, was, to increase, by this new duty on molasses, the consumption of spirits distilled from grain. This, I say, was the object originally professed. But in this point of view, the measure appears to me to be preposterous. It is monstrous and out of all proportion and relation of means to ends. It proposes to double the duty on the ten millions of gallons of molasses, which are consumed for food, in order that it may likewise double the duty on the three millions which are distilled into spirits; and all this, for the contingent and doubtful purpose of augmenting the consumption of spirits distilled from grain. I say contingent and doubtful purpose; because I do not believe any such effect will be produced. I do not think a hundred gallons more of spirits, distilled from grain will find a market in consequence of this tax on molasses. The debate here and elsewhere has shown that, I think clearly. But suppose some slight effect of that kind should be produced; is it so desirable an object, as that it should be sought by such means? Shall we tax food, to encourage intemperance? Shall we raise the price of a wholesome article of sustenance, of daily consumption, especially among the poorer classes, in order that we may enjoy a mere chance of causing these same classes to use more of our home made ardent spirits?

Sir, the bare statement of this question puts it beyond the reach of all argument. No man will seriously undertake the defence of such a tax. It is better, much more candid, certainly, to admit, as has been admitted, that obnoxious as it is, and abominable as it is, it is kept in the bill with a special view to its effects on New England votes, and New England interests.

The bill also takes away all the drawback, allowed by existing laws, on the exportation of spirits distilled from molasses; and this it is supposed, and truly supposed, will affect New England. It will considerably affect her; for the exportation of such spirits is a part of her trade, and though not great in amount, it is a part which mingles usefully with the exportation of other articles, assists to make out variety of cargo, and finds a market in the North of Europe, the Mediterranean, and in South America. This exportation the bill proposes entirely to destroy.

The increased duty on molasses, while it thus needlessly and wantonly enhances the price to the consumer, may affect also, in a greater or less degree, the importation of that article, and be thus injurious to the commerce of the country. The importation of molasses in exchange for lumber, provisions, and other articles of our own production, is one of the largest portions of our West India trade; a trade, it may be added, though of small profit, yet of short voyages, suited to small capitals, employing many hands, and much navigation, and the earliest and oldest branch of our foreign commerce. That portion of this trade which we now enjoy is conducted on the freest and most liberal principles. The exports which sustain it are from the East, the South, and the West—every part of the country having thus an interest in its continuance and extension. A market for these exports, to any of these portions of the country, is infinitely of more importance to it than all the benefit to be expected from the supposed increased consumption of spirits distilled from grain.

Yes, sir, this tax is to be kept in the bill, that New England may be made to feel. Gentlemen who hold it to be wholly unconstitutional to lay any tax whatever for the purposes intended by this bill, yet cordially vote for this tax. An honorable gentleman from Maryland [Mr. SMITH] calls the whole bill a "bill of abominations." This tax, he agrees, is one of its abominations—yet he votes for it. Both the gentlemen from North Carolina have signified their dissatisfaction with the bill, yet they have both voted to double the tax on molasses. Sir, do gentlemen flatter themselves that this course of policy can answer their purposes? Do they not perceive that such a mode of proceeding, with a view to such avowed objects, must awaken a spirit that shall treat taunt with scorn, and bid menace defiance? Do they not know—if they do not, it is time that they did—that a policy like this, avowed with such self satisfaction, persisted in with a delight which should only accompany the discovery of some new and wonderful improvement in legislation, will compel every New England man to feel that he is degraded and debased if he does not resist it.

Sir, gentlemen mistake us: They greatly mistake us. To those who propose to conduct the affairs of Government, and to enact laws on such principles as these, and for such objects as these, New England, be assured, will exhibit not submission, but resistance; not humiliation, but disdain. Against her, depend on it, nothing will be gained by intimidation. If you propose to suffer yourselves, in order that she may suffer also, she will bid you come on—she will meet challenge with challenge—she will invite you to do your worst, and your best, and to see who will hold out longest. She has offered you every one of her votes in the Senate to strike out this tax on molasses. You have refused to join her, and to strike it out. With the aid of the votes of any one Southern State, for example, of North Carolina, it could have been struck out. But North Carolina has refused her votes for this purpose. She has voted to keep the tax in, and to keep it in at the highest rate. And yet, sir, North Carolina, whatever she may think of it, is fully as much interested in this tax as Massachusetts. I think, indeed, she is more interested, and that she will feel it more heavily and sorely. She is herself a great consumer of the article, throughout all her classes of population. This increase of the duty will levy on her citizens a new tax of fifty thousand dollars a year, or more, although her Representatives on this floor have so often told us that the People are now poor, and already borne down with taxes. North Carolina will feel this tax also in her trade, for what of foreign commerce has she more useful to her than the West Indian market for her provisions and lumber? And yet the gentlemen from North Carolina insist on keeping this tax in the bill. Let them not, then, complain. Let them not, hereafter, call it the work of others. It is their own work. Let them not lay it to the manufacturers. The manufacturers have had nothing to do with it. Let them not lay it to the wool growers. The wool growers have had nothing to do with it. Let them not lay it to New England. New England has done nothing but to oppose it, and to ask them to oppose it also. No, sir; let them take it to themselves. Let them enjoy the fruit of their own doings. Let them assign their motives for thus taxing their own constituents, and abide their judgment; but do not let them flatter themselves that New England cannot pay a molasses tax as long as North Carolina chooses that such a tax shall be paid.

Sir, I am sure there is nobody here envious of the prosperity of New England, or who would wish to see it destroyed. But if there be such any where, I cannot cheer them by holding out the hope of a speedy accomplishment of their wishes. The prosperity of New England, like that of other parts of the country, may, doubt-

MAY 9, 1828.]

Tariff Bill.

[SENATE.]

less, be affected injuriously by unwise or unjust laws. It may be impaired, especially by an unsteady and shifting policy, which fosters particular objects to day, and abandons them to-morrow. She may advance faster, or slower; but the propelling principle, be assured, is in her deep, fixed, and active. Her course is onward and forward. The great powers of free labor, of moral habits, of general education, of good institutions, of skill, enterprise, and perseverance, are all working with her, and for her; and, on the small surface which her population covers, she is destined, I think, to exhibit striking results of the operation of these potent causes, in whatever constitutes the happiness or belongs to the ornament of human society.

Mr. President, this tax on molasses will benefit the Treasury, though it will benefit nobody else. Our finances will at least be improved by it. I assure the gentlemen we will endeavor to use the funds thus to be raised properly and wisely, and to the public advantage. We have already passed a bill for the Delaware Breakwater; another is before us for the improvement of several of our harbors; the Chesapeake and Ohio Canal bill has been brought into the Senate, while I have been speaking; and next session we hope to bring forward the breakwater at Nantucket. These appropriations, sir, will require pretty ample means: it will be convenient to have a well supplied Treasury, and I state for the especial consolation of the honorable gentlemen from North Carolina, that so long as they choose to compel their constituents, and my constituents, to pay a molasses tax, the proceeds thereof shall be appropriated, as far as I am concerned, to valuable national objects, in useful and necessary works of Internal Improvements.

Mr. President, in what I have now said, I have but followed where others have led, and compelled me to follow. I have but exhibited to gentlemen the necessary consequences of their own course of proceeding. But this manner of passing laws is wholly against my own judgment, and repugnant to all my feelings. And I would, even now, once more solicit gentlemen to consider whether a different course would not be more worthy of the Senate and more useful to the country. Why should we not act upon this bill article by article—judge fairly of each—retain what a majority approves—and reject the rest? If it be, as the gentleman from Maryland called it, a “bill of abominations,” why not strike out as many of the abominations as we can? Extreme measures cannot tend to good. They must produce mischief. If a proper and moderate bill, in regard to wool and woollens, had passed last year, we should not now be in our present situation. If such a bill, extended perhaps to a few other articles, if necessity so required, had been prepared and recommended at this session, much, both of excitement and of evil, would have been avoided.

Nevertheless, sir, it is for gentlemen to judge for themselves. If, when the wool manufacturers think they have a fair right to call on Congress to carry into effect what was intended for them by the law of 1824, and when there is manifested some disposition to comply with what they thus request, the benefit cannot be granted, nevertheless, in any other manner than by inserting it in a sort of bill of pains and penalties—a “bill of abominations,” it is not for me to attempt to reason down what has not been reasoned up; but I must content myself with admonishing gentlemen that their policy is destined, in all probability, to terminate in their own sore disappointment.

I advert once more, sir, to the subject of wool and woollens, for the purpose of showing, that, even in respect to that part of the bill, the interest mainly protected is not that of the manufacturers. On the contrary, it is that of the wool growers. The wool grower is vastly more benefited than the manufacturer. The interest

of the manufacturer is treated as secondary and subordinate throughout the bill. Just so much, and no more, is done for him as is supposed necessary to enable him to purchase and manufacture the wool. The agricultural interest, the farming interest, the interest of the sheep owner, is the great object which the bill is calculated to benefit, and which it will benefit, if the manufactures can be kept alive. A comparison of existing duties with those proposed on the wool and on the cloth, will show how this part of the case stands.

At present, a duty of thirty per cent. ad valorem is laid on all wool, costing ten cents per pound, or upwards; and a duty of fifteen per cent. on all wool under that price.

The present bill proposes a specific duty of four cents per pound, and also an ad valorem duty of fifty per cent. on all wool of every description.

The result of the combination of these two duties, is, that wool, fit for making good cloths, and costing from thirty to forty cents per pound, in the foreign market, will pay a duty at least equal to sixty per cent. ad valorem. And wool costing less than ten cents in the foreign market, will pay a duty, on an average, of a hundred per cent. ad valorem.

Now, sir, these heavy duties are laid for the wool grower. They are designed to give a spring to agriculture, by fostering one of its most important products.

But let us see what is done for the manufacturer, in order to enable him to manufacture the raw material, at prices so much enhanced.

As the bill passed the House of Representatives, the advance of duties on cloths is supposed to have been not more than three per cent. on the minimum points. Taking the amount of duty to be now thirty-seven per cent. ad valorem, on cloths, this bill, as it came to us, proposed, if that supposition be true, only to carry it up to forty. Amendments, here adopted, have enhanced this duty, and are understood to have carried it up to a duty of forty-five, or perhaps fifty per cent. ad valorem. Taking it at the highest, the duty on the cloth is raised thirteen per cent. while that on wool is raised in some instances to thirty, and in some instances eighty-five per cent.; that is, in one case, from thirty to sixty, and, in the other, from fifteen to a hundred. Now, the calculation is said to be true which supposes that a duty of thirty per cent. on the raw material, enhances, by fifteen per cent., the cost of producing the cloth, the raw material being estimated generally to be equal to half the expense of the fabric. So that while by this bill the manufacturer gains thirteen per cent. on the cloth, he would appear to lose fifteen per cent. on the same cloth, by the increase in the price of the wool. And this not only would appear to be true, but would, I suppose, be actually true, were it not that the market may be open to the manufacturer, under this bill, for such cloths as may be furnished at prices intermediate between the graduated prices established by the bill.

For example: few or no foreign cloths, it is supposed, costing more than fifty cents a yard, and less than a dollar, will be imported; therefore American cloths worth more than fifty cents, and less than a dollar, will find a market. So of the intervals or intermediate spaces between the other statute prices. In this mode it may be hoped that the manufacturers may be sustained and rendered able to carry on the work of converting the raw material, the agricultural product of the country, into an article necessary and fit for use. And this statement, I think, sufficiently shows that no further benefit or advantage is intended for them, than such as shall barely enable them to accomplish that purpose; and that the object, to which all others have been made to yield, is the advantage of agriculture.

And yet, sir, it is on occasion of a bill thus framed, that a loud and ceaseless cry has been raised against what



SENATE.]

Tariff Bill.

[MAY 9, 1882.]

is called the cupidity, the avarice, the monopolizing spirit of New England manufacturers. This is one of the main "abominations of the bill," to remedy which, it is proposed to keep in the other abominations. Under the prospect of advantage held out by the law of 1824, men have ventured their fortunes and their means of subsistence for themselves and families, in woollen manufactures. They have ventured investments in objects requiring a large out-lay of capital, in mills, houses, water-works, and expensive machinery. Events have occurred blighting their prospects and withering their hopes. Events which have deprived them of that degree of succour which the Legislature manifestly intended. (They come here asking for relief against an unforeseen occurrence—for remedy against that which Congress, if it had foreseen, would have prevented. And they are told that what they ask is an abomination! They say that an interest important to them and important to the country, and principally called into existence by the Government itself, has received a severe shock, under which it must sink, if the Government will not, by reasonable means, endeavor to preserve what it has created. And they are met with a volley of hard names, a tirade of reproaches, and a loud cry against capitalists, speculators, and stock-jobbers. For one, I think them hardly treated: I think, and from the beginning have thought, their claim to be a fair one.) With how much soever of undue haste, or even of credulity, they may be thought to have embarked in these pursuits, under the hopes held out by Government, I do not feel it to be just that they should be abandoned to their fate on the first adverse change of circumstances, although I have always seen, and now see, how difficult, perhaps I should rather say, how impossible, it is for Congress to act, when such changes occur, in a manner at once efficient, but discreet; prompt, but yet moderate.

For these general reasons, and on these grounds, I am decidedly in favor of a measure which shall uphold and support, in behalf of the manufacturers, the law of 1824, and carry its benefits and advantages to the full extent intended. And though I am not altogether satisfied with the particular form of these enactments, I am willing to take them, in the belief that they will answer an essentially important and necessary purpose.)

It is now my painful duty to take notice of another part of this bill, which I think in the highest degree objectionable and unreasonable; I mean the extraordinary augmentation of the duty on hemp. I cannot well conceive any thing more unwise or ill-judged than this appears to me to be. The duty is nearly thirty-five dollars per ton; and the bill proposes a progressive increase, till it shall reach sixty dollars. This will be absolutely oppressive on the shipping interest, the great consumers of the article. When this duty shall have reached its maximum, it will create an annual charge of at least one hundred thousand dollars, falling not on the aggregate of the commercial interest, but on the ship owner. It is a very unequal burden. The navigation of the country has already had a hard struggle to sustain itself against foreign competition; and it is singular enough that this interest, which is already so severely tried, which pays so much in duties on hemp, duck, and iron, and which it is now proposed to put under new burdens, is the only interest which is subject to a direct tax by a law of Congress. The tonnage duty is such a tax. If this bill should pass in its present form, I shall think it my duty, at the earliest suitable opportunity, to bring forward a bill for the repeal of the tonnage duty. It amounts, I think, to a hundred and twenty thousand dollars a year; and its removal will be due, in all justice, to the ship owner, if he is to be made subject to a new taxation on hemp and iron.

But, objectionable as this tax is, from its severe pres-

sure on a particular interest, and that at present a depressed interest, there are still farther grounds of dissatisfaction with it. It is not calculated to effect the object intended by it. If that object be the increase of the dew rotted American hemp, the increased duty will have little tendency to produce that result; because such hemp is so much lower, in price, than imported hemp, that it must be already used for such purposes as it is fit for. It is said to be selling for one hundred and twenty dollars per ton, while the imported hemp commands two hundred and seventy dollars. The proposed duty, therefore, cannot materially assist the sale of the American hemp of this quality and description.

But the main reason given for this increase, is the encouragement of American water-rotted hemp. Doubtless this is an important object; but I have seen nothing to satisfy me that it can be obtained, by means like this. At present, there is produced in the country no considerable quantity of water rotted hemp. It is problematical, at least, whether it can be produced under any encouragement. The hemp may be grown, doubtless, in various parts of the United States, as well as in any country in the world; but the process of preparing it for use, by water-rotting, I believe to be more difficult and laborious than is generally thought among us. I incline to think, that, happily for us, labour is in too much demand, and commands too high prices, to allow this process to be carried on profitably. Other objections, also, besides the amount of labour required, may, perhaps, be found to exist, in climate, and in the effects liable to be produced on health, in warm countries, by the nature of the process. But whether there be foundation for these suggestions, or not, the fact still is, that we do not produce the article. It cannot, at present, be had at any price. To augment the duty, therefore, on foreign hemp, can only have the effect of compelling the consumer to pay so much more money into the Treasury. The proposed increase, then, is doubly objectionable; first, because it creates a charge, not to be borne equally by the whole country, but a new and heavy charge, to be borne exclusively by one particular interest; and second, because, that of the money raised by this charge, little or none goes to accomplish the professed object, by aiding the hemp grower; but the whole, or nearly the whole falls into the Treasury. Thus the effect will be in no way proportioned to the cause, nor the advantage obtained by some, at all equal to the hardship imposed on others. While one interest will suffer much, the other interest will gain little or nothing.

I am quite willing to make a thorough and fair experiment, on the subject of water-rotted hemp; but I wish, at the same time, to do this in a manner that shall not oppress individuals, or particular classes. I intend, therefore, to move an amendment, which will consist in striking out so much of the present bill as raises the duty on hemp, higher than it is at present, and in inserting a clause, making it the duty of the Navy Department to purchase, for the public service, American water-rotted hemp whenever it can be had of a suitable quality; provided it can be purchased at a rate not exceeding, by more than twenty per cent. the current price of imported hemp, of the same quality. If this amendment should be adopted, the ship owner would have no reason to complain, as the price of the article would not be enhanced, to him; and at the same time, the hemp grower, who shall try the experiment, will be made sure of a certain market, and a high price. The existing duty of thirty five dollars per ton will remain to be still borne by the ship owner. The twenty per cent. advance, on the price of imported hemp, will be equal to fifty dollars per ton; the aggregate will be eighty-five dollars; and this, it must be admitted, is a liberal and effective provision, and will secure every thing which can be reasonably desired, by the hemp-grower, in the most ample manner.

MAY 9, 1828.]

Tariff Bill.

[SENATE.]

But, if the bill should become a law, and go into operation in its present shape, this duty on hemp is likely to defeat its own object in another way. Very intelligent persons entertain the opinion, that the consequence of this high duty will be such, that American vessels, engaged in foreign commerce, will, to a great extent, supply themselves with cordage abroad. This, of course, will diminish the consumption at home, and thus injure the hemp-grower, and at the same time, the manufacturer of cordage. Again; there may be reason to fear, that as the duty is not raised on cordage manufactured abroad, such cordage may be imported, in a greater or less degree, in the place of the unmanufactured article. Whatever view we take, therefore, of this hemp duty, it appears to me altogether objectionable.

Much has been said of the protection which the navigation of the country has received, from the discriminating duties on tonnage, and the exclusive enjoyment of the coasting trade. In my opinion, neither of these measures has materially sustained the shipping interest of the United States. I do not concur in the sentiments, on that point, quoted from Dr. Seybert's statistical work. Dr. Seybert was an intelligent and worthy man, and compiled a valuable book; but he was engaged in public life at a time, when it was more fashionable than it has since become, to ascribe efficacy to discriminating duties. The shipping interest in this country has made its way by its own enterprise. By its own vigorous exertion, it spread itself over the seas, and by the same exertion, it still holds its place there. It seems idle to talk of the benefit and advantage of discriminating duties, when they operate against us on one side of the ocean, quite as much as they operate for us on the other. To suppose that two nations, having intercourse with each other, can secure, each to itself, a decided advantage in that intercourse, is little less than absurdity: and this is the absurdity of discriminating duties. Still less reason is there for the idea, that our own ship-owners hold the exclusive enjoyment of the coasting trade, only by virtue of the law, which secures it to their exclusive employment. Look at the rate of freights. Look at the manner in which this coasting trade is conducted by our own vessels, and the competition which subsists between them. In a majority of instances, probably, these vessels are owned, in whole or in part, by those who navigate them. These owners are at home, at one end of the voyage; and repairs and supplies are thus obtained in the cheapest and most economical manner. No foreign vessel would be able to partake in this trade, even by the aid of preferences and bounties.

The shipping interest of this country requires only an open field and a fair chance. Every thing else it will do for itself. But, it has not a fair chance, while it is so severely taxed, in whatever enters into the necessary expense of building and equipment. In this respect, its rivals have advantages which may in the end prove to be decisive against us. I entreat the Senate to examine and weigh this subject, and not go on, blindly, to unknown consequences. The English ship-owner is carefully regarded by his government, and aided and succoured, whenever and wherever necessary, by a sharp-sighted policy. Both he and the American ship-owner obtain their hemp from Russia. But observe the difference. The duty on hemp in England is but twenty-one dollars; here, it is proposed to make it sixty; notwithstanding its cost here is necessarily enhanced by an additional freight, proportioned to a voyage, longer than that which brings it to the English consumer, by the whole breadth of the Atlantic. Sir, I wish to invoke the Senate's attention, earnestly, to this subject; I would awaken the regard of the whole Government, more and more, not only on this but on all occasions, to this great national interest, an interest, which lies at the very foundation, both of our commercial prosperity and our naval achievement.

Mr. W. concluded by submitting the following as a substitute for the provision in the bill, relative to hemp: "That the Navy Department be directed to purchase, for the use of the Navy of the United States, American water rotted hemp, when it can be procured of a suitable quality, and at a price not exceeding, by more than twenty per cent. the price of the imported article."

Mr. JOHNSON said, that, perceiving a disposition on the part of the Senate to take the question, he was unwilling to cause delay; but as they had been forced into, at least a partial discussion of the subject before them, in which he could not reconcile it to a sense of duty to give a silent vote, he should assume the privilege of addressing the chair, without waiting for a motion to adjourn.

I will not (Mr. J. remarked) say that I am astonished at the proposition now under discussion, which strikes so deadly a blow at the interests of the western country. After what I have heard and witnessed, I have no right to express astonishment. But my constituents, accustomed to regard with equal interest every section of the Union, and never wishing a favor that would cost the remotest part a sacrifice, will be greatly astonished at this motion, and especially at the quarter from which it comes. They will exclaim with the expiring Cæsar, "and thou too Brutus!" It is a proposition from an avowed and leading advocate of the "American System" as it is so plausibly called, to take off the duty from hemp, cotton bagging, molasses, and foreign distilled spirits. If these articles are exempted from duty, what remaining interest has the west in this long expected tariff? None. Strike them out, and the whole western interest is sacrificed—our western farmers and manufacturers are abandoned—their equitable rights totally disregarded, and our boasted "American System" becomes to one section, a system of cupidity—and a system of oppression to the other. We must pay a tribute on all that we purchase, and suffer a destructive sacrifice on all that we sell.

I have been highly gratified with the general remarks of the Senator from Massachusetts, [Mr. WENDELL.] In argument, his expressions are liberal; he is theoretically magnanimous, the advocate for equal benefits to every part of the Union; but in the application of his principles to the bill before us, his theory is most unfortunately illustrated. Its practical effect is highly characteristic; it is to embrace his own favorite section, entirely regardless of the long neglected interests of the west—to sustain, at the expense of the west, the manufacturers of wool, located principally in New England and near the waters of the Atlantic. Beyond this interest, he is not disposed to travel far. Western produce and manufactures are not embraced in his views of American policy.

The State of Kentucky has been much agitated, but not much divided upon the "American System." I am with us a favorite system. A tariff founded in equity, extending equally its beneficial effects to all parts of the Union, will be favorably received throughout the west. But a partial system, a sectional system, a mere woollen system, will receive the support of no party there. We would not receive a partial favor, if it should be tendered us at the expense of the east; nor can we sacrifice to that section the dearest interests of the west. The industry of the west is worthy of the same support as that of the east; and our object is to encourage and protect both. It is American industry that we wish to call in requisition, not the industry of the east, or of the west, or of the north, or the south, but the industry of the whole.—We are one family, and we ask for equal benefit to every member as far as practicable. Let this be done, and we shall be a harmonious community. From the remarks of the Senator from Massachusetts, I began to cherish the hope that we should realize the prospect held out to us in the west on a late occasion, when it became impor-

SENATE.]

Tariff Bill.

[MAY 9, 1828.]

tant to unite their feelings with those of the east. We were then told with a confidence which political infidelity itself could scarcely question, that we might safely rely upon the friendship and support of the east on this occasion; and I can inform the honorable Senator, that the friends of the administration in Kentucky, during the last August elections, fought their battles at the polls, under the banner of the hemp stalk. They appeared at the hustings with flying colors, and the hemp stalk was their ensign. This fact is not introduced with a view of stirring up party feelings, but to shew something of the mortification which my constituents must feel, when they learn that the friend in whom they were taught to confide, has seized upon their standard to destroy it—when they discover that the distinguished Senator from Massachusetts, the *Telamon Ajax* of the "American System," the able friend and firm supporter of the Administration, has moved to strike from the protection of this bill, not only their hemp, but every other article of interest to Kentucky.

The argument of the gentleman has been confined principally to the importance of protecting woollens; and, therefore, he urges the propriety of striking out hemp and other articles more important to the west than woollens to the east. He assumes the ground, that the government has, by its policy, invited the manufacturers of wool to vest their capital in this business; and that the faith of the government is therefore pledged to protect them from foreign competition; that is, because the government has done much for them, it is bound to do much more; but because it has done little or nothing for the west, it ought to do nothing. The corollary of the proposition is, that the privileged order should receive higher privileges, and the oppressed should receive deeper oppression. Admit the correctness of his position, so far as it respects woollens, for I am willing and desirous to give them ample protection, and the principle will apply with equal force to hemp, cotton bagging, whiskey and molasses. I am not disposed to divest any order of its privileges, but to extend those privileges to every interest, till all America shall be of one order, and then the higher the privileges the better. If the law of 1824 protected woollens, the same law extended protection in some degree, to hemp, flax, cotton bagging, whiskey and molasses. How then can the gentleman urge a pledge in one case, and reject it in the others? And with what consistency can we, while recognizing an implied, or constructive pledge to the eastern manufacturer of wool, refuse to redeem an equal pledge to the western farmer and mechanic?

If the Senator will pursue the real "American System," agreeably to the intention of the Harrisburg Convention, so clearly expressed in their report, he will receive the cordial co-operation of the west. A majority of all parties will sustain the measure. That Convention originated, it is true, in the agitation of the woollens bill, during the last session; and though artificial means were employed to turn the question to party purposes, by which means one political party greatly preponderated as to numbers, yet the Convention was patriotic, and acted on principles of equity. Whatever motives may have predominated in the minds of some, there seems to have been a kind of patriotic charm in the State at whose capital they assembled, that forbade partiality. The very atmosphere of Harrisburg seems favorable only to what justice warrants and Heaven approves. If the spirit of that Convention does not survive in all its members, it still lives in Pennsylvania, an illustrious member of the good old American family, whose garments are yet unpolluted. That respectable Convention listened to the voice of the people, and embraced in their report almost every article which is named in this bill; and the article of hemp is particularly recommended as a proper object

of protection in fixing the tariff. Contrary to that report, a proposition is now made, and I have heard it with deep regret, to reduce the "American System," to a woollen bill, which will, in fact, confine its operation to the country east of the Alleghany, and north of the Susquehanna. Such will be the effect of striking out the articles included in the motion of the Senator from Massachusetts.

The American system now in operation has given very little if any advantage to the western farmer or manufacturer. It is a fact, which my constituents both know and feel, that in the purchase of New England cottons and woollens, we must pay the price in gold and silver, while our own produce lies as a drug upon our hands. We cannot exchange our whiskey, our cordage, our hemp, and our wool, for New England manufactures, because of foreign competition. They are imported into New England from other countries, and the specie drained from the west is exported from the country in payment for them. There is no reciprocity in our commerce with the eastern States. I have lately received from a friend a few thousand dollars to be disbursed in the purchase of domestic cottons and woollens. The purchases have been made, principally in Baltimore, where New England manufactures are deposited for the western market. Thus we clothe ourselves, male and female, with New England manufactures, and the specie which we pay them in return is sent to foreign countries for the purchase of the articles which we can supply in abundance, if the same protection can be extended to them. Let the tariff be fixed on principles of equity, and the commerce of the east and the west, like the ebbing and flowing of a stream, will bear reciprocal benefits to every part of the country; will invigorate and enrich the whole; but if the current must, without any returning flood, forever descend into the sea, the fountain will soon be exhausted, and the existing state of things must have a speedy termination.

We have long submitted to these evils, in the hope that the day to end them was not far distant. This session was hailed in prospect as the happy era; and the banner of the hemp stalk seemed to say that henceforth the east and the west shall be "one and indivisible." The favorable moment has now arrived; and now the boon is denied us.

The motion of the gentleman is also in opposition to the report of the Secretary of the Treasury, which represents hemp as a prominent article for a protecting duty. It is now contended, that domestic hemp cannot be procured in sufficient quantities. Why? Because the present duty is not so heavy as to exclude its importation. The contemplated duty on woollens will, it is believed, exclude their importation; but that on wool will not. The manufacturers then will be completely protected, but not the wool growers. So the growers of hemp will be left without adequate protection. The argument, if it proves any thing, establishes the fact to a demonstration that the duties heretofore imposed on foreign importations, have been insufficient, and that the proposed addition to the duty on foreign hemp is just and necessary. No person acquainted with the capacity of our soil, especially in the west, will question the ability of the country to produce, under adequate protection, double the quantity of hemp required for the whole population of the nation, and that without materially affecting other branches of agriculture. A question has arisen upon the comparative strength of the Kentucky and Russia hemp; but on this point, the most unequivocal testimony in favor of our own production is before the Senate. [Here Mr. Johnson referred to a document from the Navy Department, proving that upon actual experiment, from No. 1 to No. 12, the Kentucky dew rotted hemp is stronger than the Russia water rotted hemp.]

With these facts before us, the true "American Sys-

MAY 9, 1828.]

Tariff Bill.

[SENATE.]

tem" is plain. Let us pursue the whole system, and it will be to us as the path of the righteous, shining brighter and brighter. Why then shall we contract it? Why shall woollens and cottons be the exclusive subjects of protection against foreign competition? Why shall we in the interior, be left alone to grapple with foreign competition in all the productions of our farmers and manufacturers who constitute the body and soul of our population, while the woollens and cottons manufactured in the East, are effectually protected, and in a great degree, at the expense of the West! Is it magnanimous? Is it equitable? Is it righteous? It is not.

I have always been one among the western members, to elevate New England above foreign competition, in the manufacture of hats, shoes, ready made clothing, woollens and cottons. In this, I have obeyed the will of my constituents. They have taught me to look with an equal eye upon every part of the United States, as composing one great family, united in interest and affection, pursuing the same path to independence and glory. They believed, in the honesty of their hearts, that the sentiment was reciprocated from their eastern brethren. What will be their astonishment to learn, that New England has deserted them—that New England policy, if correctly represented by the Senator from Massachusetts, cannot stretch a look beyond the mountains which divide the East from the West? For my own part, whatever may be the result of this motion, I shall still recur with satisfaction to my recorded votes in favor of the industry of New England. If gentlemen will do me the favor to examine the journals of 1824, when the former tariff bill was pending, they will find my name among the supporters of the measures for the protection of domestic cottons and woollens. We have done all we could for our New England brethren. If now, they will sport with the interests of the West, they are left without a pretext. We ask nothing more than what honor and justice warrant us to expect. If the motion before us shall prevail, the boon is gone. The west must remain tributary. We must receive the commodities of the East, under a protecting duty, while those of the West will be refused for want of that protection.

Having expressed these views, they are submitted to the consideration of the State. Duty would not permit me to say less, and inclination does not prompt me to say more.

The debate was continued by Messrs. WEBSTER, BENTON, SMITH, of Maryland, DICKERSON, TAZEWELL, and ROWAN; when, the question having been divided, on motion of Mr. BERRIEN, and the yeas and nays ordered, the vote on striking out was taken, (at about eight o'clock,) and decided in the negative, by the following vote:

YEAS.—Messrs. Chandler, Foot, Knight, Parris, Robbins, Seymour, Silabee, Webster, Willey, Woodbury—10.

NAYS.—Messrs. Barnard, Barton, Benton, Berrien, Boulogny, Branch, Chase, Cobb, Dickerson, Eaton, Ellis, Harrison, Hayne, Hendricks, Johnson, of Kentucky, Johnston, of Louisiana, Kane, King, McKinley, McLane, Macon, Marks, Noble, Ridgely, Rowan, Ruggles, Sanford, Smith, of Maryland, Smith, of South Carolina, Tazewell, Thomas, Tyler, Van Buren, White, Williams—36.

Mr. BENTON then proposed an amendment, to impose a duty of 25 cents per pound on imported Indigo, with a progressive increase at the rate of 25 cents per pound per annum, until the whole duty amounted to \$1 per pound. He stated his object to be two-fold in proposing this duty, first, to place the American system beyond the reach of its enemies, by procuring a home supply of an article indispensable to its existence; and next, to benefit the South by reviving the cultivation of one of its ancient and valuable staples.

Indigo was first planted in the Carolinas and Georgia about the year 1740, and succeeded so well as to command the attention of the British manufacturers and the British Parliament. An act was passed for the encouragement of its production in these colonies, in the reign of George the Second, the preamble to which Mr. B. read, and recommended to the consideration of the Senate. It recited that a regular, ample, and certain supply of indigo was indispensable to the success of British manufactures; that these manufactures were then dependent upon foreigners for a supply of this article; and that it was the dictate of a wise policy to encourage the production of it at home. The act then went on to direct that a premium of six pence sterling should be paid out of the British Treasury for every pound of indigo imported into Great Britain, from the Carolinas and Georgia. Under the fostering influence of this bounty, said Mr. B., the cultivation of indigo became great and extensive. In six years after the passage of the act, the export was 217,000 lbs. and at the breaking out of the revolution it amounted to 1,100,000 lbs. The Southern colonies became rich upon it; for the cultivation of cotton was then unknown; rice and indigo were the staples of the South. After the revolution, and especially after the great territorial acquisitions which the British made in India, the cultivation of American indigo declined. The premium was no longer paid; and the British Government, actuated by the same wise policy which made them look for a home supply of this article from the Carolinas, when they were a part of the British possessions, now looked to India for the same reason. The export of American indigo rapidly declined. In 1800 it had fallen to 400,000 lbs.; in 1814 to 40,000 lbs.; and in the last few years to 6 or 8,000 lbs. In the meantime our manufactures were growing up; and having no supply of indigo at home, they had to import from abroad. In 1826 this importation amounted to 1,150,000 lbs. costing a fraction less than two millions of dollars, and had to be paid for almost entirely in ready money, as it was chiefly obtained from places where American produce was in no demand. Upon this state of facts, Mr. B. conceived it to be the part of a wise and prudent policy to follow the example of the British Parliament in the reign of George II. and provide a home supply of this indispensable article. Our manufacturers now paid a high price for fine indigo, no less than \$2 50 per pound, as testified by one of themselves before the Committee on Manufactures raised in the House of Representatives. The duty which he proposed was only 40 per cent. upon that value, and would not even reach that rate for four years. It was less than one half the duty which the same bill proposed to lay instantaneously upon the very cloth which this indigo was intended to dye. In the end it would make all indigo come cheaper to the manufacturer, as the home supply would soon be equal, if not superior to the demand; and in the mean time, it could not be considered a tax on the manufacturer, as he would levy the advance which he had to pay, with a good interest, upon the wearer of the cloth.

Mr. B. then went into an exposition of the reasons for encouraging the home production of indigo, and showed that the life of the American System depended upon it. Neither cotton nor woollen manufactures could be carried on without indigo. The consumption of that article was prodigious. Even now, in the infant state of our manufactures, the importation was worth two million of dollars; and must soon be worth double or treble that sum. For this great supply of an indispensable article, we were chiefly indebted to the jealous rival, and vigilant enemy, of these very manufactures, to Great Britain herself. Of the 1,150,000 lbs. of indigo imported, we bring 620,000 lbs. from the British East Indies; which one word from the British Government would stop forever; we bring the further quantity of 120,000 lbs. from Manilla, a Spanish pos-

SENATE.]

Tariff Bill.

[May 9, 1828.]

session, which British influence and diplomacy could immediately stop; and the remainder came from different parts of South America, and might be taken from us by the arts of diplomacy, or by a monopoly of the whole on the part of our rival. A stoppage of a supply of indigo for one year, would prostrate all our manufactories, and give them a blow from which they would not recover in many years. Great Britain could effect this stoppage to the amount of three-fourths of the whole quantity by speaking a single word, and of the remainder by a slight exertion of policy, or the expenditure of a sum sufficient to monopolize for one year, the purchase of what South America sent into the market.

Mr. B. said he expected a unanimous vote in favor of his amendment. The North should vote for it to secure the life of the American system; to give a proof of their regard for the South; to shew that the country south of the Potomac is included in the bill for some other purpose besides that of oppression. The South itself, although opposed to the further increase of duties, should vote for this duty; that the bill, if it passes, may contain one provision favorable to its interests. The West should vote for it through gratitude for fifty years of guardian protection, generous defence, and kind assistance, which the South had given it under all its trials; and for the purpose of enlarging the market, increasing the demand in the South and its ability to purchase the horses, mules, and provisions which the West can sell no where else. For himself he had personal reasons for wishing to do this little justice to the South. He was a native of one of these States (N. Carolina)—the bones of his father and his grandfathers rested there. Her Senators and Representatives were his early and his hereditary friends. The venerable Senator before him (Mr. Maçon) had been the friend of him and his, through four generations in a straight line; the other Senator (Mr. Branch) was his school fellow; the other branch of the legislature, the House of Representatives, always showed him in the North Carolina Delegation, the friends of him and his through successive generations. Nor was this all. He felt for the sad changes which had taken place in the South in the last fifty years. Before the Revolution it was the seat of wealth as well as of hospitality. Money, and all that it commanded, abounded there. But how now? All this is reversed.

Wealth has fled from the South, and settled in the regions north of the Potomac, and this in the midst of the fact that the South, in four staples alone, in cotton, tobacco, rice and indigo, (while indigo was one of its staples) had exported produce since the revolution, to the value of eight hundred million of dollars, and the North had exported comparatively nothing. This sum was prodigious; it was nearly equal to half the coinage of the mint of Mexico since the conquest by Cortez. It was twice or thrice the amount of the product of the three thousand gold and silver mines of Mexico, for the same period of fifty years. Such an export would indicate unparalleled wealth; but what was the fact? In place of wealth, a universal pressure for money was felt; not enough for current expenses; the price of all property down; the country drooping and languishing; towns and cities decaying; and the frugal habits of the people pushed to the verge of universal self-denial, for the preservation of their family estates. Such a result is a strange and wonderful phenomenon. It calls upon statesmen to inquire into the cause; and if they inquire upon the theatre of this strange metamorphosis, they will receive one universal answer from all ranks and all ages, that it is Federal legislation which has worked this ruin. Under this legislation the exports of the South have been made the basis of the Federal revenue. The twenty odd millions annually levied upon imported goods, are deducted out of the price of their cotton, rice and tobacco, either in the diminished price which they receive for these staples in foreign ports,

or in the increased price which they pay for the articles they have to consume at home. Virginia, the two Carolinas and Georgia, may be said to defray three-fourths of the annual expense of supporting the Federal Government; and of this great sum annually furnished by them, nothing, or next to nothing, is returned to them in the shape of Government expenditure. That expenditure flows in an opposite direction; it flows northwardly, in one uniform, uninterrupted and perennial stream; it takes the course of trade and of exchange; and this is the reason why wealth disappears from the South and rises up in the North. Federal legislation does all this; it does it by the simple process of eternally taking away from the South, and returning nothing to it. If it returned to the South the whole, or even a good part of what it exacted, the four States south of the Potomac might stand the action of this system, as the earth is enabled to stand the exhausting influence of the sun's daily heat by the refreshing dews which are returned to it at night; but as the earth is dried up, and all vegetation destroyed in regions where the heat is great, and no dews returned, so must the South be exhausted of its money and its property by a course of legislation which is forever taking from it, and never returning any thing to it.

Every new Tariff increases the force of this action. No Tariff has ever yet included Virginia, the two Carolinas, and Georgia, within its provisions, except to increase the burthens imposed upon them. This one alone, presents the opportunity to form an exception, by reviving and restoring the cultivation of one of its ancient staples, one of the sources of its wealth before the revolution. The Tariff of 1816 contributed to destroy the cultivation of indigo; sunk the duty on the foreign article, from twenty-five to fifteen cents per pound. These are the reasons for imposing the duty on indigo, now proposed. What objections can possibly be raised to it? Not to the quality; for it is the same which laid the foundation of the British manufactures, and sustained their reputation for more than half a century; not to the quantity; for the two Carolinas and Georgia alone raised as much fifty years ago as we now import, and we have now the States of Louisiana, Alabama, and Mississippi, and the Territories of Florida and Arkansas, to add to the countries which produce it; not to the amount of the duty: for its maximum will be but forty per cent. only one half the duty laid by this bill on the cloth it is to dye, and that maximum, not immediate, but attained by slow degrees at the end of four years in order to give time for the domestic article to supply the place of the imported; and after all, it is not a duty on the manufacturer, but on the wearer of the goods; from whom he levies, with a good interest on the price of the cloths, all that he expands in the purchase of materials. For once, said Mr. B. I expect a unanimous vote on a clause in the Tariff. This indigo clause must have the singular and unprecedented fatuity of an unanimous voice in its favor. The South must vote for it, to revive the cultivation of one of its most ancient and valuable staples; the West must vote for it through gratitude for past favors—through gratitude for the vote on hemp this night!—and to save, enlarge, and increase the market for its own productions, the North must vote for it, to shew their disinterestedness; to give one proof of just feeling towards the South; and, above all, to save their favorite American system from the deadly blow which Great Britain can at any moment give it by stopping or interrupting the supplies of foreign indigo; and the whole union, the entire legislative body, must vote for it, and vote for it with joy and enthusiasm, because it is impossible that Americans can deny to sister States of

\* "The vote on hemp this night." In rejecting Mr. Webster's motion to strike out the duty on hemp, and a vote in which the South went unanimously with the West.—*Note by Mr. B.*

MAY 10, 1828.]

Adjournment of Congress.—Tariff Bill.

[SENATE.]

the confederacy what a British King and a British Parliament granted to these same States when they were Colonies and dependencies of the British crown.

The debate was further continued by Messrs. WEBSTER, NOBLE, and MACON, who gave way to an adjournment.

SATURDAY, MAY 10, 1828.

The bill from the other House to authorize a subscription of stock to the Chesapeake and Ohio Canal was read twice and referred to the Committee on Roads and Canals.

#### ADJOURNMENT OF CONGRESS.

The resolution from the other House, relative to an adjournment, was agreed to, on a division—27 to 18.

#### THE TARIFF BILL.

Mr. DICKERSON moved to discharge from the special orders the bill to alter the several acts levying duties on imports; which having been agreed to, the general orders preceding that bill were postponed, on motion of Mr. DICKERSON, and it was taken up. The motion of Mr. BENTON, adding ten cents to the present duty on indigo, and 25 cents per annum afterwards, until it amounts to one dollar per pound, being under consideration—

Mr. MACON addressed the Senate in a speech of two hours in length, supporting the provision, and treating at large of the general policy of the bill, and its operation on the various sections of the country. He contended that the benefits of the system had been confined to the people of the Eastern States, and that the South had suffered severely under its influence.

Mr. SMITH, of Maryland, moved to divide the question. He was disposed to protect the article, and he wished that the first part should succeed. Fifty cents per pound appeared to him to be quite sufficient, and he thought the amendment as it stood proposed too high a rate of duty. He asked that the question be taken by yeas and nays on the first part; which were ordered.

Mr. DICKERSON said that the proposition now advanced would add to the duty 25 cents in one year, which he thought far too rapid. The article was not now produced in any great quantity—certainly not sufficient to supply the consumption of the country; nor would it be in the course of one year. He was entirely willing that the article should receive an ample degree of protection. In doing this, however, common justice would point out that it ought not to be done so as to injure the manufacturer. If it was brought on suddenly, injury must be sustained by the manufacturing consumer, which would not be felt if the progress of the duty was gradual. The average price of the indigo imported was one dollar seventy-one cents. The duties now proposed on it would be about fifty-eight per cent., while the duty proposed on wool would be fifty-one per cent.; making, on the raw material and the dye, a charge disproportioned to the protection of the manufactured article. It was true that the coloring matter used in a yard of cloth was very small, but it would be felt very sensibly. The additional duty on the manufactured article was only forty-five per cent., and could not, consequently, bear any great decrease, by way of duty on the materials of their fabrics. [Here Mr. D. made some statements as to the amount of indigo imported, which our Reporter cannot accurately state.] Believing that the manufacturers could not bear this duty, unless a correspondent advance should be made on the duty on cloths, because indigo could not be produced in sufficient quantities at present, he was of opinion that fifty cents on the pound would be as much as the blue cloths could bear. He therefore moved to amend the amendment, by striking out, and inserting five cents, until it arrives at fifty cents, instead of one dollar.

Mr. BENTON said that it appeared by the evidence before the other House, that the first dye used by the manufacturers was of an inferior description, and that they afterwards made use of a fine dye. Three-fourths of the indigo used came from the British and Spanish East Indies; and it was testified that the fine quality cost about \$2 50 per pound. That from Guatemala was of an inferior kind, and cheaper; taken together, the two descriptions of indigo imported amounted to a fraction less than one million of dollars. If the amendment offered by him [Mr. B.] was adopted, there would be no necessity for importing the inferior kind, and perhaps not to a great extent, the best. Now, the rate of his amendment was far from being exorbitant. On the fine indigo, of which the greatest amount was consumed, the maximum of duty was forty per cent. This certainly was reasonable, when the duty on woollens was seventy per cent., giving thirty per cent. in their favor. By this new proposition the duty on indigo would become twenty per cent., just half the additional protection enjoyed by the woollens on the passage of this bill. If this proposition was to succeed, it would be better and fairer to face the South at once, and say that they shall receive no benefit and no protection from this bill. The friends of the American System had better at once declare to the South that they have no lot or portion under that system. Better give them a direct refusal at once, that they may understand the exact extent of the American System, and whether it includes merely that portion of the Union in which its friends are interested.

Mr. SMITH, of Maryland, thought it was extraordinary that this proposition should be opposed, and on the grounds on which it was objected to. We are to do nothing which shall not be for the benefit of woollens and iron, and aid no other interest for fear it will conflict with them. I recollect, said Mr. S., that I told the friends of the tariff system in 1816, that the British were about doing the same thing, in relation to their woollen manufacturers, as was proposed by this system; and that it would be, in the end, much worse for the manufacturer than it then was; but they would not believe me. I was not mistaken, however, and it was easy to come at the fact. We got the papers from England, in which the matter was discussed. Then the friends of the system said that it was our policy to oppose and compete with Great Britain. It does not now seem that the same doctrine is held, for they are not willing to extend it to all the articles of this country's production. He objected entirely to the manner in which this bill was got up. Here was one interest opposing another, and a measure proposed which he did not think could be justly arranged by Congress in current legislation. Such a tariff ought to come from the Treasury Department to be well digested, and provide for all the different interests without injuring any. It was, it seemed, quite satisfactory to some, so long as it did sufficient for the woollens. That appeared to be all that was wanted. The bill, in his opinion, had not been sufficiently considered as to its consequences on the country. In the other House it should have been inquired into and reported upon by the Committee of Ways and Means. I see, said Mr. S., that the gentleman from New Jersey [Mr. DICKERSON] smiles significantly, as much as to ask whether I suppose he would trust the bill in the hands of its enemies. This, however, is my opinion. I do not think that woollens alone are to be protected at the expense of other important articles.

Mr. HAYNE said he was opposed to this bill in its principles as well as in its details. It could assume no shape which would make it acceptable to him, or which could prevent it from operating most oppressively and unjustly on his constituents. With these views, he had determined to make no motion to amend the bill in any respect whatever; but when such motions were



SENATE.]

Tariff Bill.

[MAY 10, 1828.]

made by others, and he was compelled to vote on them, he knew no better rule than to endeavor to make the bill consistent with itself. On this principle he had acted in all the votes he had given on this bill. He had endeavored to carry out to its legitimate consequences what gentlemen are pleased to miscall the "American System." With a fixed resolution to vote against the bill, he still considered himself at liberty to assist in so arranging the details as to extend to every great interest, and to all portions of the country, as far as may be practicable, equal protection, and to distribute the burthens of the system equally, in order that its benefits as well as its evils may be fully tested. On this principle, he should vote for the amendment of the gentleman from Missouri, because it was in strict conformity with all the principles of the bill. As a Southern man, he would ask no boon for the South—he should propose nothing; but he must say that the protection of indigo rested on the same principles as every other article proposed to be protected by this bill, and he did not see how gentlemen could, consistently with their maxims, vote against it. What was the principle on which this bill was professedly founded? If there was any principle at all in the bill, it was that, whenever the country had the capacity to produce an article with which any imported article could enter into competition, the domestic product was to be protected by a duty. Now, had the Southern States the capacity to produce indigo? The soil and climate of those States were well suited to the culture of the article. At the commencement of the Revolution our exports of the article amounted to no less than 1,100,000 lbs. The whole quantity now imported into the United States is only 1,150,000 lbs.; so that the capacity of the country to produce a sufficient quantity of indigo to supply the wants of the manufacturers is unquestionable. It is true that the quantity now produced in the country is not great.

In 1818 only 700 lbs. of domestic indigo was exported.

In 1825     9,955                      do.

In 1826     5,289                      do.

This proves that the attention of the country is now directed to the subject. The Senator from Indiana, in some remarks which he made on this subject yesterday, stated that, according to the principles of the American System, (so called,) protection was not extended to any article which the country was not in the habit of exporting. This is entirely a mistake. Of the articles protected by the tariff of 1824, as well as those included in this bill, very few are exported at all. Among these are iron, woollens, hemp, flax, and several others. If indigo is to be protected at all, the duties proposed must surely be considered extremely reasonable, the maximum proposed being much below that imposed by this bill on wool, woollens, and other articles. The duty on indigo till 1816, was 25 cents per pound. It was then (in favor of the manufacturers) reduced to 15 cents. The first increase of duty proposed here, is only to put back the old duty of 25 cents per pound, equal to an ad valorem duty of from 10 to 15 per cent.—and the maximum is only from 40 to 58 per cent. ad valorem, and that will not accrue for several years to come. With this statement of facts, Mr. H. said he would leave the question in the hands of those gentlemen who were engaged in giving this bill the form in which it is to be submitted to the final decision of the Senate. He did not wish to be considered as taking any peculiar interest in this question, in any aspect but this: that he wished his constituents to be made to understand whether the American System means a system for the exclusive benefit of particular employments, and particular States, or whether it is to be carried out to embrace every branch of industry in the country—whether the manufacturers were the only class in the country who are to enjoy the protection of this system.

Mr. KNIGHT said that this was an additional tax on the manufacturer, without, as he conceived, any benefit to any body. We have no evidence that the article is produced, or will be produced, in any quantity fit for use in this country—that so onerous were the duties already on the materials used in coloring, that the British manufacturer, with whom we had to compete, was enabled to put his colored goods into the market at 12 mills less per square yard than the American manufacturer can do; in other words, that the duties paid by the American manufacturer on materials for coloring amounted to 12 mills the square yard more than they cost the British manufacturer.

Mr. MACON said a few words.

Mr. DICKERSON did not doubt the capacity of the Southern country to produce all the indigo required for the consumption of the country. It was a valuable article, and its production ought to be encouraged to a reasonable extent; but it could not be carried beyond that without injuring the manufacturers. The reason why the culture of indigo had not received greater attention was, he believed, because the capital of the South had been turned to cotton; and that being now the direction of the capital of the country, he believed no great amount would be immediately turned to indigo, and, therefore, that the high duty would be a hardship to the manufacturer, without a correspondent benefit to the agriculturist. He believed that, for some years, the South would choose to sell their cotton to those countries whence the indigo was brought, to raising large crops of the latter. He hoped it would in a few years be produced, and he did not doubt it would; and, as the production progressed, it would be right to extend the duty on the blue cloths, and, in a corresponding degree, upon indigo.

Mr. SMITH, of Maryland, said that he did not know but the proposition was a fair one—as fair as could be expected from the quarter whence it came. But the object of the gentleman from Missouri was to create a sudden excitement, by which the agriculturist would be induced to go at once into the production of indigo, so that, in a few years, no indigo would be imported. At present we get our indigo chiefly from Bengal. And it was interesting to know how it was purchased. For every pound that is imported we pay specie, for it can be purchased in no other way. We cannot find, in return, a consumption of our produce, which is an additional consideration in favor of the protection of the home product. Some time next year the Bengal ships would be on their return, and, in the meantime, the effect of the excitement which the proposition of the gentleman from Missouri would have given in favor of its culture, would have operated to a considerable extent, and in five years you will not be under the necessity of importing the article at all. Mr. S. moved to divide the question, so as to take the vote first on striking out; which, the question being taken, was decided as follows:—Yeas 23, nays 23.

The vote being equal, the CHAIR voted in the negative.

Mr. DICKERSON moved to amend the amendment, by striking out "one dollar," and inserting "fifty cents," making the increase of duty proposed by Mr. BENTON, stop at the latter amount.

On this motion a question of order arose, which was debated at some length by Messrs. KING, VAN BUREN, DICKERSON, WEBSTER, MACON, HARRISON, WOODBURY, BRANCH, and CHANDLER.

The question, which was admitted to be a doubtful one by Mr. Jefferson, in his Manual, whether, after having refused to strike out a portion of a bill, the part proposed to be struck out was amendable, was submitted to the Senate by the CHAIR, and the question being put, it was decided in the affirmative.

Mr. DICKERSON then renewed his motion.



MAY 10, 1828.]

Tariff Bill.

[SENATE.]

Mr. NOBLE moved the reconsideration of the vote on Mr. DICKERSON's previous motion, which took precedence of that gentleman's last motion; and the yeas and nays having been ordered, the question was decided as follows: Yeas 23, Nays 23.

The vote being equal, the CHAIR voted in the negative.

On motion of Mr. COBB, the motion of Mr. DICKERSON was divided, and the question being put on striking out, it was carried.

The question then occurring on inserting "fifty cents," it was decided in the affirmative.

Mr. KNIGHT said that, as his object was to protect manufacturing industry of every description, he would propose to amend the amendment, by adding, "and on all silk goods, 25 per centum ad valorem," but withdrew it at the request of

Mr. WEBSTER, who said, in relation to the duty proposed on indigo, that he considered 25 cents per annum too sudden an augmentation, and one which, he thought, would outrun the production. He should think five cents per annum a reasonable increase, and accordingly moved to strike out 20, so as to make the increase of duty 5 cents per annum; which was agreed to.

Mr. HARRISON moved to amend the amendment, by inserting 10 cents for the first year, 5 cents for the second year, and 10 cents for each successive year, until the duty shall amount to fifty cents per pound.

Mr. BENTON moved a call of the House, as there were three or four members absent from their seats.

Mr. CHANDLER opposed it on the ground that it had never been practised in the Senate; which statement was corroborated by the CHAIR.

The motion was waived.

Mr. WOODBURY observed, that he should vote against this proposition, as he had against all those connected with an increase of the duty on indigo. He should not vote for the amendment offered by the gentleman from Missouri, nor for any other on this article unless to remove entirely the present duty. It was for one plain reason; and he would detain the Senate only to state it, to prevent a misconstruction of his votes. The article was not one, in his opinion, of such national magnitude, nor in so distressed a state, as to the profits in making it, as in any view to justify the protection of the culture and manufacture of it. While, on the other hand, the removal of the duty would much relieve the depressed manufacturers of woollens. Indeed, the duties on indigo alone, and olive oil, burdened a single woollen establishment, in the neighborhood where he resided, more, perhaps, than all the benefits conferred by this bill. Such was the consumption of those two articles there, that the duties alone on them exceeded, yearly, the sum of three thousand dollars, which would appear by the following estimate, some time since handed him, by a proprietor of the Great Falls Company, in New Hampshire, which consumes annually.

15,000 lbs. indigo, the duty on which, at fifteen cents per lb. is	\$2250
4500 galls. olive oil, duty, 25 cts. per gall.	1125
	\$3375

The motion of Mr. HARRISON was then agreed to.

Mr. KNIGHT then renewed his motion in relation to silks.

Mr. WOODBURY said, he had prepared a specific proposition in relation to this article. If the question on indigo was allowed to be taken separately, he would agree to a moderate duty on silks.

Mr. KNIGHT said, that, in offering this amendment, he conceived he should conciliate the other side of the House, as, if they obtained their duty on indigo, they might be willing to grant it also on silks.

Mr. WOODBURY said, that he should be against this

motion, because he was against the duty on indigo, with which it was connected.

Mr. BENTON said, it was an unnatural connexion.

Mr. SMITH, of Maryland, made a few remarks; when, On motion of Mr. BENTON, the yeas and nays were ordered; and the question being put, the motion was negatived as follows:—yeas 2—nays 43.

The question then occurred on agreeing to the amendment as amended.

Mr. DICKERSON said, although he was willing to allow the gradual increase of the duty to 50 cents per pound, yet the amendment was not what he designed. The advance for the first year was too great, as ten cents on the quantity imported next year would be more than \$120,000. It could not be expected that any indigo would be produced in one year, although it might in two or three years. Yet, although no good would at once be experienced by the agriculturist, the duty falls on the manufacturers immediately. For this reason he should vote against the amendment.

Mr. SMITH, of Maryland, said, that the argument of the gentleman from New Jersey was the same as he, the other day, had accused him [Mr. S.] of having held in relation to cordage. But it seems, that now it was his bull that was gored, and consequently, the case was altered. The argument in favor of the amendment, as it stands, is this: If you give this excitement to the planter, and show him a prospect of profit, he will have his indigo in the ground next year, and enjoy the benefit of his crop, while the object of the duty will operate at once.

Mr. WEBSTER said, that his difficulty, in relation to this proposition, was only want of information. It had been introduced last night, at a late hour, and no time had been afforded for examination as to the quantity produced, or as to the quality of the domestic article. As to the Bengal indigo, on the way to this country, this duty will have the effect to raise its price in the market at once. Little benefit will be derived by the planter, while it will lay a heavy tax on the manufacturers.

Mr. BENTON said, he was astonished to find the Representatives of sister States refusing to three States a protection which was granted by a monarch: for a bounty had been given by Great Britain when we were her colonies, on this article. The gentleman from New Jersey was now endeavoring to shift his ground, which was always a most dangerous attempt.

To change one's front—whether in military or in legislative manœuvres, was always more or less dangerous. But it now comes out. The article is found now, not to be of sufficiently good quality for the American system. We must have Bengal indigo, which is brought from the British East Indies and Manilla, equally under the influence of Great Britain. So that, it now appears that this same system, in relation to which we were formerly told that it was to oppose Great Britain, is dependent on that country; this very Great Britain, which we have been told *de die in diem*, must be opposed by the American system, is to have the preference, in the production of indigo, to our own citizens.

The gentleman from Massachusetts shews us, by this, that the American system depends on the British Government for its existence. I say, sir, that this is a fair inference. For I have proof which is better than the opinions of gentlemen, however high their stations, but who do not happen to be indigo dyers, that this article can be produced in perfection in this country. I have the authority of indigo dyers for this assertion. But do we want better proof of this, than that the bounty was given by the British Government on American indigo, and that the British factories were built up on American indigo before the Revolution? The export, at the commencement of the war, into England, was about the same as the import into this country now. If the present plan is

SENATE.]

Tariff Bill.

[MAY 10, 1828.]

adopted, at the end of 4 or 5 years, the duty will be 20 per cent. It is contemptible—it is an insult to the South. It shows them they can only receive the benefits of the system far below the rate of protection which is extended to the manufacturer. They are to be allowed 20 per cent, on the article in 5 years, while the cloths of New England are placed at 70 per cent. instant. Through a variety of questions this motion had been followed up. Even in the agonies of death it was hunted down by the friends of the American system. And now we are told that it will occur too soon—that it must be deferred to a later period. This, then, is the American system, extending to but one or two interests, and leaving others untouched. I expressed a hope last night that the friends of the Tariff bill would give the only proof to the South in their power, that they too were included in the American system. It seems, however, that this paltry boon is to be refused. I beg gentlemen to spare their strength, as I have motions yet behind that will require all their energies. It seems to me unconscionable that the manufacturers should desire to grasp the whole 70 per cent. upon their productions, and refuse to do a little for the agricultural community. Now I ask, whether the friends of the American system do not, by their decision upon this motion, shew clearly that it depends upon Great Britain for its existence? It is the inevitable conclusion, from their own arguments. They have their choice of the horns of the dilemma—and they have chosen this. The American system then depends upon Great Britain, and she will doubtless cherish it with kindness and affection.

Mr. DICKERSON said that he was not against the duty, but the time at which it was to be levied. It is said that we struggle against this proposition even in the agonies of death; but do not they struggle on the other side? We struggle against an unnecessary imposition—one which will not aid the agriculturist, and yet will injure the manufacturer. He believed it would produce no good effect; and should, therefore, vote against it. Should it be stricken out, he should then propose a substitute. The question being taken on adopting the amendment as amended, it was decided in the negative.

Mr. DICKERSON then moved to amend the bill, by inserting a clause laying an additional duty of 5 cents per annum on the pound of indigo, until it arrives to 50 cents; which was decided in the affirmative.

Mr. SMITH, of Maryland, moved to amend the bill, by an additional duty of five cents on cordage.

Mr. DICKERSON said he would not object to this, unless commercial gentlemen opposed it. He, however, believed the great difference between hemp and cordage was sufficient to protect the cordage from competition with the foreign manufacturer.

Mr. WOODBURY said, that this was a new proposition, and he, for one, wished to give to it due consideration. He therefore moved that the Senate adjourn, but suspended his motion at the request of

Mr. WEBSTER, who said, that he was inclined to assent to this motion. They had been informed by the gentleman from Missouri, that he had yet several amendments to offer. He would, therefore, suggest the propriety of gentlemen offering their amendments, so that they might be printed, after which the Senate would meet with the full understanding of the questions they were to be called upon to decide.

Mr. WOODBURY renewed the motion to adjourn; which was rejected.

It being half past four o'clock, Mr. SMITH, of S. C. moved that the Senate have a recess until six o'clock; which was agreed to.

#### EVENING SESSION.

The motion offered by Mr. SMITH, of Maryland, was briefly discussed by Messrs. WEBSTER, DICKERSON, and SMITH, of Maryland.

Mr. PARRIS asked the yeas and nays; which were ordered.

Mr. ROWAN said, that it seemed at first that the duty on hemp would be of no importance to the agriculturist, because it could not be produced in this country. But, now it appeared to be of sufficient importance to swell the price of hemp itself, and call for a duty on cordage. He should vote against the motion.

Mr. WEBSTER observed, that the gentleman supposed that this duty would not add a single blade to the product of the domestic article. Yet, it will increase the price of manufactured hemp. And the question is, whether you will purchase the foreign manufactured article, or that manufactured in this country. Does he not see, that, if we lay a heavy duty on raw hemp, it will be a bounty on the foreign manufactured article, unless that is taxed also? Does he not see, that, if we intend to keep the manufacture of hemp alive in this country, we must lay a duty on the foreign manufactured article? He merely rose to make this statement, because he thought the gentleman under a misapprehension of the intention of his motion.

Mr. PARRIS said, that the argument of the Senator from Massachusetts [Mr. WEBSTER] is correct, and ought to have its weight, unless this article be already protected. To shew whether that is the case, a statement of a few facts only would be necessary. The existing duty on cordage is \$89 60 per ton. The duty contemplated by the bill on imported hemp, will be \$60 per ton, when it shall have arrived at its ultimatum; thus giving the domestic manufactured article an advantage of nearly \$30 per ton over the same article of foreign manufacture. This would seem to be sufficient protection. If gentlemen think so, they will negative the amendment. Only one other fact need be stated. There is not, now, nor has there been for years, a pound of foreign cordage used on American tonnage. It is imported only for exportation as an article of trade. During the last year, the importation of this article exceeded 1,500,000 pounds; the principal part of which was from Russia, and of course encumbered with the same expense for freight, insurance, &c. as the unmanufactured hemp. The exportation of cordage, for drawback, during the same year, somewhat exceeded that quantity, principally to Cuba, Brazil, and Chili. Mr. P. said, as he was opposed to the increased duty on hemp, he should uniformly vote against any additional duty on manufactures from that article.

Mr. ROWAN said, he rose to acknowledge that he had taken an erroneous view of the operation of this amendment. He was convinced, from the statement of the gentleman from Massachusetts, that the effect of the duty on cordage would be beneficial to the hemp growing interest of this country, and, as he was always ready to admit any erroneous impression, he should now consider himself bound to vote for the amendment.

The question being then put, the motion was rejected.

Mr. BENTON then moved a progressive duty on wool on the skin, to make it entirely prohibitory in four years.

On this motion a debate ensued, in which Messrs. BENTON, DICKERSON, CHANDLER, and HARRISON participated.

Mr. SMITH, of South Carolina, said, that he did not rise to discuss the question, but to shew, that it was idle to go on with the debate at present. Within the last thirty-four hours the Senate had been in session twenty hours, which had been entirely employed in the discussion of the Tariff bill—the strikings out, and the puttings in. Such continued labor might do for others, but he had neither the nerves nor the lungs to go farther in this fatiguing business. He considered that it was too much for the human frame. He therefore moved that the Senate do now adjourn.

MAY 12, 1828.]

Tariff Bill.

[SENATE.]

Mr. WOODBURY moved that the hour of adjournment be noted on the journal; and asked the yeas and nays. The question was then taken, and decided in the affirmative.

MONDAY, MAY 12, 1828.

#### THE TARIFF BILL.

The bill altering the acts imposing duties on imports, was again taken up; and the motion of Mr. BENTON, to prohibit the importation of raw wool, by gradual advances, so as to go into effect in the year 1832, being under consideration, the question was put, and decided in the negative.

Mr. BENTON then proposed to amend, by inserting a provision, laying a duty of ten per centum per annum on wool unmanufactured, until it shall amount to 50 per centum ad valorem, and 5 per centum afterwards, until it amounts to 70 per cent.

This motion was briefly discussed by Messrs. BENTON, SMITH, of Md. HAYNE, and DICKERSON; when the question was taken, it was negative.

Mr. BENTON moved that a duty of six cents per gallon, in addition to the duty of ten cents in the bill, be laid on imported molasses, to take effect on the 30th day of June, 1830, so as to make the whole duty on that article amount to sixteen cents per gallon after that time. This proposition he supported in a speech of considerable length, in which he went back to the first proposition under the Federal Government to impose a duty on molasses; and shewed that it was then considered as a duty on sugar. This statement he confirmed by a recurrence to the first tariff of 1790, reported by a Committee of the House of Representatives, of which Mr. Madison was Chairman, in which brown sugar was dutied at one cent per pound, and molasses at eight cents per gallon; and the two duties held to be equal, as a gallon of molasses was admitted to be equal in weight, and superior in saccharine matter, to eight pounds of brown sugar.

Both were treated as duties upon sugar; one in its granular, and the other in its fluid state; and the House of Representatives sustained that idea, and voted the two duties as reported. But in the Senate this equality was altered, upon the earnest representation of the New-England members, that molasses was used principally for distillation, and not as a substitute for sugar in that section of the Union; and the duty was reduced, under this belief, from eight to two and a half cents per gallon. Since that time this idea has prevailed; and in the enactment of subsequent tariffs, molasses has nearly escaped all duty, while brown sugar has twice been subjected to an advance of duty, and each time to an advance of one hundred per cent. upon its original amount. The tariff, now in force, levies three cents a pound on brown sugar, and only five cents a gallon on molasses; the tariff now under consideration proposes an advance of only five cents a gallon on molasses; and the amendment proposed only contemplates a further advance of six cents, to take effect two years hence.

Mr. B. said that he was induced to revive the original idea of taxing molasses as sugar, by a piece of information which had been given to the Senate a few nights ago by the Senator from Massachusetts, [Mr. WEBSTER] in the debate on New-England rum, in which that liquor was treated as the antagonist of Western whiskey, and the foreign material out of which it was made, was shewn to be the rival of domestic grain, and of course entitled to no favor from a legislature professing to be a friend to the American System. That Senator, in the course of that debate, declared, upon this floor, that this was a mistake; that molasses in New-England was used principally on the table, and not in the stills; and that of the ten millions of gallons annually imported into that section

of the Union, not more than two millions were distilled into rum. This would leave eight millions of gallons, equivalent to sixty-four millions of pounds of brown sugar, to be used as sugar; and shews that the New-England statesmen of the year 1790, however correct at the time, were prodigiously mistaken as to the future distillation of molasses; and that this mistake led the Congress since that day, into a great error; an error which has pervaded our legislation ever since, destroyed the equality of the sugar tax, and deprived the Treasury of an immense revenue. But that mistake is now corrected. The important fact is now admitted, that four-fifths of the molasses imported into New-England, are consumed as sugar; and the knowledge of this fact suggest grave questions to the American statesman in reference to our revenue, the equal distribution of our taxes, and the preservation of a market for our domestic sugar and molasses.

Mr. B. would briefly touch these great questions, and leave many of their results to be pursued and developed by the minds of others.

1. *As it concerns the revenue.*—The Treasury, he said, was an enormous loser. Eight millions of gallons of molasses were equal to 64 millions of pounds of sugar; this quantity of sugar, at the present rate of duty, would pay \$1,920,000; its equivalent in molasses, under the existing duty of five cents per gallon, has only paid \$400,000; under the proposed duty in the bill, it will only pay \$800,000; and even if carried to 16 cents, will still pay but \$1,280,000. The result was, that the Treasury had heretofore lost upon this item, \$1,520,000 per annum; that it was destined to lose under the operation of the bill as it stood, a further annual sum of \$1,120,000; and even if his amendment should be adopted, the annual loss would still be \$640,000. This loss, though great, would still be so much less than that now suffered, that Mr. B. would be willing to compromise upon it, and leave to his New-England brethren the quiet enjoyment of so great an advantage until the time came round for a general revision of the tariff, and an extensive reduction and equalization of duties consequent upon the extinction of the public debt.

2. *As it concerns the equal distribution of the public taxes.* The tax upon brown sugar is one of the heaviest that is imposed. That article is dutied at three cents a pound, which, with the merchant's profit upon that sum, makes it cost nearly four cents higher in the pound. The aggregate tax for the last three years, shews an average of two millions and a quarter of dollars per annum. This is a tax upon a necessary of life; it is a tax upon an article consumed by the poor; it is a tax which is chiefly paid by the people of the Middle, Southern and Western States; for they cannot use molasses as a substitute. Their interior position forbids the extensive use of an article which is spoilt and wasted in a long overland transportation. The commercial tables prove this fact, for while New-England alone annually imports ten millions of gallons of molasses, all the rest of the Union put together—the eighteen other States and three territories united, only imported three millions of gallons! This proves the fact that molasses is but little used as a substitute for sugar, outside of New-England; it proves the fact that the present great revenue derived from brown sugar is chiefly paid by citizens of other parts of the Union; and it presents the question to the American statesman, how far it is right in itself, how far it is consistent with the principles of our confederacy, how far it is just towards the inhabitants of the Middle, Southern and Western States, to devolve the burthen of the sugar tax upon them, and relieve the New-England people from it, by continuing the vast inequality of duty upon the granular and the fluid state of the article?

Mr. B. here addressed himself directly to a Senator from

SENATE.]

Tariff Bill.

[MAY 12, 1828.]

Pennsylvania, [Mr. MARKS] who had allowed his feelings, a few days before, to carry him so far as to throw out a very odious imputation on the Committee of the House of Representatives, which had reported the Tariff bill of the present session. That imputation was to this effect: that the increased duty on molasses was put into the bill for the purpose of poisoning it; and preventing the New-England members from voting for it. Mr. B. repelled this imputation, as a satire upon the New-England members, whose patriotism it would seem to rate so low, and as an unjust and disorderly attack upon members of the other branch of the Legislature; and said to the Senator who had made it, that he would confront him with very eminent authority from his own State, the speech of Mr. Fitzsimmons, a distinguished member of Congress from the State of Pennsylvania, in the year '90, who supported Mr. Madison in his proposal to place an equal duty on sugar and molasses; and supported him on the express ground, that the people of Pennsylvania should not, by his vote, be made to pay more tax on their sweetening than the people of New-England paid on theirs.

3. *As it concerns the enlargement and preservation of the home market, for Louisiana sugar and molasses.*—We possess, said Mr. B., an extensive region on the lower Mississippi, adapted to the production of these articles. Our laws have fostered and cherished their cultivation. It is the duty of an American statesman—and especially the duty of a legislator from any part of the valley of the Mississippi, to preserve and augment this cultivation. I am an American legislator; I am from the valley of the Mississippi. I acknowledge the force of the obligation I have announced, and shall discharge it with pleasure. And here, Mr. President, when sugar is the subject of debate, I shall seize the opportunity which it offers to satisfy my fellow citizens of the lower Mississippi, that in any reduction or abolition of duties, meditated by me on the extinction of the public debt, no injury is intended, and so far as my voice and vote can go, no injury shall be done to the domestic cultivation of this great staple by them. In saying this, I retract nothing, I explain nothing, which I have heretofore said. I am no man to retract or explain. I stand upon my words, and abide their import; all I ask is the benefit of my own words. I say then, that in the event of a reduction of the duty on imported brown sugar, consequent upon the extinction of the public debt, that no injury is intended, and none will be done to the sugar planters of the lower Mississippi. This is an assertion; and as such I do not claim for it any peculiar deference in or out of this chamber; but far be it from me to leave such a question dependent upon assertion; and fortunately for me, it is a question not of politics, but of commerce; a question which depends, not upon argument, but upon facts and figures, a question in the exact sciences, in which the data being fixed, the result is inevitable and incontrovertible. The facts and figures then are these, that the price of Louisiana brown sugar in all our markets now is, and for years has been, as any price current will shew, from two to three cents lower than that of Havana brown of the same class; and that the product of the Louisiana plantations is less than fifty millions of pounds, while the importations from Havana and other West India islands, exceed seventy millions of pounds. Such are the data. Now for the results—and these are that the present duty of three cents a pound on foreign brown sugar, is more than enough for the purpose of protection; it is more than enough to prevent the foreign article from coming into competition with the domestic; it is more than enough to prevent the foreign article from underselling the domestic in our own market, and sinking the price of the domestic below the sum for which it can profitably be raised. It is now raised in great quantity, and sold at a great profit, at an average of two cents per pound below its foreign competition; the planter is satis-

fied and getting rich upon such sales. Let him remain satisfied and grow richer still. I will not disturb his satisfaction, nor diminish his price, or his profits, a single farthing. But he is not able to supply half the demand; we have to import seventy or eighty millions from abroad in addition to all that he can make; and for this great quantity we have to pay, in consequence of a duty of three cents per pound, an average of two cents in the pound, more than we pay him for what he can furnish. The effect is, that to the amount of one cent, or thereabouts, the duty is protective; to the amount of two cents or thereabouts, it is a revenue measure; taking so much out of the pockets of the people, putting it into the Treasury, and having no effect whatever on the price or sale of the Louisiana sugar. Here then is a tax upon the community to the amount of one half or two thirds of the whole sugar tax, to the amount of a million or a million and a half of dollars per annum, without the smallest advantage to the Louisiana planter, answering no other purpose but that of replenishing the Treasury, and when the Treasury shall no longer need it, a tax which will remain without one solitary reason for keeping it up to its present height, and against numerous and cogent reasons for reducing it. I therefore reiterate my declaration, that when the public debt is paid off—a consummation devoutly to be wished—an event achievable in five years, the duty on imported brown sugar may be reduced without injury to the Louisiana planter, and with sensible relief to the American people. I speak of brown sugar, (in which description is comprehended mascabado\*) and which is dutied at three cents a pound, and not of clayed sugar, which is dutied at four cents. The former is no better than the Louisiana, the latter is. The former is used by the poor, the latter is not. It is on the brown, which includes mascabado, that the duty is more than enough for protection, and may be reduced—how much it may be reduced, must depend upon the relative prices of the foreign and domestic article, when the reduction may be attempted. Future price currents must decide that question. What I commit myself to, is the principle which should govern the decision, namely, that the duty should be reduced to a duty of protection, when no longer needed for the purposes of revenue.

Having finished this exposition, Mr. B. said he was very far from being an enemy to Louisiana, as some late publications in that quarter might lead the uninformed to believe. During the seven years that he had sat in the Senate, he had given a laborious and cheerful attention to all the bills which concerned her welfare, or that of her individual citizens, not only in votes and speeches on this floor, but in the less ostentatious, and perhaps more useful investigations of the committee room. His will to serve her, was not limited to the peaceful business of legislation. He had been ready to serve her in arms and in battle. He had raised a regiment of Tennessee volunteers, and led it to Natchez in the first expedition of General Jackson to the lower Mississippi, in the winter of 1812-13, when the British were expected at New Orleans, but did not come. Even now, in this very moment, in the moving of this additional duty on molasses, he was giving a fresh proof of his regard for Louisiana, for if the motion succeeded, that State would have a new market opened in New England, for the consumption of her sugar and molasses, more than equal to the amount of her present crop.

Having placed the equity of his proposition, (to carry the duty on molasses to sixteen cents per gallon,) on ground which seemed to him to be inattaackable, Mr. H. next took a brief view of the objections which might be

\* An inferior kind of brown sugar, always selling at a less price, exclusively used by the poor, and corruptly called mascabado. The duties on sugar are: on brown, (including mascabado) 3 cents per lb; on clayed, 4 do.; on lump, 10 do.; on loaf, 12 do.

MAR 12, 1828.]

Tariff Bill.

{SENATE.

made to it, as comprehended from the course of previous debates. These were :

1. That the molasses were consumed by the poor in New England, and ought not to be taxed high.

2. That they were used in distillation for the manufacture of rum.

3. That they were necessary, as a return cargo, to keep up the New England trade to the West Indies in fish and lumber.

To each of these objections Mr. B. gave a brief answer.

To the first—that brown sugar was used by the poor in other parts of the Union in the same way that molasses was used by the poor in New England ; that the consumers of sugar now paid nearly six times as much duty as the consumers of molasses ; and under the provision of the bill, as it stood, would still pay nearly three times as much ; and that fair and impartial justice required that the burthen of supporting the government should be more equally distributed.

To the next—that the proportion of molasses distilled into rum, in the New England States, did not exceed the one-fifth part of the quantity imported ; and that to this extent it was entitled to no favor ; that the rum when made was inferior in flavor and wholesomeness to spirits made of grain ; and that being made of a foreign material it had no right to come duty free, or subject to inadequate duty, into a country abounding with grain, to diminish the demand for whiskey, and consequently diminish the demand for grain, and lessen its value, out of which the whiskey was made.

To the third objection, he replied that it was neither his wish nor intention to diminish the trade of New England to the West Indies in the articles of fish and lumber, nor could his proposition, if carried into a law, have that effect. It might diminish the profits on the return cargo, but could not diminish the trade itself. The demand for fish and lumber would still be the same ; the molasses to pay for them, would still be ready ; the only effect would be that this molasses would pay more duty than formerly, but not as much as it ought to pay, and not as much, by one-third, as the rest of the Union paid on the article for which it was a substitute. Besides, the return cargo might be changed into brown sugar ; and then the farmers of the valley of the Mississippi, who sent beef, pork, corn meal, flour and whiskey to the West Indies, would be on a level with the New England people who sent fish and lumber there. Both would have a return cargo subject to the same tax on arriving in the United States. At present the tax was unequal ; and operated partially in favor of the citizens of New England. The brown sugar paid a duty of nearly one hundred per cent ; the molasses, at five cents a gallon, had only paid a duty of 15 per cent ; at ten cents it would only pay 30 per cent ; and even at the rate proposed by him, to wit, 16 cents, it would only pay about 50 per cent ; a rate of duty little more than half of what this bill, in the article of woollen goods, imposes upon the Western, Southern, and middle States, for the benefit of New England.

Mr. B. concluded with a compliment to the vigilance, sagacity, perseverance, and unity of action, which had enabled the New England members, heretofore, to appropriate to themselves all the benefits, and leave to others all the burthens of the different tariffs. He did not blame them for it. Their paramount duty was to their constituents, and they discharged that duty with a zeal and assiduity worthy of all praise. But he should blame himself if he did not profit from their example. His paramount duty was to the people of Missouri ; and this duty required his best exertions to protect her staples, and to equalize, if possible, the burthens and the benefits of the present tariff. This was all that he was aiming at, either in the present motion, or in the motions

made, or to be made by him ; and he wished it to be so understood by all concerned.

Mr. WOODBURY briefly opposed the motion of Mr. BENTON ; when, the question being put, it was decided in the negative.

Mr. BENTON moved to strike out the duty on woollen blankets. In support of this motion, Mr. B. observed, that blankets were an article of necessity, required by every body ; but mostly by the poorest people. They were also required for slaves and Indians, and, indeed, no class could do without them. There had always been a distinction between the duty on blankets and other woollen goods, in the various tariffs, on the ground that they were of prime necessity. There was another reason which might be urged for removing this duty. It was, that the manufacture was not competent to the supply of the consumption of the country, and, as the duty would only benefit a few individuals, while the poorer classes suffered in proportion—as the Senate had refused to put any further duty on wool, he thought it would be but reasonable to take off the duty on blankets. Another reason in favor of this motion, was, that blankets were essential in the Indian trade. At present, the British brought them across the lines, while they also introduced their furs into this country free of duty. This was very bad policy : for, had these furs been taxed 37½ per cent., the revenue would have gained a million of dollars, and our trade have received ample protection. If the duty was continued, it would be a great injury to the revenue, and act, besides, as a heavy imposition on the poorest class of our community. He should be glad if the Chairman of the Committee on Manufactures would give the amount of the manufacture of the article in this country, and its increase since 1824. The duty was not such as was given to the grower, when a paltry protection was extended to him, which was always gradual, but came down *instantly* upon the consumer.

Mr. SMITH, of Maryland, wished to know whether the manufacture had increased since 1824. At that time Congress laid a duty of 25 per cent. on the article, and he wished to know what had been its effect.

Mr. DICKERSON said he did not think the manufacture had increased to a very great extent. But the country was amply capable of producing the whole of the consumption.

Mr. SMITH, of Maryland, made some further remarks, to show that the duty levied in 1824, had not operated effectually to increase the manufacture of blankets.

Mr. EATON opposed the motion, and read a statement of a Commissary, to shew the operation of the duties of 1824, on the price of the article, from which he argued, that a beneficial effect had been produced by the duty. The price had very sensibly decreased within a few years, which, he believed, must have been produced by the competition in our country, and the increase of the manufacture.

Mr. SMITH, of Maryland, made a few remarks in reply, attributing the fall of the prices, as was understood, to the reduction, by Great Britain, of the tax on wool imported into that country.

The question being then taken on the proposed amendment, it was negatived.

Mr. BENTON moved to amend, by inserting a provision laying a duty on furs, of all kinds, of 33½ per cent. according to the value.

Mr. BENTON remarked, that, when he proposed this duty, formerly, it was supposed that it would injure the manufacture of hats. But as one ounce of fur only was now put into a beaver hat, this duty would make but 8½ cents addition on each hat, while the revenue would be one hundred thousand dollars. He hoped the manufac-

SENATE.]

Tariff Bill.

[MAY 12, 1828.]

turing interest would not spring forward to prevent so important a provision.

The question being taken, it was decided in the negative.

Mr. BENTON then moved to amend the bill in the 3d section, by adding to the duty on hemp "ten dollars per ton, annually, until it amounts to ninety dollars;" which motion was decided in the negative.

Mr. WOODBURY moved to amend the bill, by inserting, "on all manufactures of silks, from beyond the Cape of Good Hope, 30 per cent., and on all manufactures of silks, from countries this side of the Cape, 20 per cent. ad valorem."

Mr. WOODBURY said, the effect of this motion would be, to leave the duty as it now was on the manufactures of silk this side of the Cape of Good Hope. But, on those from beyond that Cape, it raised the duty five per cent. At this period of the session, he would occupy the attention of the Senate only a few minutes in stating the probable effect of the amendment, should it prevail. By the change of duty, the whole impost on silks, annually, would be somewhat raised for a time. This might increase the zeal already excited in this country for the culture of silk, and thus tend to encourage enterprise, and improve skill. Should the change alter in time our importations, and introduce into the market more of the silks of Europe, and less of those from India and China, till the former entirely engrossed the market, the effect would prove highly beneficial both to our agriculture and navigation. The commercial men in this body were very conscious that the discrimination in duty of five per cent. between silks from India and Europe, introduced in the tariff of 1824, had very considerably augmented the importations of those manufactured nearest home. Without troubling the Senate with a statistical detail, the year ending in September, 1826, exhibited an importation of almost five millions worth of this article from Europe, and of only a little more than three millions from beyond the Cape of Good Hope. All who heard him, and had reflected on the subject, were aware that the silks from India were paid for mostly in specie, and employed but little navigation directly, while those from Europe were chiefly obtained in exchange for cotton, tobacco, and other staple articles of agriculture, and gave occupation directly to a much larger amount of tonnage. Another effect would probably be, that the duty on some of these articles abroad would be lowered, with a view to reciprocate our friendly discrimination in favor of European silks. From one Power especially, and that was France, we might not only hope this; but it would give to her some substitute for the diminution occasioned by other parts of this very bill, in our present trade for woollens from that country. Should any objection be made to an increase of this impost, it might also be replied, it was a tax on what was in some degree a luxury, and chiefly used by the wealthy, while this same bill taxed very highly a great number of the first necessities of life, used by the humblest classes of society. He would only add, at this time, that the change now proposed was in exact conformity with the recommendation of the Committee on Manufactures, in 1824; and the experience of three years had shown the benefits of the discrimination so fully, that no further argument was wanted, he thought, to verify their recommendation in its fullest extent, and induce us to make the whole discrimination then advised, not only by the committee, but by the Chamber of Commerce in the first commercial city in the Union.

Mr. SILSBEE made a few remarks.

Mr. DICKERSON said, it appeared that the object of the amendment was to increase the discrimination. He agreed that the effect had been to reduce the amount of silk imported from beyond the Cape of Good Hope,

and he thought that the present duty was producing the change so rapidly, it was not necessary to increase the discrimination.

Mr. WEBSTER rose to make a single remark, as to the operation of the discrimination, and to propose to the gentleman from New Hampshire to fix some period at which the additional duty should commence, or it would operate severely on the merchants whose ships had already been sent to the East Indies for silks. The importers of this description of goods might suffer great loss, unless the amendment were so modified as not to go into effect until a period late enough to save their orders, already sent, from its operation.

Mr. SMITH, of Maryland, made a few remarks in relation to the importance of our trade with France. He considered it to be our interest to be on the best terms with that country, as she took our articles in return—and it was but fair to give to her an advantage, in the silk trade, over China, where we were obliged to pay specie—although he had wondered that our merchants did not export cotton to the latter country, as the experiment had been made successfully in one instance, which he mentioned.

Mr. BENTON was decidedly in favor of the proposed amendment. He was in favor of this discrimination, when it was proposed in 1824, and the beneficial effects produced by the discrimination of five per centum, imposed at that time, encouraged him to carry the principle to the point now proposed. At present we got our chief supplies of silks from France, England, and the East Indies. From the latter place, we purchase for gold and silver; from the two former, for the products of our soil. We pay for French and English silks in cotton, rice, and tobacco; and our statistical tables show us, that our exports, in these articles, to one of the European Powers, France, has increased nearly three fold since 1824. It is the part of a wise and prudent policy to keep that increase on the rise; and the doubling the discriminating duties in favor of European silks, will contribute to effect that object. So much for agriculture. On the other hand, the navigating interest will be benefitted by the same policy. It takes but little tonnage to carry the gold and silver to China, which brings back, say three million dollars' worth of silks; but it would require at least 30,000 tons of shipping, the freight on which would be worth \$400,000, at a cent and a half per pound, to carry as much cotton to France or England as would purchase the same amount of silks in those countries. Thus the interests of commerce, of agriculture, of the land holder, and ship owner, are both concerned in fostering the silk trade with France and England, in preference to that from beyond the Cape of Good Hope; and every interest is concerned in promoting a trade which consumes the products of the country, in preference to one that carries off its gold and silver.

Mr. WOODBURY modified his amendment on the suggestion of Mr. WEBSTER, so as to make its operation commence on the 3d day of June, 1829.

The motion was then agreed to.

Some discussion arose on a suggestion of Mr. WEBSTER, to strike out that portion of the bill subjecting all invoices of goods to the decisions of appraisers, in which Mr. WEBSTER and Mr. SANFORD took part. Mr. W. did not then press his motion.

Other verbal amendments were made in the bill, to make it correspond with the amendment last adopted.

Mr. SMITH, of South Carolina, moved to amend the bill, by striking out the 10th, 11th, 12th, and 13th lines of the 3d section, which embraced the duty on cotton bagging, for which he gave, as one of his reasons, the fall in the price of cotton; since the duty had fallen so that it was felt severely by the planters.

MAY 13, 14, 1828.]

Tariff Bill.—Deported Slaves.

[SENATE.]

The motion was rejected.

Mr. TAZEWELL moved to amend the bill, by striking out the duty on steel, lead, leaden shot, litharge, orange mineral, and sugar of lead.

Mr. T. said, that he had made the proposition for the purpose of making a single remark in opposition to the duty. All the lead mines in this country, of any value, were the property of the United States. It seemed to him an extraordinary policy that the Government should increase the duty for the purpose of adding to its own profits. He had raised the question in order that it might be settled whether it was proper that the Government should tax the People in this manner for its own profit.

The question being put on the motion of Mr. T., it was decided in the negative.

Mr. BENTON moved to amend the bill by levying a duty on oranges, limes, and lemons, as he observed, to protect the products of Florida; which was rejected.

Mr. BENTON also moved to amend, by levying a duty of 50 per cent. ad valorem, on olives, sweetmeats, and castor oil; which was rejected.

Mr. FOOT moved to amend the bill by striking out the duty on imported spirits; which was decided in the negative.

Mr. SILSBEE moved to insert a duty on imported umbrellas. [Mr. S. also presented a memorial of manufacturers of the article, praying for an additional duty.] The motion was not agreed to.

Mr. SMITH, of Md., moved that the date "30th of June" be stricken out, and the "1st of September" inserted, (the time at which the bill goes into operation;) which was decided in the affirmative.

Mr. JOHNSON, of Kentucky, moved to amend the bill, by adding a proviso exempting all books, tracts, &c. for Bible and other religious societies, from the payment of the duties on such articles; which was rejected.

Mr. WEBSTER moved to amend the bill, by striking out that portion of the 8th section, which points out the duty of the appraisers, and empowers them to fix upon the value of importations independently of the invoices.

On this motion discussion arose, in which it was opposed by Messrs. DICKERSON, BARNARD, VAN BUREN, and SANFORD, and supported by Mr. WEBSTER.

The yeas and nays having been ordered on motion of Mr. VAN BUREN, the question was decided in the negative.

Mr. WOODBURY proposed the following amendment in relation to the duty on molasses: add at the end of 3d section, 20th line, the following words: "except such as the holder thereof shall give sufficient bond shall not be distilled; and, on all such, 5 cents per gallon."

The motion was negative.

The question then occurred on ordering the bill to a third reading, and the yeas and nays having been ordered, it was decided in the affirmative, by the following vote:

YEAS.—Messrs. Barnard, Barton, Bateman, Benton, Bouigny, Chase, Dickerson, Eaton, Foot, Harrison, Hendricks, Johnson, of Kentucky, Kane, Knight, McLane, Marks, Noble, Ridgely, Rowan, Ruggles, Sanford, Seymour, Thomas, Van Buren, Webster, Willey.—26.

NAYS.—Messrs. Berrien, Branch, Chambers, Chandler, Cobb, Ellis, Hayne, Johnston, of Louisiana, King, McKinley, Macon, Parris, Robbins, Silsbee, Smith, of Maryland, Smith, of South Carolina, Tazewell, Tyler, White, Williams, Woodbury.—21.

TUESDAY, MAY 13, 1828.

## THE TARIFF BILL.

The bill making alterations in the several acts imposing duties on imports, was read a third time, and on the question, Shall the bill pass?

VOL. IV.—50

Mr. HAYNE spoke at length in opposition to the bill, and entered a solemn protest against it, as a partial, unjust, and unconstitutional measure, and concluded by moving an indefinite postponement of the bill; on which the question being taken by yeas and nays, it was decided in the negative, by the following vote:

YEAS.—Messrs. Berrien, Bouigny, Branch, Chambers, Chandler, Cobb, Ellis, Hayne, Johnston, of Lou. King, McKinley, Macon, Parris, Smith, of Md., Smith, of S.C. Tazewell, Tyler, White, Williams, Woodbury.—29.

NAYS.—Messrs. Barnard, Barton, Bateman, Benton, Chase, Dickerson, Eaton, Foot, Harrison, Hendricks, Johnson, of Ken. Kane, Knight, McLane, Marks, Noble, Ridgely, Robbins, Rowan, Ruggles, Sanford, Seymour, Silsbee, Thomas, Van Buren, Webster, Willey.—27.

Mr. WEBSTER replied briefly to Mr. HAYNE.

Mr. BENTON read some statements to shew that the duties of 1824 had not been of any benefit to the agriculturist.

The question then occurring on the passage of the bill, and the yeas and nays having been ordered, it was decided in the affirmative, by the following vote:

YEAS.—Messrs. Barnard, Barton, Bateman, Benton, Bouigny, Chase, Dickerson, Eaton, Foot, Harrison, Hendricks, Johnson, of Ken. Kane, Knight, McLane, Marks, Noble, Ridgely, Rowan, Ruggles, Sanford, Seymour, Thomas, Van Buren, Webster, Willey.—26.

NAYS.—Messrs. Berrien, Branch, Chambers, Chandler, Cobb, Ellis, Hayne, Johnston, of Lou., King, McKinley, Macon, Parris, Robbins, Silsbee, Smith, of Md., Smith, of S. Carolina, Tazewell, Tyler, White, Williams, Woodbury.—21.

So the bill was PASSED, and returned to the House of Representatives, for concurrence in the amendments.

[The debate on the Tariff Bill in the Senate is very limited, the Editors not having been able, from circumstances beyond their control, to procure the remarks of all the gentlemen who engaged in the debate. Such portion of the prominent speeches on the bill, as were in their possession, are given in the preceding pages, no part of which did they feel themselves at liberty to withhold.]

WEDNESDAY, MAY 14, 1828.

## DEPORTED SLAVES.

On motion of Mr. JOHNSTON, of Louisiana, the message and amendments from the other House, of the bill for the settlement of claims for slaves, under the first article of the treaty of Ghent, were taken up, and the proviso, offered by Mr. JOHNSTON, to allow the taking of evidence until the first of July, being under consideration, Mr. J. spoke at considerable length in defence of its object; and, in conclusion, withdrew it, substituting therefor an amendment for the same purpose, but which was not subject to the objections which had been made to the other, that it would dictate to the commissioners any particular course in the performance of their duty. Mr. J. then offered an amendment authorizing the commissioners to receive all testimony presented to them, in proper form, previous to the first day of July next, provided that notice of the testimony which they intend to offer shall be given by all individuals, within three days after the passage of this bill.

Mr. TAZEWELL opposed the motion, on the ground that it would be out of order to amend the amendment reported from the other House, as it was a proposition merely in relation to time, as it was an alteration of the time at which the commission should expire, from the 30th November to the 1st of September. He submitted to the Chair the question whether the amendment was in order.

The CHAIR said it was not parliamentary; but it was not competent to the Chair to decide.



SENATE.] *Internal Improvements.—President Pro tem.—Ches. and Ohio Canal.—Land Claims.* [MAY 15, 16, 1828.]

Mr. TAZEWELL asked if there was no mode by which the Senate could not act upon the motion.

The CHAIR said that it was competent to the Senate to decide upon it on the ground of incongruity.

Mr. BERRIEN then rose, and expressed himself at considerable length in favor of the motion.

Mr. TAZEWELL replied at great length, and insisted on the point of order which he had previously urged, also opposing the object of the motion as imposing a duty on the commissioners.

Mr. FOOT said the question appeared to be one of parliamentary practice, and he thought the Senate not competent to amend the amendment. The only way in which a modification could be obtained, would be for the Senate to disagree to the amendment, and then appoint a committee of conference.

Mr. JOHNSTON, of Louisiana, then withdrew his amendment, and moved that the Senate disagree to the amendment of the House, with the design of moving the appointment of a committee of conference.

Mr. TYLER observed that he had, several days since, moved that the Senate concur in the amendment of the House of Representatives.

Mr. CHAMBERS spoke at some length in opposition to the proposition of Mr. JOHNSTON.

On motion of Mr. BERRIEN, the yeas and nays were ordered on the motion of Mr. TYLER to concur in the amendment of the House of Representatives.

Mr. TYLER read a letter from the commissioners to the Hon. Charles A. Wickliffe, of the other House, in support of his motion.

Mr. BERRIEN also made some further remarks opposed to the motion of concurrence, when, the question being put, it was decided in the affirmative.

#### INTERNAL IMPROVEMENT.

Mr. McLANE, from the committee of conference on the amendments of the Senate to the bill for internal improvements, reported the following resolutions, agreed to by the managers of the two Houses, respectively:

1st. *Resolved*, That the Senate adhere to the fifth amendment.

2d. *Resolved*, That the Senate recede from all that part of the third amendment, after the word "expenses," in the first line, and that the same be modified in such manner as to read as follows: "For defraying the expenses incidental to making examinations, under the act of 30th April, 1824, \$30,000, provided that this appropriation shall not be construed into a legislative sanction of any examinations or surveys which shall not be deemed of national importance, and within the provisions of the aforesaid act of 30th April, 1824."

On motion of Mr. COBB, the question was divided so as to be taken on the resolutions separately.

The first resolution was then agreed to.

Mr. CHAMBERS moved to lay the resolution on the table; which was rejected.

The question then occurring on the second resolution, it was agreed to by the following vote:

YEAS.—Messrs. Barnard, Barton, Benton, Bouigny, Branch, Chambers, Chase, Dickerson, Eaton, Harrison, Hendricks, Johnson, of Ken. Johnston, of Lou. Kane, King, McKinley, McLane, Noble, Ridgely, Robbins, Rowan, Ruggles, Sanford, Seymour, Smith, of S. C. Tazewell, Willey.—27.

NAYS.—Messrs. Bateman, Chandler, Cobb, Foot, Hayne, Smith, of Md. Macon, Parris, Tyler, Van Buren, White, Woodbury.—12.

THURSDAY, MAY 15, 1828.

#### PRESIDENT PRO TEMPORE.

The Secretary having given notice of the absence of the Vice President from the Chair, the Senate proceeded to the election of a President pro tem.; and a ballot

having been taken, Mr. MACON was declared to have been elected.

Mr. MACON rose, and returned thanks to the Senate for the honor conferred on him; but wished to decline serving.

Mr. TAZEWELL then moved that Mr. MACON be excused from serving as President pro tem. This motion having been agreed to, nem con., another ballot was taken, and the vote stood as follows:

Mr. SMITH, of Maryland,	26
HARRISON,	13
Scattering,	5

So Mr. SMITH, of Maryland, was duly elected; and, having been conducted to the Chair, by Messrs. MACON and HARRISON, briefly addressed the Senate; making acknowledgments for the confidence which had been reposed in him, and the honor conferred upon him, and which had been entirely unexpected on his part. It was so long since he had occupied the Chair, that his knowledge of the rules of order were, perhaps, less perfect than, from the length of his service in Congress, might be supposed, and he might often ask for the aid and forbearance of his fellow-Senators; but he could assure them that he should discharge the duty of the Chair with fidelity and impartiality.

#### CHESAPEAKE AND OHIO CANAL.

The bill from the House to authorize the Corporations of Washington, Georgetown, and Alexandria, to subscribe for stock in the Chesapeake and Ohio Canal, was read, and, on the question of ordering it to a second reading, it was decided in the negative, 12 to 13.

The bill from the other House to abolish the office of Major General of the Army of the United States, was read, and ordered to a second reading.

Mr. ROWAN moved the reconsideration of the vote on the second reading of the bill authorizing the Corporations of Washington, Georgetown, and Alexandria, to subscribe for stock in the Chesapeake and Ohio Canal.

Mr. WEBSTER advocated the motion to reconsider, and expressed a hope that the bill would go to a committee.

Mr. EATON explained the bill, and said that the property of the corporations stood pledged for the payment of the subscriptions.

Mr. CHAMBERS observed, that this bill would be important or not, according to the decision of the Senate on another bill, which would probably soon come before them. If that bill should pass, this bill would be absolutely necessary, to enable the company to go on. The object of that bill could not be carried into effect without this. He presumed that no friend of the measure would ask the Senate to act on this bill, should the other be rejected. He trusted, therefore, that they would not strike a fatal blow to the measure, by staying this bill here.

Mr. McLANE expressed himself in favor of the reconsideration, although he would not pledge himself to vote for the main bill.

Mr. NOBLE considered it peculiarly hard, that Congress could not let the people of the District of Columbia crawl out of their nut-shell, or enjoy any of the benefits of internal improvement, in common with other parts of the country. He was in favor of giving to the people of this district, the benefits of the system, and thought they ought not to be bound down, while Congress was called the local Legislature. He hoped the motion to reconsider would be adopted.

The question was then put and carried.

The bill was read a second time, and referred to the committee on the Judiciary.

FRIDAY, MAY 16, 1828.

#### PRIVATE LAND CLAIMS.

On motion of Mr. BERRIEN, the bill to continue in force for a limited time, and to amend the act to enable

MAY 17, 19, 20, 1828.] *Revolutionary Pensioners.—Navy Yard between Cape Hatteras and Florida.* [SENATE.]

claimants to lands within the State of Missouri, and Territory of Arkansas, was taken up; and, after having been discussed at length, by Messrs. HERRIEN, VAN BUREN, BENTON, BARTON, and MACON, the question occurred on engrossing the bill; and being taken by yeas and nays, was decided in the negative.

#### BREVE' RANK.

The bill to abolish Brevet rank in the Army of the United States was read a second time.

Mr. WEBSTER expressed a desire to hear the reasons for this measure.

Mr. HARRISON replied, and read a report upon the subject. The number of Breveted Officers in our Army was very great, so much so, that the system was considered an evil by the officers themselves. The bill would have no effect on officers already Breveted, or on those who were now entitled to Brevets. He observed that the task which had been imposed on him as Chairman of the Committee on Military Affairs had been a very disagreeable one; as, take whatever course they might, it was not supposed that they could give entire satisfaction.

Mr. WEBSTER said, that the subject was new to him; and he thought it required consideration. As he understood the gentleman, the bill had the same effect on those who had served ten years, as on those who were entitled to a Brevet for the gallantry of their exploits. He saw the difficulty of the subject which had been mentioned by the gentleman from Ohio. It might be that those who were already Breveted were of opinion, that the system should be done away. But what do those under them say? This wanted inquiry. He hoped, unless the gentleman from Ohio saw a prospect, which he, (Mr. WEBSTER,) did not see, that this bill will pass into a law this year, that he would allow it to lay over. He then moved to lay the bill on the table, but withdrew it.

On the request of Mr. HARRISON, who expressed a willingness to lay the bill on the table, as another bill was in a measure connected with it, which he should have called up this morning, but from an error, no printed copy being on the table. [Mr. H. was understood to allude to the bill from the other House, to abolish the office of Major General in the army of the United States.]

Mr. CHANDLER remarked, that the present bill would not touch those officers who were entitled to Brevet rank for actions in the field. He hoped, if the bill was laid on the table, it would be called up to-morrow, as the difficulty occasioned by the present system was accumulating every year; and as a short time only would be taken up in considering the bill, he thought it might be acted upon this year.

Mr. WEBSTER then renewed his motion, and the bill was laid on the table.

SATURDAY, MAY 17, 1828.

The Senate was occupied the best part of this day's sitting in discussing a bill in alteration of the act establishing a Sinking Fund; which was finally laid upon the table, for want of time, during the session, to give to its provisions a proper consideration.

MONDAY, MAY 19, 1828.

#### REVOLUTIONARY PENSIONERS.

The bill from the other House, for the relief of sundry Revolutionary Officers and Soldiers, and Widows, was read; and, on the question of reading a second time—

Mr. NOBLE objected to the second reading, and consequent reference to the Pension Committee, on the ground that there was not time to examine the various claims comprised in the bill, previous to next Monday

night. The House had sent this bill at a late period. It was true they had been employed in other things. He did not take upon himself to say whether their time had been well employed or not. But now they came out with love and charity overflowing. At this late hour they hurry through this bill; and every man who has ever been where a gun was fired, is put on the pension list. He had been last year accused of slighting these claims. It went forth in the newspapers, which charged him of abusing the officers of the Revolution. The charge was unjust. He only wished to do his duty understandingly, and, if it took six months for the other House to mature their opinions, how could it be supposed that the Senate could do it in six days? The Committee on Pensions did not wish to stick their fingers into the Treasury at hap-hazard; which they must do, if they acted upon this bill this session: for it was impossible to go through with the examination. He, therefore, moved that it lay on the table; but withdrew his motion on the suggestion of

Mr. WEBSTER, who said he did not wish this claim passed over without some reason being assigned. He thought it better to let it have a reference, and afterwards, if the committee found difficulty in investigating the subject, it could then be laid on the table.

Mr. COBB said, the committee knew now, as well as they could hereafter, that it was out of their power to examine this bill during the present session. The cases comprised in it were all peculiar, being those of individuals who could not be placed on the pension list, under the pension law. And it was not in the power of the committee satisfactorily to investigate one hundred and fourteen cases, before the day of adjournment, even if they should sit during the sittings of the Senate.

Mr. CHAMBERS would regret that the bill should be laid on the table. It provided for individuals who were poor; and many of them would, probably, never have an opportunity of again applying for the benefit of this bill. He should regret that their claims should not be examined by the committee.

Mr. NOBLE said, that, to show that the committee were not unwilling to do their duty, he would withdraw his motion.

Mr. CHAMBERS said, that, to obviate the difficulty which seemed to be apprehended, the committee might report on those claims against which there was no objection, and those might be acted on; which would be preferable to postponing the whole.

The bill was then read a second time by its title, and referred to the Committee on Pensions.

TUESDAY, MAY 20, 1828.

#### NAVY YARD BETWEEN CAPE HATTERAS AND FLORIDA.

The following resolution, submitted yesterday, from the Committee on Naval Affairs, was taken up for consideration, viz:

“Resolved, That the Secretary of the Navy be directed to report to Congress, at their next Session, whether the establishment of a Navy Yard, for the construction and repair of vessels of war, or a Depot for the collection of ship timber, at some point on the coast between Cape Hatteras and Florida, would be advantageous to the public service: And that he do also report to the Senate all the information in possession of the Department, showing the facilities afforded for such an establishment by Charleston and Beaufort, (South Carolina,) and Savannah, Brunswick, and St. Mary's, (Georgia,) together with the expense of creating the same.”

Mr. HAYNE said, that, upwards of four years ago, he had called the attention of the Senate to the subject of the establishment of a Navy Yard at Charleston, in South Carolina. He believed then, and had not changed his

SENATE.]

*Chesapeake and Ohio Canal.*

[May 20, 1828.]

opinion since, that such an establishment would be extremely convenient to the Navy, especially to that portion of it which was employed on the West India station—generally composed of sloops of war and schooners. To these vessels, it would be a matter of great convenience to have a Navy Yard at some point between Cape Hatteras and Florida Cape, to which they could resort, not only for naval stores, but for necessary repairs. Mr. H. said, he was satisfied that the efficiency of our squadron, on the West India stations, and true economy, too, would be promoted by such an establishment. He was likewise well satisfied that, from the superior quality and greater cheapness of timber, and from other advantages, the interests of the service would be advanced, by building vessels of an inferior class at some convenient point on the Southern coast. Influenced by these considerations, and believing, moreover, that it was very desirable that a portion of the immense revenue collected at the South should, if possible, be expended there, on objects of national importance, he felt it to be his duty to submit the resolution of which he had spoken, very soon after he became a member of the Senate. But, though he had not lost sight of the object for one moment since, and had always improved every opportunity to urge it, he had never yet been able to arrive at a point, at which he could obtain even a decision on the subject. He knew, of course, when he first undertook to move in the business, that Congress would not act without an inquiry by the Naval Committee of the Senate, nor without a report from the Navy Department, on the practicability and expediency of this measure.

His first step, therefore, was to institute such an inquiry. The committee would not act without the opinion of the Department, and the Department would not act without a survey and examination. All, therefore, that he could accomplish, (and that was not easily effected) was the passage of a law directing a survey of the harbor of Charleston, for the purpose of ascertaining the practicability and expediency of establishing a Navy Yard there. It was nearly two years before the survey directed by that act was completed, and the report submitted to Congress. At this stage of the business, said Mr. H., and at the very moment that I indulged the hope that I should at length obtain a decision on a subject so deeply interesting to my constituents, the claims of our sister city, Savannah, were interposed; and the question was presented, whether Savannah or Charleston was best adapted to the purpose of a Naval establishment? The claims of Beaufort, Brunswick, and St. Mary's, were also, soon after, interposed, and new surveys were ordered. Though most of these surveys have been completed, the Senate has not, to this hour, been furnished with the results of the whole. In the mean time, a second petition has been presented from the city of Savannah, and the Committee on Naval Affairs, finding themselves still without the information necessary for a final decision on the subject, have directed me to submit the resolution which has just been read. Mr. H. said, that he would, in conclusion, only remark, that all that he desired, or could ask, was, that the proper department of the Government should (as soon as the reports were all made) candidly consider, and finally decide, whether, on account of any, or all, of the considerations he had stated it was not just and proper that a Navy Yard, or depot, for supplies, should be established at one of the places mentioned in the resolution; and, should that be decided on, he would be perfectly willing that the claims of Charleston should be compared with those of Savannah, St. Mary's, Brunswick, and Beaufort, and that an impartial decision should be made among them.

The resolution was then agreed to.

#### CHESAPEAKE AND OHIO CANAL.

Mr. HENDRICKS moved to take up the bill to amend and explain an act, entitled "An act confirming an act

of the Legislature of Virginia incorporating the Chesapeake and Ohio Canal Company;" and an act of the State of Maryland, for the same purpose: the object of which having been explained by him, he asked the yeas and nays.

On this motion considerable debate took place, in which Messrs. DICKERSON, FOOT, HAYNE, and SMITH, of South Carolina, opposed it; Messrs. WEBSTER and McLANE desired that it should be taken up to-morrow; and Messrs. HARRISON, HENDRICKS, and NOBLE, advocated the present consideration of the bill.

The question being then put on considering, it was agreed to, as follows:

YEAS.—Messrs. Barnard, Barton, Bateman, Boulogay, Chambers, Chase, Eaton, Harrison, Hendricks, Johnson, of Kentucky, Johnston, of Louisiana, Kane, McKinley, Marks, Noble, Ridgely, Robbins, Ruggles, Seymour, Silsbee, Smith, of Maryland, Tazewell, Thomas, Tyler, Webster, Willey.—26.

NAYS.—Messrs. Benton, Berrien, Branch, Chandler, Cobb, Dickerson, Ellis, Foot, Hayne, King, McLane, Macon, Parris, Rowan, Sanford, Smith, of South Carolina, Van Buren, Williams, Woodbury.—20.

Some documents were then read, on motion of Mr. HENDRICKS, explanatory of the act.

Mr. CHAMBERS made some explanations; when, the question being taken on ordering the bill to a third reading, the yeas and nays having been ordered, it was decided in the affirmative.

Mr. HENDRICKS moved to take up the bill to authorize the subscription to stock in the Chesapeake and Ohio Canal Company; on which he asked the yeas and nays.

Mr. COBB moved that the Senate go into Executive business; which was rejected.

Mr. SMITH, of South Carolina, rose to speak upon a question of order. The bill which had been already ordered to a third reading had not been passed, and he thought it improper to consider the question of subscribing to stock in a company before its charter was granted.

Mr. CHAMBERS said he would merely correct a mistake in facts, which the gentleman from South Carolina had fallen into. The charter had been granted by a former Congress, and the bill which had been ordered to a third reading, only provided for its modification in certain particulars.

The question being then taken, it was decided in the affirmative.

Mr. HENDRICKS, in reply to some remarks of Mr. SMITH, of South Carolina, observed that this was not a Western measure. Not one dollar would be expended west of the Alleghany mountains. So far from this being the case, by the express language of the bill, the canal was to terminate at Cumberland. This being the fact, it was not fair to argue that they were pressing Western measures, in preference to others, upon the notice of Congress. He did not, however, think, as others did, a long series of years would elapse before it would pass the Alleghanies. He believed that, in a few years, the stock of the company would become as valuable as that of the Erie Canal, and that it would be supported by subscriptions from every quarter. It had been assumed that this measure was commenced by Congress. This was not the case, as it had emanated from the Legislature of Virginia, which passed an act to incorporate the company in 1824. Since that period other confirmatory acts had been passed. Mr. H. here detailed the various acts in relation to the object under consideration. He then gave a succinct history of the various surveys, and their results, which were highly favorable to the project. He referred to the result of the Erie and Champlain canals; and expressed an opinion that the stock in the Che-

MAY 21, 1828.]

*Retrenchment Reports.*

[SENATE]

Chesapeake and Ohio Canal would become as valuable as in those works. He considered it highly important, as forming a bond of union between the East and the West. He read several documents to shew the nature of the work on the different sections, and the practicability of surmounting all the difficulties which the face of the country presented. The means for carrying the canal successfully into operation were within the reach of the company, if the assistance on the part of Government, provided for by this bill, should be granted. The subscriptions in the District of Columbia, of the three Corporations of Washington, Georgetown, and Alexandria, and of the State of Maryland, amounted to about three millions, while the largest estimate of the expense of the canal to Cumberland was only about four millions. Virginia had not yet subscribed, nor had Pennsylvania; and the former was deeply interested in the completion of the work. The subscriptions which he had mentioned were entirely contingent, and depended upon the passage of this bill. The importance of its passage at this time was very great; as, if this session was allowed to pass by, the spirit which had operated to obtain the subscriptions which had been already made, would have abated, and the work would consequently be discouraged and delayed. The canal was to pass through a country abounding in valuable products, and would be of vast utility to one of the richest portions of the Union; and, from the view he had taken of the subject, he was of opinion that, large as the dividends of the New York canals were, those of the Chesapeake and Ohio Canal, after having been as long in operation, would be still greater. As a means of uniting the feelings and interests of the East and the West, he considered it far more important than all the millions which could possibly be expended in its construction.

Mr. MACON observed that he had but a few words to say on this subject. He had said, some time since, that the Constitution was dead and gone, and he should not speak of the constitutionality of the measure. He should also say nothing of its effect upon the public debt, because a public debt was now considered a public blessing. He looked upon this bill in the light of a partnership to be entered into by the Government with a number of individuals; and, said Mr. M., before I enter into partnership with a man, I should like to know who he is, and what is his standing. I should ask, beforehand, is he able? is he good at the Bank? is his reputation fair? But Congress was about to go into this partnership without knowing who they are to be connected with. He thought the corporations of the District of Columbia were now sufficiently taxed without going into farther embarrassments. But the Government would have to bear the burthen, as in the case of the Cumberland Road, the expense on which would last as long as the Government itself. He had offered a resolution, in the early part of the session, on the subject of that road, but it had never been reported on. He wanted to get rid of the Cumberland Road altogether. But it was said that the work could not go on unless Congress subscribed the million; so that it appeared that the whole depends on getting the United States by the hand. They had but a few days since passed a most enormous tariff, which must have some effect on the revenue—to what extent he did not know; but, at any rate, it did not seem to be the time for entering into other grand projects. As to the canal stock in the State of New York, he thought it belonged to the State, and that there was no stockholders, which made quite a different case from this. He knew no other consideration on which it could be supported, but the design to keep up the public debt forever. That appeared to be the object. There were many reasons against the project; but he would only mention Pennsylvania was about to make another canal; Baltimore was

about making a rail-road which would affect the same section of country through which this canal was to pass; so that they would interfere with the subscriptions to stock in this company, and it would be a long time before subscriptions by private individuals, to any great amount, would be made.

He did not believe in artificial regulations to bind together the different sections of the country. They must be bound together by love. A durable public opinion cannot be bought. The moment you cease dealing out the price for this sentiment, it stops. Good will and a fellow feeling must do it. He was sorry to perceive that those who formerly voted with him, and who were able to discuss the subject, had, in this instance, abandoned their ground. He would trouble the Senate no further, and would now take his leave of it.

Some conversation here took place between Messrs. CHANDLER, HENDRICKS, and CHAMBERS, in regard to the documents relative to the bill, which Mr. HENDRICKS observed were very long, and that their reading would consume much time.

Further discussion took place, in which Messrs. CHAMBERS, COBB, and EATON participated, at considerable length.

Mr. CHANDLER suggested that the bill which had been ordered to a third reading this morning, ought to be passed before that now under consideration was acted upon. He, therefore, moved to lay this bill upon the table, in order that the other might be taken up, but withdrew it in favor of

Mr. KANE, who opposed the motion, and was followed on the same side by Messrs. CHAMBERS, RUGGLES, and NOBLE.

Mr. CHANDLER then renewed his motion to lay on the table; and the question having been taken by yeas and nays, it was negatived.

Mr. COBB then moved to amend the bill in the first section, seventeenth line, by striking out "half," so as to make it necessary for the stockholders of the company to pay in the whole of their assessments before the Government shall be required to advance its assessments.

This motion was opposed by Messrs. EATON, WEBSTER, and NOBLE; and supported by Messrs. COBB and BERRIEN, who suggested a modification, which was accepted by Mr. COBB, so as to make it requisite for the stockholders to pay the whole of their assessments, except those whose stock shall have been forfeited for non-payment.

Mr. KANE opposed the amendment as modified, as also did Mr. BENTON.

Some conversation took place between Messrs. CHAMBERS and COBB, when Mr. SMITH, of South Carolina, moved an adjournment.

WEDNESDAY, MAY 21, 1828.

The bill to confirm the act of the Legislature of Virginia, incorporating the Chesapeake and Ohio Canal Company, and an act of the Legislature of Maryland, was read a third time and passed.

#### RETRENCHMENT REPORTS.

Mr. BENTON moved that 3000 copies of the reports of the committee of the other House on Retrenchment, be printed.

Mr. KING said, that it was now late in the session, and if ordered to be printed, these documents would not come to the members before their franking privilege was over. It had been so last year. He had received several documents after his franking privilege was at an end, and he could not send them to those individuals to whom they would have been useful, without their being at the expense of postage, or paying it himself. He thought

SENATE.]

*Chesapeake and Ohio Canal.*

[MAY 21, 1828.]

the number moved was too large, and he would move to insert 1,500, instead of 3,000.

Mr. BENTON said, that, a long time since, he had thought, that, without any regard to persons, the two Houses ought to have their separate printers, and his reason for so thinking was, that one printer could not execute the work for both Houses with the speed that was required. As an illustration of this fact, he would remark, that the Commercial Report, being a statement of the tonnage, &c. of the country, had not formerly been printed until after the rising of Congress. But this year, it had already been printed several days. The consequence of there being two printers was, therefore, advantageous, so far, as the promptness with which the work was done was much increased.\* The documents which were now under consideration could, therefore, be printed before Senators went away, or would follow soon after them. These reports would, he believed, prove acceptable to their constituents, as the subject was one of great interest to the American People. They also had the peculiar merit of presenting both sides of the question pro and con. The motion to print 3,000 was then agreed to, on a division, 22 to 21.

#### CHESAPEAKE AND OHIO CANAL.

The unfinished business of yesterday was then taken up, being the bill to authorize the subscription to stock in the Chesapeake and Ohio Canal; the amendment offered by Mr. COBB on yesterday, still pending.

Mr. CHAMBERS asked the yeas and nays; which were ordered.

Mr. HENDRICKS remarked, that, in his opinion, if the amendment passed, it would operate as a serious injury to the measure, as it would have the effect to postpone the payment of the million subscribed by the Government, until all the instalments of the other stockholders were paid in.

Mr. COBB said, that it was not his design to destroy the bill, but to provide for the safety of the Government. They were going into a doubtful scheme. He would ask attention to the subscriptions for stock in this District. The amount was small—was contemptible—while not one single dollar was subscribed in Pennsylvania, nothing in Virginia, nor in Ohio—for the benefit of which this work was to be done—after all. The whole subscription was in the District of Columbia: and he believed that they were made for the purpose of being forfeited. He drew this inference from the subscriptions themselves. They presented but a beggarly account; and if the Senate would examine them, it would be found that the men of known capital and prudence were not among the subscribers. And he did not doubt, that, when the United States should come forward, they would immediately be forfeited, the object having then been gained. Another circumstance had been brought to his notice, this morning, which he thought of great importance. When they looked at the act of Maryland, it is stipulated that the million shall first be paid by the United States, before her subscriptions are to be considered binding. The act passed also by the State of Pennsylvania provided that the whole of its subscriptions should be expended within the limits of the State. If this was not done, the act was to be withdrawn, and to prove of no effect. Ought not these circumstances to make the Senate cautious in acting upon this matter? He had read the act this morning,

and he was strongly impressed with the conviction that it ought to lead the Senate to pause and consider well the plan to which it was giving aid. When he saw so much caution on the part of those States, and such doubt expressed by the conduct of the People of the District, he could not but think they should act with great deliberation. From what he had heard, he was now led to believe that it was not contemplated to carry the canal beyond Cumberland. If so, it would have to compete with the operation of the Rail Road, which was about to be built by the citizens of Baltimore, which would carry the produce to a better market. That Rail Road would touch the Potomac, and, to a great extent, supply to the People in its vicinity all the advantages of the Canal. It seemed that they were plunging in this business without the least reflection. To him, however, it did not seem a trivial matter. And, although the Senator from Tennessee, in his remarks of yesterday, spoke of a million of dollars very lightly, to him [Mr. C.] it did not seem in the same light. The times were too hard in his State, to allow him to think lightly of so heavy an expenditure as this bill proposed. He thought they ought to pause, convinced, as he was that there was not time at this period of the session to act upon it. This had been the most extravagant session that he ever recollected, and it would be seen that all those measures of Internal Improvement, the amount of which had been so vast, had their direction to the Western country. So much so, that it appeared to him that the scuffle had been to see which party should get the West. Such, he thought, had been too generally the system of legislation this session; and he did not think that the Representatives of the People were in that calm unbiassed state of mind which was requisite to sound legislation. He therefore thought this subject ought to be deferred, to come up next year, when it could be more fully understood.

Mr. HARRISON said, that the State he had the honor to represent, seemed to have a fatal name. The very sound of Ohio seemed to present a spectre to the minds of certain gentlemen. It was now said that this bill was to be passed for the good of Ohio. He had yesterday said that Ohio would not subscribe for it, because not beneficial to her—nor was she, in any degree, interested in the object. It would, however, be eminently beneficial to the State of Maryland, and to the State of Virginia, as well as to this District. These latter considerations actuated him in supporting the bill, and he had never been more disinterested in his support of any measure. For, as he had said yesterday, he did not believe that the canal would go beyond the Mountains. This was however, no motive with him, as, if it went only to Cumberland, it would be vastly beneficial to this District, and the States of Maryland and Virginia. As to the subscriptions, he believed that it had been aided by some of the first men in the District, as he perceived that Lord Fairfax had subscribed 50,000 dollars, and Judge Washington for a large number of shares. Mr. H. had been told, by a gentleman from Virginia, that the People of his State were more interested in this, than in any other measure that had for a long time been before Congress. It was certainly not an Ohio measure. It was not thought of there, because they were not interested in it; so little, indeed, that his constituents, probably, would not know whether he voted for it or against it.

Mr. HENDRICKS observed, that he had yesterday, protested against this bill being set down as a Western measure, and he wished now, also, to declare, that this was not, so far as he understood it, a political measure. If no subject could be settled upon other than party principles, Congress had much better go home than remain here. Mr. H. then spoke of the act of Pennsylvania, which he said could not be confirmed, because the Board of Directors had not been formed. There had been al-

\* The expedition here spoken of by Mr. BENTON, is attributable to a cause totally different from that to which he refers it, viz. the introduction (at a large expense) of power presses into the office of the printers for the House of Representatives. Of this fact, Mr. B. doubtless was ignorant, or he would have stated it. In consequence of this improvement, the Printers were certainly enabled to lay the document before the House of Representatives (and, by courtesy of that body, before the Senate also) some days, if not weeks earlier than, with so large an impression (5,000 copies) could have been otherwise done. *2 Editors.*

MAY 21, 1828.]

*Chesapeake and Ohio Canal.*

[SENATE.]

ready, two millions of stock subscribed, all of which was contingent, and dependent on the passage of this bill. Mr. H. made a few remarks in conclusion, which the reporter did not hear distinctly.

Mr. DICKERSON said, that he thought the effect of this bill was not understood. The friends of the measure seemed sanguine of carrying it, and it might be that they had the votes to effect it. Still, he thought it not satisfactorily examined, and that the Senate was legislating in the dark. For this reason, he wished to postpone this subject to the next session. He was of opinion, that, if they entered into partnership, they ought to know who were their partners. The amendment of the gentleman from Georgia contemplated a proper security to the United States. It was true, that the United States would appoint one-third of the Directors; but there would be two-thirds elected by the other Stockholders, against the Government. Congress ought to be unwilling to do that, which no prudent person would do. We would not enter into connexions, without knowing our partners: neither should the Government. He would ask whether the Senators had examined the Charter? He had not done it minutely, but he had found one thing in it which was worthy of notice. It appeared that all the Stock was not to be paid in money, as there was a provision that it might be paid in the Stock of the Potomac Company.

[Mr. D. read a passage in the Charter.]

Nearly half a million might be subscribed in this Potomac Stock. He supposed that the Stock was somewhat under par, as, in looking over the price-current, he did not find the Potomac Stock noticed, whereas, in the London Market, the New York Canal Stock sold at a high rate. It had been intimated to him, that it was selling for nothing—that it was now utterly worthless: but, if Congress passed this bill, it would become good in the market, and would be bought up to be made available, in paying for the shares in this Company. There ought to have been in this Charter a proviso, that the Company should not enter into any banking or other operations, foreign to the object of its incorporation. Such a proviso was inserted in the act of Pennsylvania, and experience had proved that it was absolutely necessary to insert these negative words, to prevent the perversion of the stock to banking or any other business. But it appeared, from the words of the bill, that this Company was to make its dividend not only on the Stock of the Canal, but on other resources. What could these other resources be, if it was not designed that the funds should be employed for other purposes? He thought the amendment of the gentleman from Georgia was necessary: for, he was not willing to come in with this million, and make this Potomac Stock valuable. Indeed, he saw no good reason for the provision in relation to the shares of the Potomac Company, as, by it, the bill was rendered a hotch-potch, not easily to be defined. It appeared that Congress was about entering into a speculation, from which others were to reap profit. He was in no way opposed to the interests or prosperity of the District of Columbia. He voted, last year, for the appropriation of \$20,000 for the sufferers at Alexandria, and he feared that he did so more from feeling than judgment. But, if Congress was to do any thing for this District, he had rather give the million of dollars out and out, than enter into a speculation of this kind, full of doubts and difficulties.

Mr. CHAMBERS said, he rose to correct the misconceptions of the gentleman from Georgia. He would say, emphatically, that the law of Pennsylvania had no more to do with this act, than the law of Tennessee. As to the law of Pennsylvania, it was provided that it should have no effect, unless the State of Maryland should pass a certain law. The State of Maryland never passed the law; so that the law of Pennsylvania was a dead letter. The law of Maryland provided that the Canal should go no

farther than the Eastern side of the mountain. The Eastern section was first to be constructed out of the funds raised by this Company. That act had been ratified by an act of Congress. The law of Pennsylvania, on the contrary, never has been ratified. He did not care what words were introduced into the bill, it could not be more imperative than in the act of Maryland.

While he was on the floor, he would make one remark, in answer to the gentleman from New Jersey. He thought that, if the gentleman would examine the clause in the Charter, which he had read, he would be convinced by the very passage.

[Mr. C. here gave the history of the Potomac Company.]

If the Potomac stock were to be always as it was now, he would agree with the gentleman. But, when it becomes valuable by the operation of this act, it is a matter of value. By reference to the charter, it would be seen that the holders of Potomac stock could put in their stock and the debts due to the Company, but not on equal terms. They would not come in until those stockholders who had paid their money should have received ten per cent; then, those who hold their stock under these certificates, may come in and receive their six per cent. Mr. C. here read the charter, to show that there were three grades of stockholders, who were not placed on the same footing. He remarked, that the State of Maryland was debtor to those individuals who purchased this stock, and the State had never lost sight of a design to make that stock in some way valuable. He could not but remark, that the gentleman was very charitable in his proposition to give the million of dollars, out and out, but he believed that, if Congress were inclined to give that sum to the District, they could do it in no way more acceptably than by giving it towards this object.

Mr. McLANE observed, that, although friendly to the bill, he had doubts in relation to his vote. Whether it were better to defer the bill to another session, or to endeavor to modify it so as to make it acceptable, had seemed doubtful.

Mr. CHAMBERS remarked, that, unless the bill passed this session, it would be unavailing.

Mr. McLANE said, it was not his intention to embarrass the bill. He would only call the attention of gentlemen to the propriety of stopping here, not that they are to struggle for the system, but to consider the amount already expended for internal improvements this year. The amount was already nearly two millions, which was a large inroad on the funds, according to the estimate of the Secretary of the Treasury. He was a friend of the system, as he had formerly shewn, but he was of opinion, that, if it was to go on in a regular and efficient manner, Congress could not expend more than a million and a half with safety and propriety. But especially at this time an eye ought to be had to the finances, when Congress had just passed a tariff which threatened to overturn the revenue. He had made these remarks to explain the light in which he should look upon this bill, were it of a different character—a common case of internal improvement. But, on this measure, he felt differently. This District is ours, and it is our duty to cherish it. This City has been fixed on as the Seat of Government, and as such it ought to be aided. No one is to suppose that we are to keep this city in a ragged state; that it is to be stunted in its growth by the neglect of Congress, or that they will refuse to open its natural resources, and give it a fair share of the advantages enjoyed by other parts of the country. Now, Sir, I am in favor (said Mr. McL.) to aid in providing, while the Atlantic cities are enjoying the profit and prosperity which flow from internal improvement, for the development of the natural advantages of the District of Columbia, and of doing all that can be done to make the City of Washington a great

SENATE.]

*Chesapeake and Ohio Canal.*

[MAY 21, 1828.]

city. I am bound to look upon it as the permanent Seat of the General Government, nor do I wish it otherwise. I wish to keep it here, and by improving the city to give no inducement to remove it.

But the great objects to be effected cannot be done without assistance; and that assistance Congress ought to give. He did not enquire into the particulars of the cost, or the results of this canal. He did not count the hogheads of tobacco that would be floating down its waters. To him, it was sufficient to know that the country into the heart of which it would penetrate, was a great empire rich in natural products and fertility; and that its trade had been considered of sufficient importance to induce the city of Baltimore to undertake the construction of a rail road to bring its products to that city. New York, in advance, had anticipated these results, and had already in operation a vast canal. The capital of the country ought to be allowed to share in these benefits. These were the motives on which he was in favor of this bill; not that he was willing to give a million without producing a beneficial effect, but because it is a great work, and one which interests the whole country. He wished to take it up coolly, and would not detain the Senate long in examining the objections that had been made to the bill. It was assumed, that all that this incorporation wanted, was the subscription of a million of dollars by Congress. It was said that the Pennsylvania law was a dead letter. He did not think so. It was true that the eastern section would go on without touching Pennsylvania. But the western section comes under her law. Now, the gentlemen of the Company may say, after this organization, We will not advance our money, unless you will allow us to do the whole—the western, as well as the eastern, section of the work. And then the act of Pennsylvania comes in. It is, then, no longer a dead letter. And thus the operations of the Company might be suspended by the differences of the stockholders; and, should it be so, where will the money advanced by the Government be? In the hands of the Directors. But it will be idle and unproductive. It will not be active for the purposes of the Company. Therefore, to obviate this, he was disposed to insert a provision to cause the payment of the stock taken by the United States whenever the Company went on with its operations. He was, therefore, disposed to vote against the amendment of the gentleman from Georgia, and in favor of a proposition which he understood a gentleman from Connecticut intended to present. He had examined the subject, and was friendly to the design; but, as a public man, he thought it his duty to endeavor to provide for the security of the Government against unforeseen contingencies.

Mr. MARKS said, he would trouble the Senate but with a single remark. He had been informed that application was made last year to the Legislature of Pennsylvania, to remove the shackles from the law of that State, in relation to this object, and that it was not acted on. The law was framed so that it was not operative until the canal entered the State. In relation to the application, it was not possible to say what the Legislature would do, for it was not possible to say what we would do ourselves any long period in advance. But he believed that the Legislature of his State would be induced to remove, as far as possible, all obstacles for the attainment of this great object. He was opposed to the amendment now before the House, as giving an undue advantage to the United States over the other stockholders.

Mr. FOOT said, that, as the gentleman from Delaware had referred to him, he would now propose an amendment to which he would call the attention of the gentleman from Georgia, as he considered that it would embrace the object of his motion. Mr. F. then moved

to amend the bill by inserting in the 8th line, 1st section, after the word "of," the words "and paid by," so as to read: "and [the United States] to pay for the same, at such time, and in such proportions, as shall be required of, 'and paid by,' the stockholders generally," &c. &c.

While he was up, he would take the opportunity to say, that his opinions upon the subject of Internal Improvement had been often expressed, and were well known. He looked on this as a different case. As to the two States through which the canal was to run, their assent had been granted already, and Congress being the local Legislature of the District of Columbia, there appeared to him no objection to the bill in proper form.

Mr. DICKERSON asked for explanation, and further objected to the bill, that it contained no proviso, that the stock should not be employed in banking and other operations.

Mr. WEBSTER said, he would like to know if such requisitions were usually made. He mentioned several companies which had been bound by no such restrictions. This company held its rights under several Governments, which might be considered in some respects rivals. The interests of these several Governments were necessary to be consulted, and great difficulty must have been experienced. The company had overcome all these obstacles, and had obtained the acquiescence of these several Powers, and now they want the assistance of Congress. But it seemed not sufficient to examine the laws: not sufficient to place the usual guards to the bill. But we are to fear a bank in disguise. Now, on the contrary, it appeared to him that Congress might safely take it for granted, that the corporation was as secure as any other, because they were interested to retain the assistance of the Government; and that the United States were as secure as was necessary, they not being called on to pay their assessments, until one half of the other assessments were paid. The proposition of the gentleman from Connecticut was essentially the same as that of the gentleman from Georgia, before it was modified by him, and would have the effect to tie up the operations of the company, when a single stockholder should fail to pay in his assessment. It would have the effect to destroy the measure, and place the United States in a most unequal point of advantage. If it was adopted, he thought it would be found necessary to take it off next year. There must be some kind of confidence in the company and the stockholders, made up of people who are interested, and would not, by any act of their own, wilfully incur the withdrawal of the assistance of the Government. I take it that the objection is a broader one than that stated. It appears to me, that, if the Constitutional question could be more satisfactorily understood, we should not hear these objections to the details of the bill.

Mr. DICKERSON said, that he had voted for some of the objects alluded to by the gentleman from Massachusetts, and, in some instances, he had repented doing so. But this was a larger project, and more precaution was necessary. The United States being about to take one-third of the stock. The gentleman has told us, that we must trust somewhat to the company. Why should we do so? The Legislature of Pennsylvania passed a law, merely allowing the canal to pass through the State, and yet she has seen fit to insert a provision against entering into banking or mercantile operations. There had been some striking instances of the kind, which all must remember. There was the Manhattan Company, in New York, incorporated to supply the city with water. The whole design appeared, at last, to erect a bank, which went on without any relation to the water works. It was so, also, with the New Hope Company, which was incorporated to build a bridge, but which was



MAY 21, 1828.]

*Chesapeake and Ohio Canal.*

[SENATE.]

converted into a bank. Now, in this instance, he saw no reason why as much precaution should not be made use of as had been found necessary in less important companies.

Mr. COBB said he rose to enquire whether a person could not go into the market and purchase Potomac stock, and make his payment for those shares for which he had subscribed in that stock. The reading of the charter would convey to him that idea. If it was so, what would be the consequence? Suppose the United States were to be called on for two hundred thousand dollars, and the other subscribers were to pay in their share of the assessment in Potomac stock, would it not be according to the charter? I say it would. And thus the canal would go on upon the money advanced by the United States alone.

Mr. CHAMBERS said, that the holders of the Potomac stock were authorized to become subscribers to the stock of this company, calculating their amounts according to their stock. But, in no case would the Directors have the power to allow an evasion like that mentioned by the gentleman from Georgia. The modes of attack upon this bill were of various kinds. Why, yesterday, the District was a bankrupt, and obliged to bring here a schedule of its effects. And now the Government is to bear the whole expense of the canal. But there was no power to render the available funds of the company useless. Nor was it for the interest of any party that it should be done. The representatives of the District in the Board of Directors, and the Directors on the part of the United States, would all, as a matter of course, prevent such a transaction. Would they do any thing to destroy their own interest, or to destroy the company? We cannot believe that these individuals would do any thing of the kind. But the words of the law, and the charter, are sufficient, and they sweep the idea of this objection from under the gentleman. [Mr. C. here read from the charter.] The moment they should attempt to do what the honorable Senator supposed, the charter would be vacated, and the association would be destroyed. Is it, then, to be believed, the Directors would follow such a course? Are these men madmen? Would they do what would destroy the company? It cannot be supposed. He would answer one more question, in relation to the Chesapeake and Delaware Canal. When that company was incorporated, the stock of a former company was in existence, and the charter brought in that stock in the same manner as is proposed in this bill. He spoke advisedly, because he had some shares in his own possession. In that company the old stockholders came in, not after, as in this case, but with the others. In that case, the old stock was a much larger amount in proportion, than in this; and yet no speculation, no bank grew out of it.

Mr. COBB said, that the gentleman from Maryland had not answered his objection. It still appeared to him, [Mr. C.] that, when one-fifth had been paid in of the whole amount, only that of the United States would have been paid in available funds. The remainder might have been paid in stock of the Potomac Company. He understood that the State of Maryland was indebted to the Potomac Company, and that this was the means which it was to take to pay off the debt. The United States would pay in its fifth, 200,000 dollars, in cash; the share to be paid by Maryland would be 100,000 dollars; and what does she pay it in? Why in Potomac stock! Well, the City of Washington has its share to pay; and they too will pay it in Potomac stock. They will buy it up in the market, and apply it in this manner. Georgetown and Alexandria will do the same. Thus the work will commence with the 200,000 dollars of the United States, and the useless scrip of the Potomac Company for the rest. This, to use the words of the gentle-

man from New-Jersey, is practising a little too hard upon Uncle Sam. It appears to me to be tugging too hard at his purse, and calling a little too loud for his aid. The paper which would be given would be mere fodder and worse. It would not purchase fodder. But we are told that we ought to have confidence in the Company; and that we must trust them. But can we trust them, when we know that they will be directed by their interest, and if they can buy for a dollar what will be valued at one hundred dollars, will do it. It would appear that I did injustice to the Corporations of this District yesterday, in saying that they were bankrupt; and that I have put them to the trouble of producing a schedule of their property. There was certainly no need for it; for the Senator from Tennessee gave a schedule yesterday; and he said that the property of individuals in this District, amounted to five millions. Now, I say, that the property of individuals is not the property of the Corporation. But are they not poor? Will any man who knows deny it? Do they not owe several hundred thousand dollars? Have they not begun a City Hall, which, from want of money, they cannot finish? And is not nearly all the private property in the City mortgaged to the Banks; while they are the real capitalists? No man could deny these facts. He was formerly a member of the Committee on the District of Columbia, and he became acquainted with the situation of the Corporations, and he knew them to be poor and depressed. He did not believe that the subscriptions would be found good, and he was more particularly against the scheme, because it was to oppress the poorest class of people. It was now admitted that the Canal was to go no farther than Cumberland, and he would ask whether the rich products that had been spoken of were to be found in its vicinity. If they were, he had not heard of them. Was there coal or iron in the neighborhood of Cumberland? He had not heard that they were found there. But the funniest idea was one that had been broached yesterday by the Senator from Indiana, [Mr. NOBLE] and that was the floating down masts from the Western country. He did not know how a mast could be brought down by the zig-zag of a Canal, which must be a thousand times more crooked than the little Canal in this City, through which he did not fear to say the mast of a man of war could not be floated. He saw no way in which it could be effected, unless by some new machine, which should carry the mast in the air above the Canal, and unaffected by its sinuosities. He should, if his own amendment were rejected, vote for that of the gentleman from Connecticut.

Mr. HENDRICKS did not rise to answer the mast argument of the gentleman from Georgia; but to spar with one of his statements. He says the amount of the assessment on the shares held by Maryland, Washington, Georgetown, and Alexandria, that is to say 600,000 dollars, may be paid in in Potomac stock. If he could bring 600,000 out of 160,000, then his statement would be correct. But I state from documents which cannot be denied, that there is only 160,000 in the hands of individuals. Maryland has subscribed half a million, exclusive of this; Virginia had also a share of this Potomac stock; but the whole did not amount but to about 300,000 dollars.

Mr. DICKERSON rose to correct the gentleman from Indiana, as he found by a reference to documents, that there was upwards of 400,000 dollars of the Potomac Stock.

Mr. HENDRICKS said that it had no bearing on the case, 160,000 dollars only being held by individuals. Of the two millions already subscribed, none of it was subscribed in Stock.

Mr. COBB said, that may be; yet it may be paid in this Stock; because the Charter authorizes Maryland to pay a share in Stock. So it may be with the State of Virginia. She may go into market, and sell her

SENATE.]

*Duty on Wines.*

[MAY 22, 23, 1828.]

Stock, and it will be purchased by individual Stockholders to pay in their shares. This would be the effect of it.

The question being taken on Mr. COBB's motion, it was negatived, by yeas and nays, as follows:

YEAS.—Messrs. Benton, Berrien, Branch, Chandler, Cobb, Dickerson, Ellis, Hayne, Macon, Parris, Sanford, Smith, of South Carolina, Tazewell, Van Buren, Williams, Woodbury—16.

NAYS.—Messrs. Barnard, Barton, Bateman, Boulogny, Chambers, Chase, Eaton, Foot, Harrison, Hendricks, Johnson, of Kentucky, Johnston, of Louisiana, Kane, King, Knight, McKinley, McLane, Marks, Noble, Ridgely, Robbins, Rowan, Ruggles, Seymour, Silsbee, Smith, of Maryland, Thomas, Tyler, Webster, Willey—30.

Mr. FOOT then moved the amendment previously stated.

Mr. CHAMBERS asked the yeas and nays; which were ordered.

Mr. BENTON supported the motion to amend, in a few words.

Mr. WEBSTER considered that this amendment would withhold the payment of the assessment of the United States, until the other Stockholders had all paid in. He thought it now stood as it should; that the Government were on the same footing as other stockholders, with the advantage of not being called on until a moiety should be paid by the other Stockholders.

Mr. FOOT said a few words in support of his amendment; when

The question being put, it was decided in the affirmative by the following vote:

YEAS.—Messrs. Barton, Benton, Berrien, Branch, Chandler, Cobb, Dickerson, Ellis, Foot, Hayne, Kane, King, McLane, Macon, Parris, Ridgely, Rowan, Sanford, Smith, of South Carolina, Tazewell, Tyler, Van Buren, Williams, Woodbury—24.

NAYS.—Messrs. Barnard, Bateman, Boulogny, Chambers, Chase, Eaton, Harrison, Hendricks, Johnson, of Kentucky, Johnston, of Louisiana, Knight, McKinley, Marks, Noble, Robbins, Ruggles, Seymour, Silsbee, Smith, of Maryland, Thomas, Webster, Willey—22.

Mr. FOOT moved further to amend, by striking out of the 16th, 17th, and 18th lines the following words: "nor until one-half of the aggregate amount of such assessments shall have been paid." He observed, that his object was to place the United States in the same position as other stockholders.

Mr. COBB asked the yeas and nays on the question; which, being taken, was decided in the affirmative, as follows:

YEAS.—Messrs. Barton, Benton, Berrien, Branch, Chandler, Cobb, Dickerson, Ellis, Foot, Hayne, Kane, King, McKinley, McLane, Macon, Parris, Ridgely, Rowan, Sanford, Smith, of Maryland, Smith, of S. Carolina, Tazewell, Tyler, Van Buren, Williams, Woodbury—26.

NAYS.—Messrs. Barnard, Bateman, Boulogny, Chambers, Chase, Eaton, Harrison, Hendricks, Johnson, of Kentucky, Johnston, of Louisiana, Marks, Noble, Robbins, Ruggles, Seymour, Silsbee, Thomas, Webster, Willey—19.

The question then occurring on engrossing the amendment, and ordering the bill to a third reading,

Mr. JOHNSTON, of Louisiana, spoke briefly in answer to some remarks of Mr. McLANE, in relation to the funds in the Treasury.

Mr. McLANE replied briefly; and Mr. JOHNSTON made a few additional observations; when, the question being put, and the yeas and nays having been ordered on engrossing the bill, on motion of Mr. EATON, it was decided in the affirmative, by the following vote:

YEAS.—Messrs. Barnard, Barton, Bateman, Boulogny, Chambers, Chase, Eaton, Foot, Harrison, Hendricks,

Johnson, of Kentucky, Johnston, of Louisiana, Kane, King, Knight, McKinley, McLane, Marks, Noble, Ridgely, Robbins, Rowan, Ruggles, Seymour, Silsbee, Smith, of Maryland, Thomas, Webster, Willey—29.

NAYS.—Messrs. Benton, Berrien, Branch, Chandler, Cobb, Dickerson, Ellis, Hayne, Macon, Parris, Sanford, Smith, of South Carolina, Tazewell, Tyler, Van Buren, Williams, Woodbury—17.

THURSDAY, MAY 22, 1828.

The bill to authorize a subscription to the stock of the Chesapeake and Ohio Canal was read a third time, and passed.

FRIDAY, MAY 23, 1828.

Mr. FOOT, from the Committee on Pensions, made a report in relation to the bill from the House of Representatives, for the relief of sundry officers, soldiers, and widows, that it was not possible to act upon the bill at this late period of the session, and moving that the committee be discharged from the consideration thereof; which was agreed to.

DUTY ON WINES.

The bill to reduce the duty on imported wines was taken up in Committee of the Whole.

Mr. WOODBURY observed that he had made some preparation to give a full view of the benefits likely to result from a revision of the present duties on wines, but this was not a period of the session when such a view could be useful. The bill now before us must be taken as it is, and the principles on which it rests be received without much discussion, or no time will remain for any change whatever to be made in the existing tariff. He would then merely state the material alterations effected by this bill, and the probable effects, from its passage, on our commerce and revenue. It reduced the duties on Madeira one-half, because it was now so enormous as to have destroyed a large portion of a valuable commerce with that island. This was fully developed in the documents that had been laid on our tables this session, but which there was not time or perhaps necessity now to read. The wines of France and Germany that before paid the same duty with Madeira, were now required to pay only 30 cents per gallon, because the quantity of that description imported was small, and the trade for them mostly a barter trade, highly advantageous to this country. The duty on Claret, in casks, was lowered to 10 cents per gallon; but still it was as high, and, indeed, higher, on the first cost of Claret, than the duty on Madeira. This last wine had become almost a necessary of life in the southern part of our Union, and an increase of the use of it, by a reduction of the duty, would increase the exchange market for some of our most valuable staples, such as cotton, tobacco, and rice. The changes thus far did not differ very essentially from those contained in the bill which passed the Senate last year. But the next, and, in his view, one of the most important changes, was in doubling the present duty on non-enumerated wines. By the present law it is 15 cents per gallon; last year 12 cents was proposed; by the bill before us, 30 cents per gallon. These non-enumerated wines included something like 38-40ths of the whole importation of wines into the United States during the last three years. Thus, in 1825, the whole quantity was 2,688,640 gallons, of which the non-enumerated wines were 2,073,569 gallons; in 1826 the whole was 2,780,574, and the non-enumerated 2,047,637; and in 1827 the whole 2,767,893, and the non-enumerated 2,043,254. Gentlemen will thus see that only 15 cents per gallon has been paid on about 38-40ths of all the wine imported, while, by the proposed bill, 30 cents per gallon would be paid. This change will not only prevent frauds caused by bringing

MAY 23, 1828.] *Office of Maj. General—Brevet Rank.—Ches. and O. Canal.—Suppression of Slave Trade.* [SENATE.]

in wines of high value at a low duty, under names not enumerated in the present tariff, but will tend to equalize the duties much nearer than they now are, according to the first cost of the different kinds of wine.

He would say no more, under the pressure of business now on our tables, except to state that the whole revenue on wines would be increased between one and two hundred thousand dollars by the present bill, provided precisely the same importations took place hereafter, as during the last few years, and provided the calculation be made on the same quantity of non-enumerated wines. The revenue on wine was last year 711,790. But compute the duties on the same importations according to the proposed tariff, and without altering the quantity of non-enumerated wines, and the revenue would be over 820,000 dollars. But under this bill, doubtless, the non-enumerated wines will be much less in quantity; and yet the friends of this bill believed the whole importations would be much augmented under its provisions, and the revenue in that way still improved. Considering, then, the probable benefits to agriculture, navigation, and revenue, from the proposed changes, and that it was now too late for any amendment to be safely made, he trusted the bill would meet with little or no opposition.

Mr. CHANDLER said that the Senate had within a few days passed a bill increasing the duties on articles of necessity. As this was an article of luxury, and was chiefly used by the rich, he was opposed to taking off the duties, either on non-enumerated or on any description of wines. He asked the yeas and nays on the question; which being taken, the bill was ordered to be engrossed by the following vote:

YEAS.—Messrs. Benton, Berrien, Boulogny, Branch, Chambers, Cobb, Eaton, Ellis, Foot, Harrison, Hayne, Johnston, of Louisiana, Kane, McLane, Macon, Ridgely, Robbins, Silabee, Smith, of Maryland, Tazewell, Tyler, Van Buren, Webster, Williams, Woodbury.—25.

NAYS.—Messrs. Chandler, Chase, Dickerson, Knight, Marks, Noble, Parris, Ruggles, Seymour, Willey.—10.

#### OFFICE OF MAJOR GENERAL.

Mr. HARRISON moved that the Senate take up the bill from the House to abolish the office of Major General. Agreed to.

Mr. HARRISON said that he had but one word to say on this subject, and that was, that, after a full consideration of this subject, since it had been acted upon formerly by the Senate, he had not seen cause to change the opinion expressed in a report made by himself. To him it was clearly a mistaken idea, that the six thousand men composing the Army of the United States, scattered over our extensive territories, did not require the influence of a supreme commander. On the contrary, he considered that our army required it more than if it was composed of twelve thousand men concentrated. He would trouble the Senate but with this single remark.

Mr. WEBSTER said he would submit to the gentleman whether it would not be better to postpone the bill until twelve o'clock, as there were several Senators who were not now in their seats.

Mr. HARRISON said he was only desirous to do the duty incumbent on him as Chairman of the Committee on Military Affairs. He was radically against the bill, but he wished that it should be brought before the Senate. He asked whether any bill, originated in the Senate, would be acted on by the House after to-morrow.

The CHAIR replied in the negative.

Mr. HARRISON observed that he would acquiesce in the postponement, as he wished to amend the bill, by inserting the provisions of another bill to abolish brevet rank.

Mr. WEBSTER then moved to lay the bill on the table; which was agreed to.

#### SUPPRESSION OF THE SLAVE TRADE.

The bill making appropriations for the suppression of the slave trade was taken up, and explained by Messrs. McLANE and KING.

Mr. HAYNE was under the impression that an appropriation had already been made in relation to this object, and that there was still a balance in the Department, of money formerly applied to this purpose. This was the first time a separate bill had been passed for this object; and he wished to know whether this object had not already been provided for?

Mr. KING said, in reply, that this item was not in the appropriation bill, as it had been considered by the Committee of Ways and Means of the other House, better to provide for it in a separate bill.

Mr. MACON said it appeared that the committee had reported the bill without having any estimates at all to go upon.

Mr. KING further explained, directing his discourse to Mr. MACON.

Mr. HAYNE still objected to the first section of the bill, which appropriated the sum of \$30,000 to suppress slavery. It had been said that this bill was authorized by a general law empowering the Government to apply, from time to time, certain sums for this object; but no estimates had been made, and it certainly was not satisfactory to act on the bill under such circumstances. He did know, for he had looked into the subject, that the sums heretofore appropriated under that general act, had been applied to other objects.

Mr. McLANE made some explanatory remarks.

Mr. CHAMBERS inquired whether the slaves, in relation to whom a bill had been a short time passed, (the case of Mr. Wilde,) were not to be carried out at the charge of this sum, and if the fund required would not thus be enlarged.

Mr. WEBSTER said that there were inquiries on all sides, and it appeared that no one could give information upon the subject under consideration. He therefore moved to lay the bill on the table; which was agreed to.

#### CHESAPEAKE AND OHIO CANAL.

On motion of Mr. CHAMBERS, the bill to enlarge the powers of the corporations of the District of Columbia, was taken up in Committee of the Whole. The amendments reported by the committee being under consideration.

Mr. CHAMBERS explained the object of the bill, which, he observed, had been framed according to the wishes of the people of the District; and, as far as he could judge, there existed no objection to it in any way.

The amendments were then severally agreed to; and the bill was ordered to a third reading, by yeas and nays; and at a later period of the day, this bill was read a third time, and passed.

On the passage of the bill, Mr. MACON asked the yeas and nays, which were ordered, when the question being put, it was decided in the affirmative, as follows:

YEAS.—Messrs. Barnard, Barton, Bateman, Chambers, Chase, Eaton, Harrison, Johnston, of Louisiana, Kane, Knight, McKinley, Marks, Noble, Ridgely, Robbins, Ruggles, Seymour, Silabee, Smith, of Maryland, Thomas, Webster.—21.

NAYS.—Messrs. Branch, Chandler, Cobb, Dickerson, Ellis, Foot, McLane, Macen, Parris, Rowan, Sanford, Smith, of South Carolina, Tazewell, Tyler, Van Buren, Williams, Woodbury.—17.

#### OFFICE OF MAJ. GENERAL AND BREVET RANK.

On motion of Mr. HARRISON, the bill from the other House, to abolish the office of Major General in the Army of the United States, was taken up.

SENATE.]

*Suppression of the Slave Trade.*

[MAY 24, 1828.]

Mr. HARRISON offered an amendment, in substance, to abolish brevet rank.

Mr. HARRISON remarked that the amendment was drawn in the same words as the bill for that purpose, which he had a short time since reported to the Senate.

Mr. WEBSTER said he was disposed to vote against the amendment under any circumstance. Within three days of the close of the session, it seemed improper to insert new matter in a bill from the House, which they had not time to act upon. He saw no difference between sending a new bill to the House, and sending, as an amendment to a bill, a subject which was entirely new to them. The rule was adopted, that no new bill should be acted upon during this period, to prevent hurried legislation. But this mode would be an evasion of that rule. He was not informed upon the subject, and did not understand it sufficiently to act satisfactorily to himself.

Mr. BARNARD moved that the bill and amendment be postponed until next year. There was not time to act upon them this session; and, although he should have been happy to have an opportunity to explain more fully his views on both of these subjects, rather than trespass upon the time of the Senate at present, he now made this motion. There would be next year sufficient time to act upon them. And, as he believed the abolition of the office of Major General would be destructive of our military system, he hoped the subject would not be hastily acted upon.

After a debate, at considerable length, on the amendment, and the merits of the bill, in which Messrs. HARRISON, WEBSTER, CHANDLER, TYLER, and BARNARD, took part—

Mr. WEBSTER then moved to lay the bill on the table, to put an end to the debate, which he remarked could not at this stage be productive of beneficial results.

After a few remarks from Mr. HARRISON, the question being taken on laying the bill on the table, it was decided in the negative.

Mr. HARRISON then withdrew his motion to amend, which was renewed by Mr. COBB; and the yeas and nays having been ordered on motion of Mr. EATON, the question was decided in the affirmative.

The question then occurred on ordering the bill to a third reading, which was decided by yeas and nays, as follows:

YEAS.—Messrs. Branch, Chandler, Cobb, Dickerson, Eaton, Ellis, Foot, Hayne, McLane, Macon, Noble, Par- ris, Rowan, Sanford, Smith, of South Carolina, Tazewell, Tyler, Van Buren, Williams, Woodbury.—20.

NAYS.—Messrs. Barnard, Barton, Benton, Bateman, Boulogny, Chase, Harrison, Hendricks, Johnston, of Lou. Knight, McKinley, Marks, Ridgely, Robbins, Ittugles, Seymour, Silsbee, Smith, of Maryland, Thomas, Webster.—20.

So the bill was lost.

The bill making an additional compensation to the members of the Legislature of the Territory of Arkansas, was then taken up.

This bill was amended, on motion of Mr. McLANE, by allowing a compensation to the Judges of that Territory for their services as land commissioners.

The bill was opposed by Mr. EATON, and supported by Mr. VAN BUREN; and, on motion of Mr. EATON, the bill was laid on the table; and, having been shortly after taken up, the amendment was agreed to.

Mr. McLANE said that his attention had been called, this morning, to the fact of a deficiency in the contingent fund of the Senate; and, as it would be impossible to make any farther appropriation at this period, except as an amendment to some bill which had already been acted upon, he would now move to amend this bill by making an additional provision for the contingent fund. He held in his hand the letter of the Secretary, stating that

this deficiency occurred on account of the extra amount of printing ordered this year by the Senate. The amendment was then agreed to, and the bill ordered to a third reading.

SATURDAY, MAY 24, 1828.

On motion of Mr. DICKERSON the joint resolution from the other House, relative to the printing of the two Houses, was considered.

The object of the resolution was explained by Mr. DICKERSON to be to economise space and expense. As the printing was now executed, a whole page was taken up in the title, and the documents had otherwise much blank space, which it was the object of this resolution to save. The printing of the yeas and nays in small letter, and the arrangement of the documents in consecutive order, would contribute very essentially to this object, etc. By correcting this mode of arrangement, they would be rendered more accessible, besides saving a considerable annual expenditure.

The resolution was then ordered to a third reading.

#### SUPPRESSION OF THE SLAVE TRADE.

The bill for the suppression of the slave trade was again taken up.

Mr. HAYNE remarked, that he had yesterday addressed himself to those gentlemen who had charge of this bill, for information as to the large appropriation in the first section, of 30,000 dollars. That information he had not received, and he now asked it again.

Mr. KING said, that this sum had been fixed upon, after full investigation, by the Committee of Ways and Means, of the other House. On enquiry, he had heard, that the sum was much larger as first proposed; but that the committee had cut it down; and, at its present amount, was not sufficient to send out those slaves already in the country. He trusted that no gentleman would require an exact estimate of the expenses to occur under this appropriation; because it could not be given, as they must depend on unforeseen circumstances. The items could not be anticipated, and the committee took the gross amount, and made the appropriation to cover it. This was the universal practice, and was perfectly proper, as, if the expenditure was over the amount given, the objects could only be executed as far as it went; and if below, it would remain in the Treasury, to be applied on the next year's appropriation. The money could not be applied to other objects; because proper and legitimate purposes would absorb it. If gentlemen disliked the principle on which this provision was made, the repeal of the general law would meet their object. But he thought this bill should not be obstructed. The provision in the second section for the Marshal of Alabama, was founded on a just claim. He had acted under the general law, and he could not obtain expenses which he had incurred under that law, unless by this bill. He hoped that no objection to the general law would stop the progress of this measure.

Mr. CHANDLER asked whether a report had been received of the mode in which the expenditure for this object had formerly been made?

Mr. KING said, in reply, that an account of every item had been rendered. He knew that a certain sum had been applied to the Colonization Society, which was considered an improper appropriation; but that ought not to operate on the passage of this bill.

Mr. HAYNE said, he did not rise to oppose the passage of this bill, but to protest against the manner in which it had been brought before the Senate. It had been presented here with no paper, with no document, with no estimate. They had no evidence to go upon. This was what he objected to. He knew that the gentleman from Alabama was not a member of the committee to which it

MAY 26, 1828.]

*Miami Canal.—Close of the Session.—Outrages in the Capitol.—Adjournment.*

[SENATE.]

was referrible; but he had endeavored, without much success, to obtain information. Mr. H. had no doubt that the claim of the Marshal of Alabama was a just one; but he objected altogether to the method of introducing the payment of an individual claim into a bill nominally to suppress the slave trade. This amalgamation of objects embarrassed him extremely. He must vote for the bill, or he should aid to deprive the Marshal of Alabama of a compensation to which he was justly entitled. He repeated his objection to this mode of legislation, and said he should vote for this bill; but, said he, if I live to come back to the Senate next year, I pledge myself to take measures to obtain a most rigid examination of the manner in which the expenditure has been made.

Mr. MACON moved to strike out the first section, providing \$30,000 to restore negroes to the coast of Africa.

Mr. CHAMBERS said, that the appropriation was absolutely necessary to carry into effect the object of the law. The gentleman from Alabama had stated correctly the difficulty in making out the estimates for purposes which must be contingent, from their very nature. It was not a case where cost and charges could be computed at the outset. The sum pointed out by reasonable probability, had been fixed upon, and that had been cut down in the other House. As to the claims of the Marshal of Alabama, the pledge of the Government had been contracted to pay the expenses which he had incurred. He hoped the bill would pass.

The question being then put on the motion of Mr. MACON, it was rejected, and the bill was ordered to a third reading.

#### MIAMI CANAL.

Mr. RUGGLES moved that the Senate take up the bill to aid the State of Ohio to make the Miami Canal from Dayton to Lake Erie.

Mr. COBB opposed it, on the ground that there was not time for discussion upon a subject so important. Congress had already given 175,000 dollars this year for roads in Ohio.

Mr. RUGGLES said, that the objection did not come with a good grace, from the gentleman from Georgia, who had consumed much time during the last week. He did not wish to prolong debate, and was willing to take the vote at once upon the bill.

Mr. COBB said, that the gentleman from Ohio had found out that he [Mr. C.] had occupied much time during the week, and he deserved a leather medal for the discovery. In the discussion of the canal bills he occupied no more time than his duty made incumbent upon him. If the gentleman alluded to the Executive business of the week, he [Mr. C.] had certainly not consumed much time in debate in secret session. He repeated his objections to taking up the bill.

Mr. CHANDLER said, it was too late to take up a bill of so much importance, and which contemplated a large gift of land to the State of Ohio.

Mr. HARRISON said, that, if the gentleman would take the trouble to examine the bill, he would find that the gift of land was to the United States, and would make their lands in the State of Ohio much more valuable. He asked the yeas and nays; which were ordered, and the question being then taken, the bill was ordered to a third reading, by the following vote:

YEAS.—Messrs. Barnard, Barton, Bateman, Benton, Boulogny, Chambers, Chase, Eaton, Harrison, Hendricks, Johnston, of Louisiana, McKinley, Marks, Noble, Ridgely, Robbins, Rowan, Ruggles, Seymour, Silsbee, Smith, of Maryland, Thomas, Willey, Williams.—24.

NAYS.—Messrs. Branch, Chandler, Cobb, Dickerson, Ellis, Hayne, Knight, McLane, Macon, Sanford, Tazewell, Tyler, Van Buren, Woodbury.—14.

MONDAY, MAY 26, 1828.

#### CLOSE OF THE SESSION.

Mr. WOODBURY moved that a message be sent to the President of the United States, to inform him that the Senate had concluded its business, and to ascertain whether he had any further communication to make; which was agreed to.

Mr. MACON moved that a message be sent to the H. of Representatives, to convey the same information; which was agreed to.

Messrs. MACON and WOODBURY were then appointed a Committee to wait upon the President.

#### OUTRAGES IN THE CAPITOL.

Mr. FOOT said that he rose to submit two resolutions, with which he would not now trouble the Senate, but that he considered it his duty to himself, to the Senate, and to the parties concerned. It would be recollected that he had, at a former period, offered a resolution, relating to the same subject, which had been laid on the table, on his motion in consequence of a message from the President having been brought under the consideration of the Senate. He did not ask the present consideration of these resolutions, as he was sensible there was not time to act upon them; but feeling it his duty to present them, he would now move that they be laid on the table:

*Resolved*, That the assault made by Russel Jarvis, within the walls of the capitol, upon the private Secretary of the President, charged with the delivery of an Executive message to the Senate, when in Session, is a contempt of the sovereign power of the Nation, and a breach of privilege of the Senate.

*Resolved*, That the assault made by Duff Green, Printer for the Senate, in one of the Committee rooms, on the person of E. V. Sparhawk, one of the Reporters, is a contempt, and breach of privilege.

Mr. FOOT said, the session was too thin to allow their being effectually considered, and he wished them to remain until the next session.

Mr. CHANDLER wished that the subject might be now considered and disposed of.

Mr. BRANCH said, if the gentleman from Connecticut was desirous that it should now be acted on, he, for one, was prepared to do so promptly.

Mr. FOOT repeated his objections to considering the resolutions at present.

Mr. CHANDLER moved that the resolutions be taken up, (which could only be done with the unanimous consent of the Senate.)

Mr. TAZEVELL objected; and the motion, consequently, failed.

#### ADJOURNMENT.

A message was received from the House of Representatives, informing that they had appointed Messrs WARREN, of Ohio, and DICKERSON, of New York, as a Joint Committee, on the part of the House, to wait on the President of the United States, and inform him that Congress was now ready to adjourn.

The Committee on the part of the Senate then joined that from the House, and waited on the President, and, shortly after, Mr. MACON, from the Joint Committee, reported that the President had instructed them to inform the Senate, that he had no further communications to make to Congress.

The Senate adjourned, *sine die*.

H. of R.]

First Proceedings in the House of Representatives.—Late Mr. Young.

[DEC. 3, 4, 5, 1827.]

## DEBATES, &amp;c. IN THE HOUSE OF REPRESENTATIVES.

MONDAY, DECEMBER 3, 1827.

The House was called to order by MATTHEW ST. CLAIR CLARKE, Clerk of the House, precisely at twelve o'clock, and the Roll of the House being called over by States, it appeared that there were present two hundred and seven Members, out of two hundred and thirteen, and two Delegates from Territories: Whereupon, the House proceeded to ballot for a SPEAKER.

Mr. SPRAGUE and Mr. HAYNES being named Tellers, reported the following as the result of the balloting:

For ANDREW STEVENSON, of Virginia, 104

For JOHN W. TAYLOR, of New York, 94

For P. P. BARBOUR, of Virginia, 4

Scattering votes, 3

ANDREW STEVENSON, of Virginia, having received a majority of the whole number of votes, was declared to be duly elected.

On being conducted to the Chair, the SPEAKER addressed the House in the following terms:

"GENTLEMEN: In accepting the distinguished honor which you have been pleased to confer upon me, I am penetrated with feelings of profound respect, and the deepest gratitude, and I receive it as the most flattering testimony of your confidence and favor. The office of Speaker of this House has been justly considered one of high and exalted character—arduous, in relation to the abilities necessary to its execution, and severely responsible and laborious. Its honor is to be measured by no ordinary standard of value. The individual, therefore, who shall fill this chair to his own reputation, and the advantage of the House, must be distinguished alike by knowledge, integrity, and diligence; he should possess an impartiality, which secures confidence; a dignity that commands respect; and a temper and affability that disarm contention. From his general character and personal qualities, he must derive a power that will give force to his interpositions, and procure respect for his decisions. He must conciliate the esteem of the enlightened body over whom he presides.

"These, gentlemen, are some of the leading qualifications necessary for this arduous station. I certainly do not possess them. I know my own inability too well to believe that I shall be enabled to meet the expectations of my friends, or discharge the high trust reposed in me, in a manner suitable to its dignity and importance. Bringing with me but little knowledge or experience, I shall, no doubt, often err, and stand in need of your utmost forbearance. Let me hope, on such occasions, you will scan my conduct with candor and liberality, and extend towards me the same kind indulgence which has heretofore characterized your conduct to the Chair. All that I can promise, will be a devotion of my time to your service, and an independent discharge of my duties in a plain and manly way. My gratitude for a distinction so little merited, shall stimulate me to supply, by diligence and application, what I want in knowledge and ability; and, however I may fail in other respects, I shall endeavor, at least, to entitle myself to the suffrages of zeal and impartiality.

"I need not admonish you, gentlemen, of the magnitude of your trust, nor say any thing as to the manner in which it ought to be discharged. We must all be sensible, that, in the deliberations and proceedings of this House, the character and permanent interests of our common country are deeply involved. It was in the organization and purity of this branch of the National Government, (endeared to their warmest affections,) that our fathers believed they had provided the best security for the principles of free Government, and the liberty and happiness

of the People. Virtuous, enlightened, and patriotic, this House may justly be regarded as the citadel of American Liberty.

"Animated, then, by a virtuous and enlightened zeal, let us endeavor to realize the just expectations of our constituents; and let our proceedings be characterized by a cool and deliberate exertion of the talents, fortitude, and patriotism, of the House, as the surest and best means of sustaining the honor, and promoting the welfare and happiness of our beloved country."

The oath to support the Constitution of the United States was then administered by Mr. NEWTON, (the father of the House,) to the SPEAKER, and then by the SPEAKER, successively to all the Members from the several States.

On motion, it was

*Resolved, unanimously,* That MATTHEW ST. CLAIR CLARKE, Clerk to the late House of Representatives, be appointed Clerk to this House; and that JOHN OSWALD DOWN be appointed Sergeant-at-Arms to this House; that BENJAMIN BURCH be appointed principal Doorkeeper, and OVERTON CARR, Assistant Doorkeeper to the same.

A message was received from the Senate, by Mr. LOWRIE, their Secretary, acquainting the House that a quorum had been formed, and that the Senate was ready to proceed to business.

The Rules and Orders established by the late House of Representatives, were ordered to be observed in this House, until a revision or alteration shall have taken place: and that the Clerk be instructed to cause the Members thereof to be furnished with such newspapers as they might respectively direct.

A committee was then appointed, consisting of Messrs. VAN RENSSELAER and EVERETT, to join the committee which had been appointed on the part of the Senate, to wait on the President of the United States, and inform him that quorums of the two Houses have assembled, and that Congress are ready to receive any communications he may be pleased to make.

The daily hour to which the House shall stand adjourned, was fixed at twelve o'clock, M.

TUESDAY, DECEMBER 4, 1827.

Mr. VAN RENSSELAER, from the committee appointed to wait on the President of the United States, reported that they had performed that duty, and had received for answer that the President would make a communication to them, in writing, at twelve o'clock this day.

Mr. JOHN ADAMS, the Private Secretary of the President of the United States, soon after came in with the message, [which will be found in the *Appendix*:] and the message was read, and referred to a Committee of the Whole on the state of the Union. 6,000 extra copies thereof were ordered to be printed for the use of the House.

WEDNESDAY, DECEMBER 5, 1827.

THE LATE MR. YOUNG.

Mr. WICKLIFFE rose, and addressed the Chair as follows:

Mr. SPEAKER: I have risen to propose the resolution which I hold in my hand, as a testimony of respect due to my deceased friend and colleague. It may be expected of me that I should say something in reference to the character of the man for whose memory I ask of this House an expression of their respect. To those with whom he was associated for the last two years, as a mem-

DEC. 6, 10, 1827.]

*Arrangement of Business.*

[H. or R.]

ber of Congress, no commendation from me can be necessary. It was in the walks of private life I have known him longest and best, and it was there his virtues and usefulness were most conspicuous. I move you that the House come to the following resolution.

Mr. W. then presented a resolution for wearing the mourning usual on such occasions, in testimony of respect for the memory of the late WILLIAM S. YOUNG; which was unanimously agreed to.

THURSDAY, DECEMBER 6, 1827.

The House proceeded to consider a motion of Mr. LITTLE, made on the 4th instant, for the appointment of the Standing Committees; when the motion was agreed to; and the appointment of the committees was ordered accordingly.

The House then adjourned till Monday.

MONDAY, DECEMBER 10, 1827.

Standing Committees of the House, appointed by the SPEAKER, pursuant to the order of Thursday last, were announced.

Mr. HAMILTON, of South Carolina, rose, and said, that, while he was fully sensible of the kindness of the Chair, in assigning to him a distinguished station, for which his own merits furnished him with no claim, nevertheless, from some particular circumstances, with which it was unnecessary he should trouble the House, his serving on the Committee on Military Affairs would be peculiarly unsatisfactory. He would, therefore, earnestly ask the permission of the House to be excused from such service.

And the question being put upon excusing Mr. HAMILTON from serving on the Military Committee, it was decided in the negative.

#### ARRANGEMENT OF BUSINESS.

The House then resolved itself into Committee of the Whole, Mr. CORBIE in the Chair, on the President's Message; and a partition of the different branches thereof was made amongst the Standing and Select Committees.

Mr. SPRAGUE offered the following resolution for adoption:

*Resolved*, That so much of the President's Message as relates to the boundary line of the United States, and to the outrages alleged to have been committed on the territory in dispute between the United States and Great Britain, be referred to a Select Committee.

Mr. SPRAGUE said, he was reluctant to interfere with the course proposed by the gentleman from Ohio, (Mr. WRIGHT) for the reference of the Message, but was constrained to offer this resolution, by the great importance of the subject to the State which he had the honor, in part, to represent. He was extremely gratified to find that this subject had received the constant and watchful attention of the Executive of the United States; and that the Government had zealously and assiduously labored to preserve our rights and effect a peaceable adjustment of the controversy, and had also taken the most prompt and effective measures to ascertain the character of the recent transactions upon our Northeastern frontier. He hoped that the House, so far as appertained to them, would manifest a readiness to second and sustain the efforts of the President. The question respecting our Northeastern boundary was one of no ordinary moment. The great extent of the Territory in dispute, the fertility of its soil, the quantity and value of its timber, its position, with reference to the St. John's river, and in a military point of view, all concurred to make it a matter of much interest to the nation at large, and of peculiar and increasing solicitude to the State of Maine; while the recent alleged outrage by the British Authorities, in arresting,

upon this Territory, one who himself claimed to be, and whom we claimed as an American citizen, upon American soil, and transporting him to a foreign gaol, was calculated to excite the liveliest sensibilities of the people. Mr. S. said, the subject involved the integrity of our soil, and the inviolability of the persons of our citizens. The attention of Congress had been particularly called to it by the Message of the President, and he trusted that the House would be willing to make it a matter of distinct reference to a committee, and to give it all that consideration which its magnitude deserved.

Mr. FLOYD, of Virginia, inquired of the gentleman from Maine, whether it was the purpose of his resolution to include the Northern boundary line of the United States from sea to sea?

Mr. SPRAGUE replied that his resolution was directed only to the reference of so much of the President's Message as referred to the subject of boundary; and the Message only spoke of the Eastern portion of the line. But it was not his intention to restrict the attention of the Committee to one part of the country in preference to another. They might extend their report to the whole of our Northern line, if they should think it necessary; but what he more particularly desired to have them report upon, was the present state of affairs in respect to the Eastern portion of it.

Mr. FLOYD said, that, if his resolution applied only to that part of our boundary, he would recommend to the gentleman from Maine so to amend it as to embrace the entire line, as well that on the West of the Rocky Mountains, as the residue. He thought that the state of things, in relation to this part of our Territory, seriously demanded the attention of Congress. The English had lately increased their force in that country; and he understood that, within that Territory, a great amount of furs had been collected within the past year by the N. W. Company. Mr. F. observed, that, from the tenor of the message, he perceived that the provisions of the treaty of Ghent on this subject were intended to be continued for an indefinite time; but he felt assured that the interest and tranquility of the Western States loudly demanded some other arrangement. Unless the English were expelled from their position on this part of our Territory, no man could answer what blood might flow.

Mr. HAMILTON said, that he thought the rule to be a sound one, which had been established by the practice of this House, when a motion is made to refer a subject to a Select Committee, and there is a standing Committee of the House to which the subject appropriately belonged, that the reference of it should in preference be made to that committee. There was, he said, a peculiar fairness in the reference of the particular subject of this resolution to the Committee of Foreign Relations. Exceptions to the rule of reference of subjects of Standing Committees, arose from particular circumstances, such as the too great pressure of business on any particular committee, &c. Now, Mr. H. said, it must be within the knowledge of any gentleman, who had served but a single session in Congress, that, however delicate or honorable were the duties devolved on the Committee of Foreign Relations, they were not so onerous as to make it necessary to divide them with other committees; and, as this subject was one of great delicacy, and which might involve essential interests of the country, he thought it peculiarly proper that it should go to the General Committee on the subject of our Foreign Relations. Mr. H. adverted also to the objection to raising Select Committees on particular objects, as they were likely to be influenced in their decision by considerations of a local nature, or arising from the excitement of the moment amongst those particularly interested. Upon the whole, therefore, he was induced to propose the reference of this subject to the Committee on Foreign Relations, instead of a Select Committee.



H. OF R.]

Bank of the United States.

[Dec. 11, 12, 13, 1827.]

Mr. SPRAGUE said, in reply, that he had no particular preference for a Select Committee; he should be content with the reference of the subject to any committee of the House; and he willingly modified his resolution, so as to meet the views of the gentleman from South Carolina.

Mr. WRIGHT, of Ohio, said, that, unless the gentleman desired a Select Committee, (which point he had now waived) he could not perceive the necessity of any distinct reference of this subject, as it was virtually included under the resolution for referring so much of the message as related to our Foreign Relations to the appropriate Committee.

Mr. SPRAGUE did not think that the general resolution, to which the gentleman referred, would cover this subject. The particular point which he wished to submit to a committee of the House, was the outrage committed on an American citizen peaceably residing within the limits of the United States.

The resolution, as modified by the mover, was then adopted.

The House, in obedience to an order adopted on Thursday last, proceeded to ballot for a CHAPLAIN to Congress, for the present session, on their part, and the Rev. REUBEN POST was chosen.

TUESDAY, DECEMBER 11, 1827.

Sundry resolutions for enquiry were offered and agreed to this day, accompanied in some instances by remarks from their respective movers.

WEDNESDAY, DECEMBER 12, 1827.

Mr. LITTLE asked and obtained leave to introduce a bill fixing the ratio of representation after the third day of March, one thousand eight hundred and thirty-three; which was twice read, and committed to a Committee of the Whole on the state of the Union.

THURSDAY, DECEMBER 13, 1827.

#### BANK OF THE UNITED STATES.

Mr. P. P. BARBOUR submitted the following resolution:

*Resolved*, That the Committee of Ways and Means be instructed to enquire into the expediency of providing by law for the sale of that portion of the stock of the Bank of the United States which is held by the Government of the United States, and the applications of the proceeds thereof to the payment of the public debt.

In offering this resolution, Mr. B. said, he wished to accompany it with a few remarks, not with any intention of now discussing the merits of the measure it proposed, but chiefly with the view of drawing to it the attention of the House, and especially of the Committee of Ways and Means, to which the resolution must be referred. The House were aware that the Government holds at this time stock of the Bank of the United States, to the amount of seven millions of dollars, which stock was at present worth in market about 23½ per cent. advance above its par value. If the whole of this stock should now be sold by the Government, it would nett a profit of one million and six hundred thousand dollars above the nominal amount of the stock. Such being the case, he thought it deserved the serious consideration of the House, whether it would not be a prudent and proper measure now to sell out that stock. It had been said, Mr. B. observed, by one of the best writers on political economy with whom he was acquainted, that the pecuniary affairs of nations bore a close analogy to those of private households—in both, their prosperity mainly depended on a vigilant and effective management of their resources. There is, said Mr. B. an amount of between seventeen and eighteen millions of the stock

of the United States now redeemable, and an amount of nine millions more, which will be redeemable next year. If the interest paid by the United States on this debt is compared with the dividend it receives on its stock in the Bank of the United States, it will be found that a small advantage would be gained by the sale of the latter in this respect; since the dividends on bank stock are received semi-annually, while the interest on United States' securities is paid quarterly: this, however, he waived as a matter of comparatively small moment. It must be obvious, he said, that the addition of one million six hundred thousand dollars to the available funds of the United States will produce the extinguishment of an equivalent amount of the public debt, and consequently relieve the interest payable thereon, by which a saving would accrue of about one hundred thousand dollars per annum.

Thus, a merely pecuniary view of the measure he proposed in his resolution would show that its adoption would be good policy. But he would further observe, that, if the future profits of the Bank of the United States might be conjectured from its past experience, it was by no means to be calculated that our stock will continue to nett to us as much as six per cent. It would be recollected by all that that institution had its periods of difficulty and depression. At one time, it paid no dividends at all. Some time after, it paid four, four-and-a-half, and, at length, five per cent. And it was only recently that the rate of dividend had reached its present amount. It was certainly very improbable that the Government will ever get a larger dividend than at present; whereas it was possible, if not extremely probable, that the amount in future years may be much less. It was well known that the amount of the Bank's discounts depended on many and various circumstances, especially on the condition of our foreign commerce, and our consequent relations to other nations, whether as debtors or creditors. When the balance of trade was in favor of the United States, the Bank was liberal in its discounting; but, when that balance preponderated in an opposite direction, the Bank immediately curtailed its discounts, actuated by that prudence which taught banking institutions to guard against the effect of a sudden run upon their funds.

In addition to the depression of profits resulting from cases of this description, there was also to be taken into view that which was produced by bad debts, on which subject it could not be forgotten that the Bank had received an early and severe monitory lesson. But allowing, for argument sake, that the dividends for the Bank were to continue at six per cent. it was manifest that, by selling out its shares, the Government would clear the whole amount of the advance which the stock now bears in the market; whereas, by refusing to sell it, it was equally plain that this possible profit would certainly be lost.

But he had another reason, and one which he conceived to have a very serious bearing, why the measure he proposed should be adopted. He was one who held the opinion that the Government of the country ought not to be continued as a stockholder in any joint stock company like a bank. The incorporation of a bank was an exercise of high political power, and so long as the Government continued to have a pecuniary interest in such an institution, it could not but feel all those considerations which address themselves to that interest. Now, in nine years hence, the Bank of the United States will be presenting to Congress its petition for a renewal of its charter: and he did not think that the Government to whom such a petition was presented, ought, while listening to and deliberating upon it, be placed under the unavoidable bias arising from the Government itself being a joint stockholder with those who were petitioning.

Dec. 14, 1827.]

Bank of the United States.

[H. of R.]

Mr. B. farther observed, that he did not see, from the proposed sale of stock, any difficulty likely to result to the management of the Bank, and the Government's share in its control. The present act of incorporation gives to the Government three different securities for the good management of its concerns. The first is a power of supervision: the next security is one of prevention: and the third is remedial. For supervision, the President of the United States has the power, with the consent of the Senate, to appoint a certain portion of the directors of the Bank. By way of the prevention of evil, a detailed statement is from time to time to be rendered, of the entire state of the affairs of the bank; and, as a remedial security, a Committee of Congress has the power at any time to examine into its transactions, and if it has violated the conditions of its charter, to order a *scire facias*, and revoke the charter. The withdrawal of the pecuniary interest of the Government in the stock of the Bank, ought not to affect, in any manner, the supervisory power of Government over the Bank and its concerns. This power ought to be the only connexion of the Government with it.

Mr. B. concluded by recapitulating the points he had advanced, and again pressing the enquiry, whether it was meet and becoming that Government, when asked to grant a charter for a corporate body, should, at that very time, hold a large pecuniary interest in that corporation? Objections, he was aware, might possibly be urged to the plan he suggested, but these would receive, he knew, when presented to the House, all that consideration to which they were entitled, and the question be decided on with due deliberation.

A second reading of the resolution was called for, and it was again read; when

Mr. BARBOUR again rose to add a suggestion which he had omitted when last up; which was, that, from information, it appeared probable to him that there would at this time be a great facility in effecting the proposed sale through the means of the United States' stock which was to be redeemed, (though he did not profess to be intimately acquainted with the state of matters on change) it was very probable that many of the holders of the public stock would take that of the Bank in exchange, at the advanced price.

Mr. McDUFFIE (a member of the Committee of Ways and Means) said, that he did not rise at this time with a view to oppose the adoption of the resolution of the gentleman from Virginia. That resolution, he was aware, proposed only an enquiry. But the gentleman could not but be conscious, that the mere discussion of such a proposition in this House, had, of itself, a tendency injuriously to disturb the pecuniary relations of the United States with its creditors and with the Bank. But he rose principally for the purpose of declaring, at this time, that he differed, almost entirely, from most of the views which the gentleman had taken of the financial interests involved in the proposition; though it was possible he might not differ from him so widely as to their result. He would now advert to but one or two facts. As to the profit to accrue to the United States from the proposed sale, the gentleman must certainly, from his experience in the fiscal concerns of the country, be aware, that if the Government shall suddenly bring into the money market an amount of seven millions of United States' Bank Stock, instead of selling at 125 per cent. it would not produce 105 per cent. The effect of such an influx of stock could not but be very great. As long as there is a National Bank, an institution which has necessarily so important an effect on the currency of the Nation, the Government ought certainly to possess a control over it; but there was nothing which would render that control efficient, but its holding a large amount of the stock of the Bank. He made

these remarks not in anticipation of the argument on the resolution, but mainly to the end that the country might know that the views which the honorable gentleman had expressed were not acquiesced in as the views of this House, on that important subject.

Mr. GORHAM deprecated the going abroad of an impression that the Government of the United States doubted the policy of its continuing to hold stock in the National Bank. The very notion that the Government was disposed to part with its portion of that stock, and to throw seven millions of it into market, would be a virtual proclamation to all the world, that it was not their interest to buy into the Bank. The very moment the Government shall attempt such a sale, the greater part, if not the whole of the present advance in the price of that stock will be at an end. Some gentlemen recollect the history of the sale of the Government's stock in the old bank. When that took place, there was a universal belief that the charter of the bank would be renewed, or rather extended, and that the same proprietors would have the privilege of subscribing into the new bank—but that expectation was sadly disappointed; the bank was suffered to expire, and four or five years to elapse before the charter of the present bank was granted. The sale of the stock was recommended, indeed, by the Secretary of the Treasury—but it was bought and sold under the confident belief that the charter would be continued, and the old stockholders have a privilege of buying into the new bank. The principal holders then, as now, resided in Europe—they all had this expectation, and were all deceived. And, at this day, it is idle to talk of disposing, in this country, of seven millions of the United States' Bank Stock. We must rely on capitalists abroad. Those men have, at present, full confidence in the permanence of both our moneyed and political institutions: but could they suppose that you were about to desert this bank as you deserted the Stockholders in the former one, great, indeed, would be the effect upon the price of the stock. When the present bank was incorporated, there was a general understanding that the Government were to be permanent stockholders in it—no man felt a doubt on the subject. Should it happen otherwise, the consequence in the stock market would be serious indeed. Why should the Government renounce its interest in the bank? They have great advantage from retaining it. They have a strong hold upon that institution—they appoint five of its Directors. But who ever doubted that such a privilege was consented to on the very ground that they were also to hold a large amount of its stock? This is, in fact, the only true ground of their control over it—for it would strike the mind of the American People most unfavorably, to see Government assuming such a power over what, if the gentleman's proposition were to succeed, would be mere private property. Mr. G. concluded with moving that the resolution lie on the table.

Mr. BARBOUR expressed his cheerful assent, not being disposed to press such a matter hastily, and  
The resolution was laid on the table accordingly.

FRIDAY, DECEMBER 14, 1827.

The Speaker presented a memorial of sundry citizens of the City of Philadelphia, setting forth that at a General Election in October, 1826, in the State of Pennsylvania, for members of Congress, upon counting the votes "in the regular Congressional ballot boxes," there was found to be an equal number of votes for John Sergeant and Henry Horn, upon which it was declared that no choice had been made: that in counting the votes contained in the "Coroners and other boxes, there was found a number of votes in favor of Henry Horn, over and above those given for John Sergeant." Under these circumstances,

H. or H.]

*Right of Suffrage in Florida.*

[Dec. 17, 18, 1827.]

the memorialists submit to the consideration of the House "the propriety of instituting an investigation into the premises, and of deciding the important question, whether by design, accident, or neglect, of the Inspectors or Judges of an Election, in misplacing, or suffering the votes of an elector to be misplaced, they may disfranchise the elector, pervert the intent and meaning of the constitution and laws of our country, and render nugatory the inestimable right of election." The memorialists "submit the opinion that no subsequent election can in any manner affect the important principle involved in the first."

This memorial was referred to the committee of Elections.

The Speaker communicated to the House the following letter.

DECEMBER 12, 1827.

SIR: I have received from the Clerk an order of the House requiring me to serve on the Committee of Ways and Means.

From some acquaintance with the duties of that Committee, acquired during six years' experience in the Chair, I am thoroughly persuaded of my inability to discharge them (in my present very feeble state of health) with any degree of satisfaction to myself, or advantage to the public. I therefore respectfully pray to be excused from serving.

I am, with high respect, Sir,

Your obedient servant,

JOHN RANDOLPH, of Roanoke.

To ANDREW STEVENSON, Esq.

*Speaker of the House of Reps. of the U. States.*

The letter being read, the question was put, "Will the House excuse Mr. RANDOLPH from serving on the Committee of Ways and Means?"

And decided in the affirmative.

Mr. McDUFFIE then moved that a member be appointed of the committee, so that the same be complete; which was agreed to.

Adjourned till Monday.

MONDAY, DEC. 17, 1827.

The whole of this day was taken up in the presentation of petitions, and resolutions of inquiry, and in referring them to Committees.

THURSDAY, DEC. 18, 1827.

#### RIGHT OF SUFFRAGE IN FLORIDA.

Mr. STRONG, from the Committee on the Territories, to which was referred a memorial of citizens of St. Augustine, reported a bill to secure to certain inhabitants in the Territory of Florida, the right of voting at elections, and to alter the time of holding the sessions of the Legislative Council of Florida.

Mr. STRONG expressed a wish that the House would consent that this bill should be ordered to be engrossed for a third reading, and accompanied this request by a few remarks explanatory of the nature and object of the bill; which was a copy of one reported by the same committee at the last session, but lost in the Senate, for want of time to consider it. It had two objects only: one was to allow certain persons, who had been residents of Florida at the time of the cession of that Territory by Spain to the United States, to vote at the elections, of which privilege they had been deprived by an act of the Legislative Council of the Territory, which the council had thought themselves authorized and competent to pass. The committee deemed this class of inhabitants to be as much entitled to the elective franchise, as others who exercised that privilege, and he doubted not that the House would agree with the Committee in opinion. The other

object of the bill was to change the time of the meeting of the council, from October to December. He knew of no objections to the bill, and presumed none existed.

The bill was thereupon ordered to its third reading tomorrow, without being committed.

Mr. BARTLETT submitted the following:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of causing to be paid to the Commissioners of the Navy Hospitals, such sum as may be due to the Navy Hospital Fund, from the Treasury of the United States.

Mr. BARTLETT accompanied the resolution with some explanatory statements—from which it appeared, that, in the year 1798, a fund for the erection of Marine Hospitals was raised by means of a deduction from the pay of the officers and men of the Naval service. In succeeding years a similar arrangement took place again—and the sums thus raised had been paid into the Treasury, where they remained until 1811, when the Secretaries of the Navy, of War, and of the Treasury, were created a Board of Commissioners for the Navy Hospital Fund, and made a report to Congress on that subject. From a recent report of the Board, it appears that a balance of two hundred and sixty-two thousand dollars is still due from the Treasury to this fund. Congress were called upon, at the last session, to avail themselves of this balance for the objects intended, but nothing had been done. In the mean while, various works had been projected and commenced, and were now in a state which required the application of a further sum for their completion. The resolution was thereupon adopted.

The House proceeded to consider the following resolution moved yesterday by Mr. MITCHELL, of Tennessee:

*"Resolved*, That the Committee on Indian Affairs be instructed to inquire into the expediency and practicability of establishing some mode by which all the Indians East of the Mississippi River may be immediately and gradually removed beyond or West of said River, and a sufficiency of land attached to each tribe, and secured to such tribe or tribes, with the sovereignty or right of soil; in the same manner, and to the same extent, that the right of domain is secured to the respective States of the Union; and there to establish a Territorial Government over them, of the same kind, and regulated by the same rules, that the Territories of the United States are now governed; and that, if the said Committee cannot devise any plan that shall be just and magnanimous, on the part of the United States, to attain that end, that they shall then inquire into the right and expediency of extending the laws and municipal regulations of the United States, and, also, of the several States wherein said Indians reside, over them."

At the request of Mr. FORT, a resolution offered a few days ago by Mr. LUMKIN, on the the same subject, was read: Whereupon,

Mr. MITCHELL, of Tennessee, observed, that it had not been his intention to trouble the House with a single remark in support of the resolution he had had the honor to offer, nor should he now trouble them long. The resolution of the member from Georgia, although on the same general subject with his own, did not embrace more than a single one of the many and important points embraced in the latter, and which he had been desirous for years to bring forward, and have presented to the attention of this House. He could not but consider many of these propositions of great intrinsic importance. When that People, whose Representatives now held seats within this Hall, first came over the waters of the Atlantic, those to whom this resolution refers, were the original inhabitants and lords of the soil. By the gradual encroachments of the white settlers, they had been driven

DEC. 18, 1827.]

*Remove Indians West of Mississippi.*

[H. OF R.]

back from the coast, until their territory had been almost brought to a state of nothingness. It was, indeed, true, that some among them were possessed of great wealth; but the rest, who formed the great body of their tribes, were in the most wretched, abject, and destructive condition in which poor wretches could possibly be. In the year 1808, Mr. Jefferson, whose guardian care over every class of our population was equalled only by the expansion of his philosophic mind, was the first to turn his attention to the condition of these unhappy People. He revolved their state in his capacious understanding, and the philanthropic result was an attempt to provide every practicable relief for their wretched circumstances. He caused them to be furnished with agricultural implements, and with the various races of domestic animals; he enabled them, also, to avail themselves of the spindle and the loom, by which their women might be clothed, and their comforts greatly increased. By these measures of that great and benevolent man, many of the savage barriers which withheld them from the blessings of civilization were removed, and their condition was greatly ameliorated. But, though much had been done, their situation still required that more should yet be done. Every successive Administration had done something to aid the benevolent design. But still, the mass of these unfortunate people had groaned under the most despotic of all Governments, and the bondage of their savage rulers still continued to hold them in an iron grasp. Their situation called for our sympathy, not for a vindictive spirit which sought their destruction. For himself (Mr. M. said) his object by this resolution was not to remove them to the wilds, and there send them back to their hunting state; but to place them in a condition where they might gradually participate in the benefits of civilization. Their land, said Mr. M. I covet not; we have had enough of it; but the possession of their lands, should they continue to hold them, will prove an injury to themselves, as well as to those in their vicinity. As they are now situated, their condition resembles that of a person taking a slow poison, which must, ere long, destroy him. He trusted they would not be destroyed. He knew that their preservation, their civilization, and the general amelioration of their state, was the ardent desire of the humane throughout the Union. In their present situation, they were unprepared to receive the blessings of social order; and if you drive them, said Mr. M. into the wilderness, without any protecting and preserving arm extended over them, will it not be like leading these unhappy beings into one spot and there destroying them?

I repeat that the object of my resolution is not lucre; it is the good of the Indians, and not their lands that I seek. They never can be free, intelligent, and independent, while their present cruel masters lord it over them. Which of you would be willing, calmly to stand by while some miserable man was taking poison, and not snatch the fatal cup from his lips? Who among us would see the self murderer with the knife ready in his hand, and just about to plunge it in his own breast, and not snatch the deadly weapon from his grasp? I am sure there is none. And shall we not act with the same caution toward these children of the forest that we would with the miserable suicide? Is it our duty to consult their will in such a matter? What can be the result of consulting the ignorant, but ignorance in their determination? These poor beings are incapable of understanding their own true interest, or choosing what will be most for their benefit. Let us act for them—let us promote their union in a place where they will be protected from intruders, and enjoy the benefit of some system of Government. The roaming man of the forest will never be truly free till he has learned to submit himself to proper legal restraints—he must do what our fathers did—he must give up a portion of his savage liberty to secure that part of

it which will best promote his happiness. Of what nature the government shall be under which these People are to be placed, I am far from attempting to dictate. That will be for the mature consideration of the Committee to whom my resolution may be referred, and for the solemn decision of this House. What I want is to remove them at once from the avaricious gripe of those who can never be satisfied with seizing upon their hunting grounds and half cultivated fields—I wish to have the soil of their new abode secured to them as firmly as that of any of the States is confirmed to their white possessors: so that the idea of holding councils, as they are called, for the purpose of cheating them out of their lands, may no more be heard to disgrace these Halls—I say disgrace them: for surely it is disgrace to the Government and to the Nation, to treat these people as if they were independent nations, while they live among us in the powerless and miserable condition in which they are now found. But give them a region of their own—give them a suitable Government—and soon they will begin to feel the benign influence of law—soon they will be prepared to become an integral part of the American People. Till you secure them a firm possession of the soil, it is in vain that you endeavor to improve their state—so long as the whites may claim and take from them the possession of their soil, they never can become effectually and permanently civilized. It is the right of soil which will attach them to their improvements—will attach them to their Government, and will soften gradually and refine their whole condition. But then they must be furnished with a system of education—not a mere elementary plan of giving them the A, B, C, but Universities and Colleges, where they may advance themselves in science. They must have manufacturing establishments, for the cultivation and exercise of their native ingenuity: in a word, whatever their gradual improvement may require. It is by adopting a plan like this, and by that alone, that you will get clear of those difficulties which Georgia, which Alabama, which Mississippi, which Missouri, which North Carolina, and many other States, have in turn had to encounter. Let us extend to them the hand of mercy, and not use the powerful arm of Government merely to put them out of our way, and there let them perish. Mr. M. concluded with expressing his trust that the humanity of the House would forbid their rejecting a resolution such as that he had the honor now to lay before them. As to the resolution of his friend from Georgia, that gentleman had consulted with him, and was not opposed to the resolution, now offered. The gentleman's resolution, as far as it went, was unexceptionable, but it stopped short of his motive in offering it.

Mr. LUMPKIN observed, that the gentleman from Tennessee had misunderstood him, if he supposed that the resolution he had offered stopped short of his motive. This was not the fact. It embraced all he had intended now to propose; but the resolution of the gentleman went much farther—the chief difference between them lying in this, that, while he (Mr. L.) had gone a certain length which he deemed expedient on this very important and interesting subject, the gentleman from Tennessee had prepared a plan which seemed to him to reach half a century ahead. He did not, however, object to it.

Mr. LIVINGSTON observed, that, as it was merely a resolution of inquiry, it did not commit the House, and he hoped it would be adopted. He thought the considerations involved by it were such as must weigh heavily on the mind of every gentleman in that House. When they took into view the anomalous condition of these decaying tribes, and the very imperfect rights which they enjoyed while placed under what was called the protecting arm of the Government, he was persuaded gentlemen would agree with him that their condition was one which required to be most carefully looked into, and to be cleared

H. OF R.]

*Amendment to the Rules.*

[Dec. 19, 1827.]

vated by every means which the wisdom of Congress may be able to devise. It called for all the care of the Committee, and all that discussion in the House which their report might be expected to call forth. On such a subject, every resolution that suggested any new idea toward the amelioration and relief of those unfortunate people, in religion, in politics, or in any feature of their social existence, ought, certainly, to be regarded with favor. The resolution of the gentleman from Georgia embraced the subject in its general aspect—but that now offered by the gentleman from Tennessee was more particular and definite, and directed the attention of the Committee to distinct objects, and those of the highest importance. He hoped it would be adopted.

The question was then taken, and the resolution of Mr. MITCHELL was adopted.

The House adjourned.

WEDNESDAY, DECEMBER 19, 1827.

#### AMENDMENT TO THE RULES.

The following resolution, moved yesterday by Mr. BARTLETT, came up for consideration:

“Strike out the following rule:

‘Every bill shall be introduced by motion for leave, or by an order of the House, on the report of a committee; and, in either case, a committee to prepare the same shall be appointed. In cases of a general nature, one day’s notice at least shall be given of the motion to bring in a bill, and every such motion may be committed.’

“And substitute the following:

‘No bill shall be introduced except upon the report of a committee.’”

The resolution having been read—

Mr. BASSETT made some observations in opposition to its adoption, and on the general inexpediency of changing Rules of Order, which have been long tried, and found effectual for their object, for new ones of an equivocal utility.

Mr. BARTLETT spoke in reply, disclaiming any particular anxiety for the adoption of the rule he had introduced, having been led to propose it mainly from observing the inconvenience which had recently been experienced from the operation of that now in existence. It had received very different constructions; and, if it was intended to be so understood as to admit the introduction of bills into the House, which had been submitted to no committee of the House, he was certainly of opinion it ought immediately to be repealed. If it was to be interpreted the other way, then, it would be equivalent to the new rule, and the only difference would be that the latter expressed in simple and direct language, what was now expressed in obscure and dubious terms.

Mr. BASSETT now delivered his views more at length, and insisted on the practical inconvenience which would result from the adoption of the new rule; circumstances might easily occur in which there would be a great expediency in having a bill introduced without any delay: if this rule were adopted, the committees must have leave to sit during the sittings of the House, which might often be very inconvenient; and yet, if this leave were refused, much delay must be sustained. If the rule were permitted to stand in its present form, the mover and second of the motion for leave to introduce a bill, would be practically considered as a committee to introduce it: and though the rule requires a day’s previous notice of such motion for leave, yet, when there was need of expedition, this part of the rule might be dispensed with for the occasion. He could see no obscurity in the language of the rule, and hoped it would not be exchanged for one which was against all Parliamentary usage.

Mr. S. WOOD, of New York, thought, that, though the existing rule was not absolutely obscure, yet it was,

in its operation, certainly deceptive. For he believed that no new member would know or believe, from its slight perusal, that he might, individually, introduce a bill into the House whenever he could get leave. Yet such was the fact. He contended that a bill thus introduced must, under the present rule, take the course of a bill reported by a committee. This was, indeed, the practice in some of the States; it was so in the State of New York. [Here he stated minutely the practice which obtains in the Legislature of that State.] But if a bill introduced on leave must afterwards go to a committee, and that committee have power to revise, alter, and re-modify it, what advantage did the mover gain by leave to introduce a bill more than a mere resolution? And what practical use was there in the rule? For himself, he was friendly to the new rule, but suggested to the gentleman from New Hampshire, to introduce into it the words “by order of the House,” from the present rule. With this addition the rule would be simple, intelligible, and adapted to the practice of the House.

Mr. STRONG was opposed to abrogating the present rule; the practical advantage of which he contended was this: that it enabled a member to introduce the subject-matter on which he desired the action of the House, not merely in a general form, as was done by a resolution, but in a more particular and detailed form, if he might think that most expedient. But then the practice under the rule ought to be, that, when a bill is introduced by a member on leave, and taken to the Clerk’s table, it ought not there to receive its first and second reading, but to be immediately referred to one of the standing committees of the House, or to a select committee. Thus the whole object of the mover would be attained. He would present the subject to a committee of the House in that particular form which he considered most advantageous. But if an opposite practice should prevail, and a bill introduced by a member on leave, is to be treated as if it had been reported by a committee, this consequence would follow, that speeches would be immediately in order on a subject just presented for the first time to the notice of the House, and premature debate ensue before due opportunity had been afforded for deliberation. If this latter is actually the true construction of the present rule, he thought it ought to be repealed; if not, it had better stand as it is.

Mr. ARCHER was of opinion that the rule ought not to be altered. The House, as a Parliamentary body, could not, he said, act by any individual member, but must act by a committee, and contended that, under the rule as it at present stood, no bill could be introduced except by a committee. Mr. A. stated the two modes by which a bill could now be brought in, either by leave granted, or by an order of the House. In the former case, the committee had discretionary power over the bill; in the latter, it has none whatever. But if a mere member of the House may, on leave, bring in any bill which suits his particular views, and that bill must of necessity pass immediately to its first and second reading, all sound legislation would be at an end. He thought the amendment of the rule was not only superfluous, but would be positively injurious. It would take away one of the modes at present open for the introduction of bills, and leave but one only. If it was to be adopted, he hoped the mover would adopt the suggestion of the gentleman from New York, [Mr. S. Wood] with which modification the two modes would still remain as at present.

Mr. BARTLETT said, if he had not before been convinced of the expediency of the alteration, he should now be so; for, of the four gentlemen who had spoken in reference to the present rule, no two agreed in their interpretation of it. Here Mr. B. recapitulated, and compared the views which had been advanced, and insisted on the expediency of the alteration he had proposed.

DEC. 19, 1827.]

*Amendment to the Rules.*

[H. OF R.]

He was entirely opposed to the introduction of bills "by order of the House," and contended that if such mode should ever be necessary, it must be rarely, when the rule might, for the occasion, be suspended. Mr. B. stated his precise object to be, to get rid of all modes of bringing in bills but one only.

Mr. MARVIN, of New York, opposed the adoption of a new rule, but contended that neither of the gentlemen had stated with entire correctness the true construction of the present one. The rule was copied almost verbatim from that adopted by the British House of Commons, and had found its way into almost every legislative body in the Union, and time sufficient had elapsed to establish a just construction of it. The ordinary mode by which a member introduces any matter to the notice and consideration of the House, is by asking that it may be referred to one of the committees, to report on the expediency of introducing a bill. This request is ordinarily granted, almost as a matter of course, the House relying on the judgment of its committees, who exercise a discretion in the matter. This was the ordinary mode; but that provided for by the standing rule, is extraordinary. It is adapted to extraordinary cases which may arise: for it might happen that a member was desirous of submitting some matter on which he was confident of having a majority of the House in its favor, although a majority of the regular committee to which it would have to be referred might be opposed to it. This was a case for the operation of the rule. In this case the member gives notice that he will, on a day certain, ask leave to introduce a bill on that subject. If the House grants the leave, it takes the discretion out of the hands of a committee, and assumes it for itself; and the understanding is, that the bill shall in its scope agree with the leading views of the member who introduces it. That member does not, ordinarily, bring in a bill written out at length, but merely gives an outline of what he desires. Of an advantage like this, he would not have members deprived, as they must be, if the new rule prevail.

Mr. MERCER thought the gentleman last up had mistaken the provisions of the rule for the practice of the House. The latter he had correctly stated, but the rule as it stood did not sanction such a procedure. Mr. M. here recapitulated the only three cases in which this rule had been called into operation for these ten years past, and contended that the preservation of a rule of so little practical use, could not be a very important matter. Mr. M. then went into an argument to shew that a bill, introduced by leave, was to be referred to a committee, and that such committee possessed discretionary power over it, and insisted that, in practice, there was no difference between this mode and that of referring a resolution to a select committee. There was no advantage gained by it to the member asking leave, and it was in effect useless.

Mr. M., after a courteous compliment to the Speaker, referred the embarrassment which had taken place a day or two since, in the application of this rule, to the Speaker's familiarity with the practice in the Virginia House of Delegates, where any individual was permitted to introduce a bill on his own responsibility; but such was not the practice of this House. If the rule were abrogated, and any pressing case should occur, a committee might be raised to meet it.

Mr. BUCK thought the rule ought to stand. He did not understand the gentleman who had advocated it, as giving different constructions of the rule, but only different reasons for the same construction. All seemed to agree that a bill ought always to be referred to a committee, to be by them digested, and that it should receive the first action of the House as reported by them. In the late case, this doctrine was virtually sanctioned by the House, which, on discovering that a bill had been

twice read without going to a committee, reconsidered its proceedings, retraced its steps, and ordered the bill to be first prepared by the Committee on the Judiciary. Mr. B. was friendly to such a construction as permitted a member to present his views in detail, if he wished, and the best way of doing this was in the form of a bill. If the rule must receive a construction which forbade this, it ought to be abolished.

Mr. TAYLOR was of opinion that rather more importance had been given to this matter than it really deserved. There seemed to be a general mistake prevailing, in the apprehension that, when leave was granted under the present rule, it is granted to an individual member, that he may bring in a bill. The fact was not so. Leave is granted, on the request of that member, that a bill may be brought in; but not, certainly by him, individually, but by a committee of the House. It was, indeed, true that, from courtesy, it was always customary to place that member at the head of such committee as was raised at his request; but this was of courtesy, not of right—by practice, not by the rule. When such a request is made, the House expects to hear the reasons why it ought to be granted; and, when it is granted, the proceeding is only equivalent to the raising a select committee to consider the subject, and report a bill upon it. The only difference lay in this: that it afforded the mover an opportunity of being placed on somewhat more conspicuous ground as the father of the measure proposed by him. If such was at any time an object of ambition, (which it might very innocently be,) he thought a member ought not to be deprived of the gratification. Mr. T. here took occasion to observe that formerly it was a rare thing to instruct the committees of this House in the discharge of their duty: it was then believed that the committees had some little share of intelligence as to what that duty was, and some desire of properly discharging it; but, of late, the committees were dealt with as if they really had not an idea of their own—as if they knew nothing, and could do nothing, save as they were instructed by the House. Hence the floods of resolutions which every day inundated the House; and hence the contests whether one of these resolutions did or did not contain precisely the same idea, or the same number of ideas with another resolution on the same subject, moved by some other gentleman—how far it went—and whether it had any new idea in it. Of all this, Mr. T. said he did not mean to be understood as complaining; he merely stated that it was a novel mode of doing the business of the House. When he first had the honor to serve in this body, the instructing of a committee was a thing which took place very rarely, and only on matters of very grave and serious moment; and the resolution for so instructing a committee, was sometimes the subject of earnest debate in Committee of the Whole House. And it would still be in order to refer a motion for leave to have a bill introduced to a Committee of the Whole. At present there were three modes by which a bill might be got before the House. The first was by a resolution directing a committee to inquire into the expediency of reporting such bill. This mode had become very common. Every week the House passed such resolutions—should he say without understanding them? He would say, without giving them that attentive and serious consideration which the importance of many of them deserved. It would be easy to adduce instances in proof of this remark. He would merely ask whether such resolutions were not often adopted directing a committee to inquire into the expediency of doing what every member, when adopting such resolution, knew to be impracticable? During the short portion of the present session which had elapsed, resolutions had been passed in reference to the relief of individuals in their private affairs, for which no one member of the House would so much as think of voting. These remarks

H. OF R.]

Bank of the United States.

[Dec. 20, 1827.]

he made without intending the slightest disrespect to the House; but they were elicited by a course of proceeding which has grown more and more common, and which he, for one, could not think was a proper one.

The second mode was by moving that one of the standing committees be directed to report a bill, or that a select committee be appointed to do the same thing. There was but little difference, in practice, between this mode and that permitted by the rule in question—which was the third mode. For his own part, he could see no great reason for a change. Let those who had devoted themselves to a particular subject, by attention and study, and were desirous of being placed in a prominent light, as the parent of certain measures which they deemed important to the public good, be indulged in this desire, by being permitted to have their bills introduced on leave. Yet, from what had already transpired, it must be apparent to all that there was much which might be said on both sides of the question. The rule had stood for many years: he believed it was among the earliest adopted by the House: and, in order to allow time for more mature reflection before it was abrogated, he would move to lay the resolution proposing a new rule, for the present, upon the table.

The motion prevailed, and it was laid upon the table accordingly.

Mr. STORRS rose for the purpose of making a motion in relation to a bill which had been introduced on leave, by a gentleman from Maryland, [Mr. LITTLE] in reference to the apportionment of representation under the next census. That bill had been twice read, and referred to a Committee of the Whole House. He was desirous of giving it some other disposition than such as would occasion it to have its first discussion in a Committee of the Whole. He therefore moved that the Committee of the Whole be discharged from its consideration, and that it go to a select committee. Should this motion prevail, he was desirous that the select committee should consist of a member from each State in the Union, as the subject was one in which all the States were equally interested.

The motion prevailed, and a select committee was ordered, to consist of twenty-four members.

THURSDAY, DECEMBER 20, 1827

## BANK OF THE UNITED STATES.

Mr. P. P. BARBOUR, of Virginia moved the consideration of the following resolution, offered by him some days since, and now lying on the table:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of providing by law for the sale of that portion of the Stock of the Bank of the United States, which is held by the Government of the United States, and the application of the proceeds thereof to the payment of the public debt."

The motion prevailed, and the resolution having been read at the Clerk's table,

Mr. BARBOUR rose, and said, that, at the time he had had the honour of presenting this resolution to the House, he had accompanied it by some general remarks, intended only to convey an outline of those views in which the resolution was founded. Having since understood that it was desired, by many gentlemen, that the policy of the measure it recommended should be discussed without delay, and presuming that the opinion which the House might express at this stage of its consideration, was to be received as decisive of its future destiny, it was his purpose now to go somewhat more at large into the reasons which had induced him to offer this proposition for consideration. But, before he presented these views, he would take leave to make one or two passing remarks, which he owed in justice to himself. He had heard it pretty clearly intimated, since

the presentation of this resolution—nay, he had seen it so intimated—that this might possibly be what was denominated a measure of the Opposition in this House. Some *ambiguous* voices had reached his ear, which seemed to imply that, in bringing forward this proposition, he had been influenced by some motive, and had cherished some purpose, other than those which had been avowed; and that the measure he advocated, was itself the result of concert, and of an understanding among those who were denominated the Opposition members. It was but an act of sheer justice to himself to declare, that, while, on every proper occasion, in relation to measures which might be viewed as affecting what were called party politics, he should openly, frankly, and fearlessly express the opinions which he really entertained, and should, as openly, as frankly, and as fearlessly, pursue his convictions, whether they did or did not coincide with those of others. It never had been a part of his character, or his course, and it never should be, to approach any object he had in view by indirection; his motives he would openly avow; the opinions he held he would frankly express; what he did he would ever do in open day; he trusted he never should learn, as he had not hitherto learned, the by-paths of either moral or political obliquity. He disdained to be influenced by considerations which he was ashamed to avow. He despised the idea of getting at the object he might have in view, in any way but by meeting it in the face, and stating his opinions or his purpose just as it really was. Under the influence of such feelings, he now utterly and positively disclaimed any such motive, purpose, concert, or understanding, as that which had been attributed to him. So far was he from this, that, as far as he had received any intimation of the opinion of those gentlemen, with whose general political principles he agreed, as to the proposition he was about to offer, he knew that some of them were opposed to it. It was no more than justice to himself to say, that the measure proposed by the resolution, be it right or wrong, whether salutary or pernicious in its tendency, was the offspring of his own mind. He had not mentioned it to more, in all, than half a dozen of his friends, and out of this number two disapproved of it.

We shall have fallen on evil times, indeed, said Mr. B. if a member of this House might not, in the integrity of his heart, rise in his place, and offer for consideration a measure which he believed to be for the public weal, without having all that he said and did imputed to some hidden motive, and referred to some secret purpose which was never presented to the public eye. He again solemnly disclaimed all such motives, and every such purpose. To what he had already said, he would go so far as to add, that, even in the last annual report received from the Secretary of the Treasury, there was an allusion to the very subject which he had brought forward. As a proof of this, he begged leave to read a short extract from that report:

"The sum of seven millions, subscribed by the Government to the Bank of the United States, is, in effect, destroyed as debt, by the United States owning an equal amount in the shares of the Bank. So far is this sum from being any charge upon the Treasury, that the Treasury is annually receiving interest for it, in the dividends upon the shares. Whenever the latter are sold, they may at least be expected to replace the sum that was invested in them."

Here was certainly a pretty distinct reference of the honorable Secretary to the same subject as was embraced by his resolution; and yet, he presumed, it would hardly be inferred that motives such as he had found it necessary to disavow, had influenced the author of that report. With these prefatory remarks, which he con-



Dec. 20, 1827.]

Bank of the United States.

[H. OF R.]

ceived were demanded by a just regard to his own character, Mr. B. said he would now pass to the immediate question to be considered.

My proposition, said Mr. B. is to sell out the stock at present held by the Government in the Bank of the United States, amounting to the sum of seven millions of dollars. When I first introduced this subject, I stated to the House that the existing price of this stock in the market was understood to stand at an advance of twenty-three and a fraction per cent. on the nominal amount. It is plain, that if the Government could sell out its whole amount of stock at that price, it would realize a profit to the whole extent of this advance of twenty-three per cent. on seven millions of dollars, amounting to about one million six hundred thousand dollars. No proof will be required that this would be a very advantageous transaction, provided it were attended with no injurious consequences, sufficient to countervail the amount of profit. To add such an amount to the available funds of the Government, without laying any additional burthens upon the people, fiscally considered, must be a beneficial operation. Would such an operation, Mr. B. asked, be attended with those injurious consequences which have been anticipated, and which have been urged as objections to it by gentlemen on this floor? It would be now his endeavor to show that it would not. We have been told, that the very instant such a measure was resolved upon in this Hall, a very large deduction would take place in the present advance in the market price of the stock, and that the greater part, if not the whole of the twenty-three and an half per cent. would suddenly disappear, on the mere mention of such a thing as being seriously intended. We have been farther assured, that the suddenly throwing of seven millions of dollars worth of this stock into the money market at once, would present an amount that could not be purchased by the capitalists here, and that, consequently, an alarming depression of the price would infallibly ensue.

In reply, I might remark, in the first place, that the mere matter of detail, as to the time, the manner, and the different sums, in which this stock is to be introduced into the market, would be subject to arrangement in the bill reported in pursuance of this resolution; and that, by a judicious arrangement of them, much, if not all, of this consequence might readily be obviated. The whole amount need not be thrown into market *en masse*, but successively presented in broken sums. With his present view of the fact of the case, Mr. B. said he could not and would not say that there was no possibility of the smallest depression taking place, and he certainly was conscious that, if there should be any fall in the price, it would, at the utmost be very small. Bank Stock is a commodity in market; and there is one principle of political economy, so well established as to be universally received as an axiom in that science, that the price of every commodity, (not excepting even gold and bullion) is regulated in all cases by the proportion between the supply of, and the demand for it. There may occur occasional fluctuations and irregularities in this general state of things, but these, like the alternating vibrations of the pendulum, still tend to quiescence in the centre. Now take this universal and well settled principle and apply it to the existing situation of this country—to the stock in question—to its character—to the quantity proposed to be sold, and to the demand for it.

It will not be denied by me, said Mr. B., that a state of circumstances might be conceived to exist, in which an attempt to sell this amount of United States' Bank Stock, would be productive of very considerable depression of its market price. But the question now to be considered by the House is not what might happen under a given posture of conceivable circumstances, but what is likely to happen in the actually existing state of

things. The only ground of such depression, if any, must be the large increase of supply, while the same demand, and no more, continues to exist. Such a state of things would impinge upon the general principle I first stated, by altering the proportion between demand and supply. But no such state of things will exist, should the present proposition prevail: for there is, and has been, for these three years past, a diminished quantity of Government stock to be sold, and an increased amount of means to buy it, both occasioned by one and the same cause, namely: the paying off of large portions of the public debt by the redemption of United States' Stock.

During the year 1825, we paid of the principal of the public debt more than seven and a half millions; in 1826, more than seven millions; and, during the present year, 1827, we shall have paid more than six and a half millions more; making, in all, an amount of twenty-one and about a quarter millions. The Secretary of the Treasury, however, informs us in his report, that five millions of this debt has been paid by the issue of a new stock. It will therefore be proper to deduct this; and the result will be, that, in these three years, there have been actually paid off more than sixteen millions of the public debt. To this let me add, that, according to the statements relative to the sinking fund, and the present condition of the funded debt, there will be paid, in the year 1828, seven millions more; and in the years 1829 and 1830, an amount even beyond this (being enlarged by the increased activity of the sinking fund, from the circumstance of a large amount now devoted to interest becoming applicable to the principal of the debt.) Reckoning, then, that, during the years 1825, 6, and 7, sixteen millions have been paid, and that, in 1827, 8, and 9, twenty-one millions more will have been paid, here will have been an amount of thirty-seven millions of the public debt of the United States paid off in six years.

Have any violent shocks been produced by this operation? Has any derangement resulted in the financial arrangements of the country? Has United States' stock fallen? I apprehend not. And why? For the reason I have stated, and which I now apply to the proposition before us, and from which very extensive consequences necessarily follow, going to shew that the effect of the payment of very large amounts of the public debt is not to diminish, but to increase, the price of the residue. When, in the British Government, their sinking fund was established, in the year 1786, it was held necessary to fix a maximum for its operation, lest too great an amount of money should thereby be thrown into the market. It will be my endeavor to shew, that, with us as with them, the effect of paying off the debt produces an abundance of money, and therein an abundance of the means of purchasing the bank stock which the same operation has thrown into the market. While the former owners of the public stock have in their hands money which seeks investment, the sale of the bank stock will furnish an admirable mode by which this may be accomplished. Applying the principle with which he set out, Mr. B. remarked, that it would be apparent that, if any depression was to result, it would rather be produced by paying the debt in money than by exchanging it for bank stock. By redeeming the national stock, money, which was before safely invested, is thrown into the market, and naturally seeks some new employment. Now, I propose, said Mr. B., while this is done, to carry into the market an equal amount of stock in which that money may be invested again. Do gentlemen apprehend a depression in the price of stock? Why? Because, say they, there will be too large an amount of it for the money which is prepared to be invested in it. But my proposition, to its whole extent, goes to pay off so much of the public debt, and thereby

H. OF R.]

*Bank of the United States.*

[Dec. 20, 1837.]

to furnish the means of purchasing—in addition to which, seven millions more will be derived next year from the operation of the sinking fund. The conclusion, from a view of these facts, would seem to me to be, that it is next to impossible that a depression can be produced in the price of bank stock by an operation which, while it exposes that stock to sale, supplies, at the same time, the means and the inducement for purchasing it.

I do not mean to advocate the old, and what I understand to be now an exploded doctrine, that the payment of the public debt is an addition to the actual funds of the nation. The effect of that payment is only to let loose so much capital from a permanent investment: it creates no new capital, but it adds to the amount of capital seeking investment. Here, then, there will be a combination of the very two circumstances which operate to increase the price of commodity, viz: increased demand and diminished supply—the one created by paying off so much of the public debt, the other by diminishing so much of the public funded stock.

Mr. B. here presented the result of some calculations which he had made, with a view to show how far facts went to justify the principles he had laid down. But, before he exhibited them, he wished to premise, that they had been made from the best information he could obtain; that they did not aim at mathematical exactness, fractions, and even small sums not fractional, having been discarded. (For example, he had taken no notice of the difference resulting from the receipts of dividends from the bank, being half yearly, while the payments of interest on the public stocks were quarterly.) His object was to approximate the truth in its great outline, without attending to its minutest parts. He would first endeavor to shew what was the present average rate of profit on capital in the United States. The 3 per cent. United States' stocks are at this time selling at 87 per cent. of their nominal amount.

Taking them at 87 per cent., the actual annual profit realized by the purchaser, was about  $3\frac{1}{2}$  per cent. But as this description of stocks were redeemable at par at the pleasure of the Government, he had not included them in the statement he was about to submit. Of the  $4\frac{1}{2}$  per cent. redeemable in 1829, 30, 31, 32, 33, and 34, there were, he understood, but one kind now in market; which kind it was he could not say, but he presumed that soonest redeemable. The 5 per cents. ranged from 7 to 8 per cent. advance—he would take the medium at  $7\frac{1}{2}$ , but as this included the dividend of the present year, that amount must be deducted, which would leave them at  $6\frac{1}{2}$ . He that purchased this stock at that state, would receive an annual income of about \$3 33 cents on every \$100. The 5 per cent stocks of 1831, were at from  $8\frac{1}{2}$  to  $9\frac{1}{2}$  advance—he would take the average, 9 per cent.—he who laid out \$107 75 cents in this stock, would receive an annual interest of  $3\frac{1}{2}$  per cent. on the stock until its redemption. Mr. B. said, he introduced these quotations of prices to shew that other stocks than bank stock now yielded an average profit of from  $3\frac{1}{2}$  to  $3\frac{3}{4}$  per cent. only. If the House was surprised at this low rate of profit, he would proceed to show why the investment of money in these stocks could be afforded by the capitalist. He had been told, from the highest authorities, and among others from that of the first Secretary of the Treasury, (Mr. Hamilton,) in his celebrated report on the funded debt, that any stock which was well and securely funded, which enjoyed the public confidence, and which was transferrable, became, in a great measure, a part of the circulating medium of the country.

In England, stock of this description, as was well known, entered largely into the circulating medium of the Kingdom, and, in this country, the credit of our

public stock being high, it is, in general, transferrable as a circulating medium, and loans on the security can at all times be easily effected. Now, if a capitalist does not invest his money in a permanent stock of some kind, so long as it remains idle he loses the interest on it entirely: but if he invests it in stock, even at a low interest, yet he is receiving something for it, though the profit may be but moderate; and, whenever he wishes to make use of it for business or speculation, he has a control over it almost as efficient and certain as if it were on deposit in one of the banks. Hence arises such a state of things that the capitalists of the United States, as the fact proves, find it to their interest to invest their money in the public funds, at a less rate of interest than that money might command by other investments.

If he was accurate in the result to which he had arrived by his former calculation, Mr. B. said, then he was prepared to show, by another statement, (which he offered with the same explanation, as to its degree of correctness, which he had made in relation to the former,) that he who now pays the market price for stock of the United States' Bank, would receive about  $3\frac{1}{2}$  per cent. for his money, during the period of time which would elapse before the expiration of its charter.

Now, Mr. B. said, when gentlemen anticipated so great and sudden a depreciation in Bank Stock from offering a large amount of it for sale, they might allay their apprehensions by looking at the profits of other stock in the market. Stockholders, as was universally admitted, well understood what was for their own interest, and were able to calculate with accuracy what would be the value of any contemplated investment of their capital. But, if it was a fact that in other kinds of stock they received a profit of from three and a quarter to three and a half per cent. (as was before shewn) it now appears that they would receive nearly the same profit upon the purchase of United States' Bank Stock, at its present advance.

The existing charter of the U. States' Bank extends to the year 1836. The stockholders know this, and have, therefore, precise data from which to calculate the continuance of their investment in the Stock, and, allowing the present rate of dividend to be kept up, they may very accurately estimate the value of their investments. Now, of the various kinds of United States' Stock there is not one which is not redeemable before the year 1836: some kinds are to be redeemed in 1829, some, in 1830, and the following years, the maximum being 1835. The Bank Stock is therefore more permanent by a whole year (and a fraction longer) than any of the other Stock in the market; and, I need not, said Mr. B., remind gentlemen that the holders of Stock, whether they intend merely to live on the annual proceeds, or to use it for purposes of business or speculation, attach the greatest value to that Stock which is irredeemable for the longest time, and to the rest proportionably.

The longest date of the Stocks created to pay the debt of the last war was twelve years.

[Here the SPEAKER interferred, and reminded the gentleman that the hour allotted to the consideration of resolutions had elapsed, and that he must postpone the residue of his speech; whereupon, Mr. McDUFFIE moved that the rule on that subject be for this day suspended.]

After some remarks from Mr. BURGESS, (which were declared not to be in order on this motion) the question was taken, and the rule was suspended accordingly.

Mr. BARBOUR then resumed, and recapitulated the points of his argument, having, as he hoped, satisfactorily shown that no depression of the price of Bank Stock was to be feared, because the payments of the public

Dec. 20, 1827.]

*Bank of the United States.*

[H. OF R.]

debt already made, and shortly to be made, would furnish a fund that naturally sought investment, while at the same time the amount of United States' Stock was thereby diminished; and because Bank Stock, even at its present advance gave as good a profit as any other Stock.

He had thus far considered the Stock of this Bank as stock merely, and had gone on the presumption that the charter of the Bank was certainly to expire at the limit of its present term, in 1836. But this was by no means certain: on the contrary, there was every probability that the charter would be renewed. The probabilities of this event could as well be judged of by the stockholders as by him, and probably much better. Their calculations of that probability had united with other considerations to produce a market price much advanced beyond the nominal value of the Stock, and this he had endeavored to show was not likely to be diminished.

He now proceeded to inquire if any other evils were to be apprehended from the proposed sale? It had been said, that the moment such a proposal should pass the House, all public confidence in the character of this stock would be at an end; and as its price depends on the compound considerations of its security, its profitableness and its hold on the public confidence, if this last should be destroyed or greatly shaken, a sudden fall in the price of the stock must inevitably follow.

But, he asked, why must the public confidence be diminished? The charter of the bank would still remain; (for he presumed no member of this House thought of laying so much as a finger on that instrument.) All the funds of the bank would continue, its debts receivable would continue; the profits of its operations would remain untouched; its discounts would go on; it would have the same direction; it would continue to be the depository of the funds of the United States, (which constituted of themselves an enormous amount.) In short, not one of its circumstances would sustain any change which could impair the confidence of the stockholders. Why, then, must it be impaired? Suppose, for illustration sake that any other large stockholder should sell out his stock; suppose a canal company, for instance, or any other wealthy association, chose to part with their stock in this bank, because they deemed it most for their interest to use the money elsewhere, would such a sale affect the credit of the stock? Not at all. And why must the mere fact, that, in the present case, the seller happened to be the Government of the United States, produce such an effect? The Government also ceases to be a holder of stock—it does not touch the charter of the Bank—all other operations of the Institution go on as before—except that the United States Government owing a debt, and not having cash funds to pay it, chooses to part with some portion of an investment, and change it for another—it exchanges the advantage of holding of bank stock, for that of paying a debt it owes. So long as the present charter continues, all the remarks founded on its continuance apply. Of its probable renewal, it is perhaps scarcely proper to speak in this place, at this time. Yet I must be permitted to remark, that I cannot concur with the honorable gentleman from Massachusetts, (Mr. GOSSETT) in his opinion, expressed when this resolution was introduced a few days since, that the stockholders in a Bank of the United States have a right to expect the renewal of its charter. They, like others, may indeed calculate the probabilities of such an event, but, in the mean while, they have a precise period fixed by the charter for its termination, and on that alone they have a right to reckon. For myself, if I were to speculate on the probabilities of the renewal of the present charter of the United States' Bank, I should, I confess, say it was highly probable it will be renewed. It is true, I did not vote for the charter, and personally, I should vote against its renewal; but, on other grounds from those on which I should act, the subject assumes a very different aspect.

The old bank was indeed suffered to expire: but, in a very few years, public opinion called decidedly for its renewal; and, if we may conjecture the future from knowing and remembering the past, it appears probable that the same views which resulted in the present charter, will prevail for its renewal. The prominent considerations urged by gentlemen in its favor, were, so far as I recollect, the effect of the bank in equalizing exchanges; in keeping up a currency at par value; in transferring with facility, balances from one part of the United States to another, and in its furnishing a safe depository for the funds of the Government. These reasons will probably be as operative in 1836, as they were when the present charter was granted.

A farther objection to the proposition I have submitted was the consideration that it would be wrong in itself, and in the eyes of the American People, that Government should continue its control over an institution which, in that case, would be private property. And certainly, were it true that the Bank of the U. States, as soon as the Government should sell out its stock therein, would become merely private property, there would be much strength in this objection. But, will it not be remembered that the paper of this bank comes to a vast extent, instead of the previous circulating medium of the country? That its paper displaces specie, and transfers it to the vaults of the Bank? While this is the case, can it be said that the country has no interest in that bank, and ought to have no concern with it? The whole funds of the United States are there deposited: can it be possible that the Government has no concern in a bank that holds its whole moneyed capital? What if the Government does sell out its stock, has it not still five Directors out of the twenty-five, who manage its concerns? And ought it not to have them? It has the privilege of knowing and examining the state of the bank's affairs. Is not this just and right? seeing that all its funds are deposited there? Suppose the bank should, from any pressure of circumstances, be induced to violate its charter; the case is provided against: but how? Is the violation to be judged of here, or in the other branch of the legislature? No. It is to be declared by the Judiciary: it is there that the facts are to be judged, and the declaration made. It is not, then, a true proposition, that the Government will retain its control over a mere private institution.

These considerations, however, are urged merely as a collateral and auxiliary part of the subject. My great view and main argument has respect to the pecuniary advantage to be gained by the measure I propose. But there are other views of it. I have already said, on a former occasion, that, in my judgment, it is not proper that Government should be a stockholder in the bank, and that, by the very fact of being so, it is exposed to the influence of interested motives. Let me, for a moment, illustrate this position. By the present charter of the bank, the interest receivable by the institution is limited to 6 per cent. When I look into futurity, I can suppose that a proposition shall be made to Congress to increase this rate of interest; and can it not well be imagined, that men of the purest integrity, then in this House, may, insensibly, and without their own knowledge, be, to a greater or less degree, influenced by a calculation on the receipt of this rate of interest? Let me suppose another case, and such an one as has actually happened elsewhere. It is admitted, that paper, in order to constitute a sound currency, should at all times be convertible into specie. Now suppose a state of great public difficulty, and, in this emergency the bank steps forward to the relief of the Government, might not government in such a case, be induced, by a regard to its own interest, to pass an act suspending specie payments?

During the last war, there were banks in this country who were compelled, by the pressure of the times, to

H. or R.]

*Bank of the United States.*

[Dec. 20, 1827.]

suspend their own specie payments, and what was the consequence? Such an enormous and overwhelming issue of paper was poured out on the community, that the value of all kinds of property was deranged, and consequences of the most distressing and ruinous character necessarily ensued. The then Secretary of the Treasury estimated, I think the total amount of the circulating medium, at one time, at the enormous sum of one hundred and fifteen millions of dollars, and this vast amount was, in the course of four years, reduced down to forty-five millions; the contracts and speculations of the former years were swept away by the retiring ebb, and thousands and tens of thousands were brought to utter ruin by the change.

A remarkable instance of the same kind happened in England. In the year 1797, Parliament authorized the Bank of England to suspend specie payments—they were induced to adopt this measure, because the Government needed the funds of the Bank to subsidize their Continental Allies in the great struggle which then convulsed Europe. But while the Bank was compelled to pay specie for its notes, this could not be accomplished. The act was then passed. But no sooner was the Bank released from the necessity of paying in gold and silver, than its paper suffered a depreciation of from 15 to 20, and, I am even told by a gentleman near me, (and who is more versed in these matters than I pretend to be) to 33½ per cent. I mention these matters as having only a collateral bearing on the subject—but they tend to show the danger of placing the Government under temptation to a measure thus fraught with evil. I am therefore fixed in the opinion that the Government ought not to continue to be a Stockholder in this Bank; but I think I have shown that the People would have no just reason to complain that Government should, notwithstanding, retain its present measure of control over the institution.

This, however, is a subordinate consideration. My main argument rests, as I before observed, on the pecuniary advantage to be realized by the sale of the Stock. No member on this floor calculates, I presume, to impede the operation of the Sinking Fund; yet that fund will throw into the Stock market seven millions of money the next year, and this will produce far more injury than throwing into the market the same amount of Bank Stock. But, while the redemption of the debt will throw so large a sum afloat, the sale of the Bank Stock owned by the U. States will meet and absorb it.

Such are the general views by which I have been influenced to offer the present resolution. I am well aware that difference of sentiment exists upon the subject, among gentlemen for whose talents I have the highest respect. They will no doubt bring forward their views and support them with their accustomed ability. I shall hear them with the deepest attention; and now beg leave to conclude, by expressing a hope that the House will pass on this measure in its present stage, as deeming its present decision, in effect, to be final.

Mr. BARNEY next rose. He said, that, emulating the example of the gentleman from Virginia, he would take occasion at the threshold of this discussion to disclaim the influence of all party considerations. The only banner he was prepared to rally under, was that of his country, whose best interests he considered deeply involved in the decision that shall be had on this important question—the agitation of which had already created a strong sensation, much increased by the high reputation of the honorable mover, who, distinguished as a politician, occupied a large space in public esteem; and the ingenious, eloquent, and imposing argument he had just addressed to the House, could not fail to increase its effect. When it is recollected that the resolution now under consideration affects an Institution, whose capital of thirty-five millions of dollars is used as a circulating medium among the respective states, and between these U. States and Foreign

Countries, it cannot create surprise that an universal panic should pervade our commercial cities: for, until this question is decided, United States' Bank Stock is valueless as a means of remittance, more especially to Great Britain, where as exchange fluctuates, large portions of it are frequently transferred. The argument, based on the supposed profit to be realized by this sale, will be found to resemble statues of marble resting on pedestals of ice—the moment it is ascertained that the Government has dissolved its connexion with this National Institution, by the transfer of its stock, it is perfectly immaterial what amount of capital may be set afloat by the extinction of the public debt—that confidence which we shall have withdrawn from it, will pervade all money lenders, and, before a sale of one share can be effected, the market price will fall to par. The honorable mover of this resolution frankly avows, that he was originally opposed to the charter, and that he still continues hostile to its renewal; if his proposition is adopted, will it not be fairly inferred, that the policy which dictated the sale of the Stock, is to be maintained by a refusal to renew the Charter, and, consequently, the value which the Stock in the market derived from an impression that the Government, having an interest in its prosperity, will be favorable to a prolongation of its existence, ceases the moment that sale is decided on. It is asserted that, at the present selling price of Stocks, money really produces but 3¼ per cent. per annum; admit this position, and then United States' Bank Stock, producing 6 per cent. on its cost of \$100, ought not to be sold under \$180 per share. Mr. B's impressions were, that as it is desirable to pay off, forthwith, the loans paying 6 per cent. interest, the amount consequently, can readily be obtained at 4½ per cent. As the Bank divides 6 per cent., a sale of its Stock under \$133½ per share, would be so much lost in its real value. Mr. B. here asked if the exigencies of the nation required any extraordinary effort to pay off the National Debt, the amount of which was nominally 67 millions, in reality but 47? For this identical 7 millions of Bank Stock, which we hold in exchange for 7 millions 5 per cents. issued to the Bank, is a set off against that portion of the debt. And 13 millions 3 per cents. (which under no circumstances, was it probable the Government would pay off, while a single Internal Improvement remained unexecuted, or any taxes were levied upon the People,) there remains but 47 millions to be discharged, which, by the regular operation of the Sinking Fund, would be extinguished in less than seven years; and, it is not desirable to the creditors of the Nation, or to the Nation itself, that it should be paid off more rapidly.

Mr. B. could not coincide in the opinion, that continuing to hold this stock could have any influence in increasing the rate of interest by legislative enactment. As individuals, a large portion of the members composing the Congress of the United States, had occasion to become borrowers of money, hence they could have no inducement to raise the rate of interest; as politicians, they could not be so short sighted as not to foresee, that, in a Government constituted like ours, the moment the national debt was extinguished, the duty on imports, which constituted the revenue of the country, would be so much reduced as merely to meet the current expenses of the nation, consequently the slightest speck of war in the political horizon would require increased expenditures, which could only be met by temporary loans, when we must again become payers of interest, the increase of which would react on ourselves. He must confess this argument had no weight with him.

Mr. B. remarked, that it might not be deemed irrelevant to recur to the financial situation of the country at the time this Institution was called into existence. An irredeemable paper currency flooded the Union, circulating within a few miles only of the bank which issued it,

Dec. 20, 1837.]

*Bank of the United States.*

[H. OF R.]

and valueless for any purpose of exchange beyond the limits of the State which authorized it. If the Treasury required any portion of the revenues collected South of the Delaware to meet its expenditures in the Eastern States, they had to encounter a premium of twenty per cent. which, at one period, was the actual rate of exchange between Baltimore and Boston.

What are the beneficial changes which have been produced by the establishment of this great national institution? Your currency, no longer tainted with suspicion, circulates freely throughout this wide extended empire; a specie basis regulates this prominent feature of commercial intercourse, and all balances of public and private funds are transferred from Florida to Maine without expense or risk. One million five hundred thousand dollars has been received into the public Treasury as a bonus for a charter. At least one million will be gained by the difference between the dividends on Bank stock held by the United States and the five per cent. stock issued to the Bank.

Should the average dividends be six per cent. per annum for the term of its charter, it will amount to one million four hundred thousand dollars; but four hundred thousand is deducted as a large allowance for contingencies. The saving of salaries and expenses of twenty-four loan offices in the respective States, whose duties are now gratuitously discharged by the Bank, will, in twenty years, amount to a little short of another million, thus exhibiting the enormous sum of three millions and a half of dollars, clear gain to the Union, during the continuation of the present charter. Does not the goose lay golden eggs fast enough, that we are thus invoked to do a deed, which, if it shall not jeopard her existence, must, by infusing doubts and mistrust abroad and at home, materially circumscribe the sphere of her usefulness.

Mr. B. concluded, by remarking, that he considered this institution as entitled to the fostering care and paternal protection of the constituted authorities of the nation. France, England, and other commercial countries, had found it indispensable to cherish and protect a system which fixed the circulating medium on a firm basis; and, although we should even realize the profit of sixteen hundred thousand dollars, which was the inducement held out by the calculations of the honorable member, he would esteem it a slight equivalent for the loss of national reputation we should sustain by presenting ourselves to the world as a Congress of stock-jobbers, anxious to avail ourselves of any rise in the shares of our national Bank, which the dictates of sound policy had called into existence, and which, in his judgment, ought to be perpetuated. Aware of the importance of an early decision of this momentous question, Mr. B. said he would forbear intruding any further remarks on the attention of the House.

Mr. BARBOUR, with a view to obtain a direct decision upon the principle involved, now modified his resolution so as to instruct the Committee of Ways and Means to report a bill to authorize the sale of the stock of the Bank owned by the United States.

Mr. McDUFFIE, Chairman of the Committee of Ways and Means, expressed his thanks to the gentleman from Virginia for his fairness, in proposing this modification. He thought, with the gentleman who had preceded him, that it was important the question should be decided on its merits, and all-important that it should be decided as soon as possible. He thought that, in a fiscal view of the question, the gentleman from Virginia, in laying down his premises, had overlooked the well established principle, that, even in individual competition, where a market is more than supplied with any given commodity, the price of that commodity always falls in proportion to the excess of the supply. He had clearly shown that there existed a surplus capital in the United States, from the Government having paid off sixteen millions of the pub-

lic debt. This very surplus of money in market, Mr. McD. argued, entered into the price of the stock. If, on the contrary, there was a scarcity of cash in the market, the stock would not bring its par value. As to the fact demonstrated by the gentleman's calculations, that the real value of money in the United States is at present not more than three and a half per cent.; it had no bearing at all on the present question. Whenever the Government comes into the market, all the principles resulting from the relative state of demand and supply, operate with tenfold power. The Government is a mammoth seller, or a mammoth buyer. When the Government comes into market as a buyer, it raises the price of stock beyond all proportion, as, when it comes in as a seller, it depresses it beyond proportion. It was upon this principle, that, though money be actually worth, as the gentleman says, only three and a half per cent., the Government when it passed a law to exchange its six per cent. stock for a stock of five per cent., irredeemable at a later period, could not get it; whilst, if the Government were to go into market and borrow, to-morrow, the whole sixteen millions it has paid off, the stock it would issue, would, in two days time, be at eight or ten per cent. advance.

Mr. McD. said that it was, therefore, always to be regretted that Government should come into market, because its presence there involuntarily produced a great effect upon the market in every way.

Mr. McD. then made some statements to show that refined arithmetical calculations were not proper data in all cases to legislate upon. He presumed that it would be admitted, as a general proposition, that the stock of the Bank of the United States is certainly worth as much to Government as it is to individuals. To the latter, its value, regulated upon principles which cannot err, is now twenty-three per cent. above par. If it is of that value to individuals, it is, upon the same principle, of the same value to Government. Why? The Government receives six per cent. interest upon the stock in the Bank, whilst it pays only five per cent. on the same amount of its own stock. The difference, therefore, is one per cent., or, on the whole amount of its interest in the Bank, seventy thousand dollars per annum clear profit, besides its interest in the balance, which the Bank always reserves to meet contingencies. If, then, you sell your stock in the Bank, supposing you can sell it at the present market price, you make, according to the gentleman's calculation, a present gain of one million six hundred thousand dollars, whilst you annihilate a capital which will produce, to the end of time, if the Bank continues to exist, a revenue of seventy thousand dollars a year. But, so far from being able to dispose of the stock at the present advanced price in the market, Mr. McD. believed, that, if this resolution were now to pass, the stock of the Bank would be at once reduced to par, in the market, upon mere pecuniary calculations: And why? Mr. McD. here entered into calculations to shew the effect, upon the value of the stock, from any intimation of a disposition on the part of the Government to restrict its existence to the duration of its present charter, and traced its present high price in the market to the general confidence that the charter would be continued. The effect of bringing the Government shares into market, Mr. McD. resumed, would be to reduce the price of the stock to par, if not below par. What, then, would be the effect of this measure?

We sell our stock at par, said he: do we enable ourselves, by doing so, to pay off, as the gentleman supposes, any portion of the national debt? No: for the seven millions we should receive for our Bank stock would only go to pay to the Bank of the United States the seven millions we owe for that stock. The only operation which would really and effectually extinguish any portion of the debt of the United States, would be a sale at the profit of one

H. or R.]

*Bank of the United States.*

[Dec. 20, 1827.]

million six hundred thousand dollars, which the gentleman calculates upon, under the erroneous notion that so large a portion of stock would command the present market price. But, if we sell the stock at its par value, as Mr. McD. had assumed that we should do if we sell at all, then, instead of gaining the sum calculated, we should actually lose the identical sum of one million six hundred thousand dollars. For the gentleman had himself shown that the stock was now worth twenty-three per cent. above par: and if it were so disposed of as to yield only its value at par, the difference would certainly be lost to the United States.

Mr. McD. said he should not pretend to follow the honorable member in his most ingenious argument, or in his calculations. But he would now call the attention of the House to a fact, by which it would appear that all parts of the United States were interested in this matter. It was a fact, of which he was apprised from various, and from the very highest sources, that at this time the stock of the United States Bank constitutes the medium by which the balance against the United States in our trade with Great Britain, to a great extent, is discharged, and the necessity of paying that balance in specie averted. What, he asked, would be the effect of destroying the confidence of the foreign creditor in the value of this stock? No gentleman, at all acquainted with the subject, would deny that the bare knowledge of the passage of such a resolution as this, would knock down, to a point much below par, the stock of the Bank of the United States in foreign countries. What, then, would be the consequence? Instead of using this stock for remittances, the balances due to the merchants of Europe must be remitted in specie. This specie must be paid from the vaults of the Bank. A run upon the Bank would inevitably ensue for millions upon millions. What would be the result? Every gentleman who knows the usual proportion between the paper of a Bank in circulation and the specie in its vaults, must know that there is no Bank capable of meeting a run of this kind. The Bank thus run upon must curtail its discounts; its paper must be called in, its debtors distressed. Who are, in this case, the debtors of the Bank thus obliged to call upon them? The State Banks! There is hardly one of them in the United States that is not completely in the power of the Bank of the United States, and that has not received from that institution (notwithstanding all the complaints against it) as much indulgence as that Bank can possibly extend. The local Banks will then have to press upon their debtors, and a general concussion and pressure will be produced all over the country.

A single fact would shew the effect of the passage of such a resolution as this. Supposing it would, as he believed it would, at once depress the stock to a par price in the market, that operation alone would be a diminution of the property of those who hold stock in the Bank to the amount of six millions and a half of dollars, being the amount of the present premium upon the twenty-eight millions of the stock held by individuals. A Government possessing the power to produce such sudden and injurious changes in the value of property, ought to be exceedingly cautious in the use of such power. If any great public object required, and duty called upon him, Mr. McD. said, let the injury fall where it might, he would discharge his duty. But he was happy to hear the gentleman himself, who had voted against chartering the Bank, say, that he entertained no doubt of the charter being renewed. He believed it to be the solemn duty of every statesman to impress upon the public that this institution is the only instrument, by means of which Congress can exercise the power of regulating the currency of the Union—by which it can prevent excessive issues of paper by the local Banks, so destructive, as the gentleman from Virginia had himself intimated, to the in-

terests of the country. Without this instrument, Congress has not the means, though it is invested by the Constitution with the power, to guard against this evil. If you destroy this instrument, the value of every description of property will depend upon the greater or less discretion with which the numerous banking institutions of the country may regulate their issues of paper. He would not attempt to present the various views which urged the maintenance of the Bank of the United States, and had originally led to its establishment. Such, and so important were they, that, of those who still thought it unconstitutional, when the bill for establishing it was on its passage, some, convinced of its necessity, voted for it, and others left the House, that they might not be obliged to vote against its passage. An institution so important as this, ought not to be subjected to the fluctuations of party; and he did hope that gentlemen might be allowed freely to express their views on a subject of so great consequence, without being subjected to the suspicion of improper motives.

Mr. McD. said he felt himself here obliged to advert to the notice which had been taken elsewhere of the occurrences in the House in reference to this subject. The other morning, said he, as I stepped into the House, the gentleman from Virginia said, as I passed him, that he had a resolution, which he intended to present to the House, touching the finances, upon which he proposed to offer some remarks, to which he invited my attention. Not dreaming that the gentleman proposed to raise any such question as that embraced in this resolution, and being at some distance from him, I indistinctly heard his remarks, and rose immediately to present briefly the result to which my reflections instantly brought me on the subject. A very few days afterwards, never having exchanged ideas on the subject with any one, previous to its agitation, I saw my course on that occasion ascribed to the base and unprincipled motive of having first agreed to co-operate in the object, and then, finding the sentiment of the House to be against the proposition, of rising to break its effect. One word now said on this subject may save many more. I came here with the intention of doing the business of the nation, and doing it speedily; and, so far as it depends on me, and God gives me strength, it shall go on, and speedily. But if the Journals of the Administration at the Seat of Government are sanctioned in a course which will give to any measure, of whatever nature, a party complexion, the consequences cannot fail to be highly injurious. I think it proper to express my deep indignation, before the People of the United States, against this forcing of public men, whether they will or not, to imbue all public concerns with the bitterness of party. Mr. McD. added, that he had exchanged sentiments on this subject with very few individuals; but he ventured to say, that the vote on this resolution would not be a party vote. Every member will vote upon it on his honest impressions, which he will not suffer to be affected by his relations to any party.

Mr. McD. concluded by expressing the hope, that, on all sides, so far as the Journals around them were under the control of any party, they would be prevailed upon to permit this Congress to go on with the transaction of the public business, without imputing political motives to measures having no such origin.

Mr. TAYLOR, of New-York, after an observation on the importance of this question, demanded that it be decided by yeas and nays. The demand being sustained by the House, it was ordered accordingly.

Mr. DRAYTON then rose, and expressed great reluctance to trouble the House, which he should not have done, had a few of the objections to the proposed measure, which he considered of the most weight, been advanced by either of the gentlemen who had preceded him. He agreed that the question was one of great importance,



DEC. 21, 1827.]

*Bank of the United States.*

[H. OF R.]

and that it should be speedily disposed of. The arguments of the honorable mover of the resolution were certainly very ingenious; but he had not adverted to what he thought ought to be the primary consideration in a discussion of this nature, and one which was of much greater consequence than any consideration merely pecuniary.

The first question to be settled, was, whether or no the proposed scheme would redound to the pecuniary advantage of the United States? That it would do so, constituted, in point of fact, the only argument of the mover; and, if such were the case, and there existed no countervailing objection, the measure should doubtless be adopted. But if, on the contrary, it should appear that the plan was attended with no pecuniary advantage whatever, then, the honorable member himself would confess that it ought to be rejected. The gentleman had made some calculations of profit, which seemed to him, to be sure, very plain; but it would be found, on examination, that, instead of profit, the reverse would ensue. The present value of money is four per cent. The Government can obtain whatever amount it wants, at this rate of interest. He did not rely upon the fact that Government could get money at a cheaper rate than others; but Canal Companies had actually issued stock at  $4\frac{1}{2}$  per centum, and the premium on that Stock reduced the real interest to 4 per centum. This, then, he assumed as the interest at which money could be borrowed, where the security was good. Now, if the Government received, at this period, six per cent. on its stock in the Bank, it got an interest exceeding the common rate by precisely 50 per cent. Any other investment of its funds would bring only four per cent. This brings six, so that the Government gets the common interest of money on one hundred and fifty dollars, for every hundred dollars it has invested in this stock. By selling, the Government would lose the difference between twenty-three dollars and fifty dollars on every hundred, supposing the stock to remain at its present advance, so that, admitting the public faith not to be at all shaken by the sale, still a greater benefit would be realized by continuing to hold it. But there could be no doubt that a very great depression would be produced by the sale of seven millions of this stock. The honorable gentleman from Virginia says that price depends, in all cases, on the proportion between supply and demand. The principle, with some limitation, is, no doubt, correct; but that is not the question before the House. The question for us to weigh, said Mr. D. is, whether a stock, which now sells at one hundred and twenty-three per cent. in consequence of the confidence that the Government will continue to be a Stockholder, would remain at that rate when it was known that Government would not so continue. If that is the cause of the present high price, take away the cause, and the stock must fall. How low it would fall could not exactly be known; it might fall to par—even below it. The consequence of this would be to deprive the Government of a great amount of money, on which it now realizes twenty-three per cent. and by which it might pay a debt of eight millions, by an advance of only six and a half millions. It was perfectly well known, that, when once public confidence in any moneyed institution is shaken, the consequent depression is not governed by a settled mathematical rule, but by the feeling and fears of the holders, and it not unfrequently happened, that, by such a panic, the stock which had before been the highest actually became the lowest in market. Mr. D. said, that he thought he had satisfactorily shewn, that Government would not be a gainer, but very probably a loser, by the operation now proposed. But it ought to be demonstrably certain, that some gain will result, before we went into a moneyed operation of such magnitude and extent. What possible

combination of circumstances could have a stronger effect in depressing the price of any public security, than that the Government, without any known or ostensible cause, should suddenly withdraw all its interest in it. It was a stronger case than had ever existed.

Yet the mere pecuniary calculation of profit and loss did not constitute the strongest objection to the measure proposed. It was a matter of far more consequence that the character of a nation for fidelity to its contracts, express or implied, should be sacredly preserved, than that it should gain any pecuniary amount whatever. He should not apply the strict rules of ethics, or the doctrines of the common law, to a case like this, but merely the rules of common sense and common honesty. When the charter was given, and the Government agreed to take seven millions (which was one fifth) of the Stock, to receive a bonus of fifteen hundred thousand dollars, to require an annual statement of accounts, to obtain very valuable facilities in the transmission and exchange of its funds, and have all the duties of twenty-four Commissioners of Loans performed gratis, it was surely by no means a strained, but on the contrary, a necessary and incontrovertible conclusion, that the Government was never to place that institution in a worse situation than when its charter was granted. It was under this impression, founded on the mutual advantages derived from the arrangement, both to the Bank and to the Government, that the stock had risen to its present price. If now the Government shall, by its act, shake the public confidence in this institution, it will virtually violate its pledged faith, for the problematical and doubtful purpose of gaining a trifling sum of money.

Mr. D. said, he was perfectly satisfied, that, if the gentleman from Virginia could think that such would be the result, he never would have introduced the present resolution. There certainly was in equity a contract between the Government and the Stockholders, that the Government would not withdraw its confidence from the Institution, except under the most extraordinary circumstances, and the most urgent pressure of necessity. If such necessity could indeed be made to appear, there might be some justification of this measure before the American People. But the necessity did not exist, and was not even pretended. The Bank had hitherto gone on under the support and confidence of the Government, and he hoped it would continue to do so, at least till its present charter should expire; but if not, the Government might in vain expect the same benefits from a renewal of the charter, which it had so long enjoyed under that which was soon to terminate.

Mr. BUCHANAN now moved an adjournment.

FRIDAY, DECEMBER 21, 1827.

#### UNITED STATES' BANK STOCK.

Mr. BARBOUR'S resolution for instructing the Committee of Ways and Means to report a bill authorizing the sale of the seven millions of the United States' Bank Stock held by the United States, was again taken up for consideration.

Mr. BARBOUR rose with the purpose of offering a few remarks in reply to the observations which had been proposed to his resolution; but, perceiving that Mr. GORHAM had risen at the same time, he yielded the floor; when

Mr. GORHAM addressed the House. After promising as much brevity as the nature of the subject would permit, he said that it was possible his views of it might differ from some of those which had been submitted; but, whatever they were, he should not now have obtruded them upon this House, had not his situation, as the representative of a mercantile community, deeply interested in the result of the present motion, been such as forbade



H. or R.]

Bank of the United States.

[Dec. 21, 1827.]

him to be silent. He agreed with the honorable gentleman from South Carolina, (Mr. M'DURRIS) in disclaiming the influence of any party considerations in the part he took on this occasion. He trusted the state of things in our country had not yet arrived at that point, that subjects of vital importance to the national interest and the general prosperity could not be discussed without subjecting every gentleman who took part in the discussion to the imputation of being governed by mere party views. He had no idea that such was our situation; nor should he have once thought of disclaiming such an influence, had not the gentleman alluded to conceived it necessary to make such a disclaimer.

The gentleman from Virginia, when first introducing his resolution before the House, had said, (if he rightly understood him,) that he had previously shewn it to him (Mr. G.) or at least given him notice of its being offered: in this, the gentleman must have certainly been under a mistake—he had indeed, made a number of inquiries of him, in relation to the prices of different descriptions of stock; but, when the resolution was read, he was taken completely by surprise, never having had the least idea that such a proposition was contemplated by any one. (Here Mr. BARBOUR, in an under voice, made a word or two of explanation, the purport of which was understood to be, that he had not meant to say his motion had been shewn to Mr. G.) The few remarks he had thrown out at that time, were, of course, unpremeditated, and devoid of the order and connexion which the subject's importance required. He now was desirous of presenting such views as he had taken of this matter, somewhat more at large.

The question now before the House had been offered and discussed by the mover mainly, if not solely, on principles of mere finance. It had been argued as a question of money—of national profit and loss. If this were all, it might soon be settled. But if, as it appeared not improbable, this motion was connected with deeper and ulterior purposes and views, of a political kind, it ought to be settled still sooner. If there was something more behind; if any purpose was cherished of making the present pecuniary proposition a mere introduction to a system of measures in relation to the connexion of Government with the National Bank, then the sooner such a purpose and such a system were met, the better.

The gentleman had, it was true, advocated the sale of this stock solely as a fiscal operation; but, from his acquaintance with that honorable gentleman's character, opinions, and previous political course, he could not but be strongly inclined to think, that the present measure had more of a political than a financial aspect, and looked toward a complete separation of the Government from the Bank, if not the total abolition of that institution. As, however, the question had been put on mere fiscal grounds, he would ask the attention of the House, while he offered his views of it, as a measure of pure finance.

The honorable mover of the resolution founded his argument on the fact, that the stock of the Bank of the United States stood at present in the market, at an advance of 23½ per cent. and he proposed to go into the market with the whole amount of the stock held by the Government, expecting to sell it at that price, wherever the requisite capital is to be found.

In order to judge the probability of his being able to do this, it was necessary to inquire, in the first place, what were the elements which entered into this advanced price of the stock? The gentleman had compared the price of the Stock of the United States' Bank with that of the stocks issued by Government for the payment of the public debt, and which bore the respective interests of three, four, and five per cent. and in this comparison gone on the assumption that the stock of the Bank, at the winding up of its present charter, would be worth its par value.

Mr. G. granted that, during the continuance of the charter, so long as all the operations of the Bank proceeded in their regular course, this basis of comparison was a fair one. But if, at the expiration of the limit of the present charter, the concerns of that institution must be finally concluded, it was wholly unfair and fallacious. Did the gentleman really believe, that, at the end of the eight years, (should the charter end, and not be renewed,) the holders of its stock would get the money for it? This was, indeed, the case with the Government Stocks; as soon as the period at which they were redeemable arrived, the holders received, in cash, at the Treasury, the full par value of whatever amount they might hold. But, when the vast concerns of such an institution as the National Bank were to be wound up, a very different state of things occurred. There would be, to be sure, a contingent fund for the payment of the Stock; but of what would it consist? Of cash? Far from it:—of debts, chiefly bad; of property, in short, of all sorts of shapes and which would require a Board of Trustees to settle it, after the Bank had ceased its legal existence. Long before such a bank reached the end of its charter, it must prepare for that event: it must curtail, and gradually terminate entirely, all its discounts, months before that time: and would its stock feel nothing of the effect of such a state of things? When the old Bank expired, were its Stockholders instantly paid? So far from this, it was ten years after before the final dividend was declared. And would any gentleman tell him that the Stock of such an expiring institution, was as good as Stock on which the holder was sure to receive the par value in cash the moment it was redeemable? True, the property, of every kind, held by a bank, belonged to the proprietors of the stock; doubtless it was theirs of right: but it was theirs, in fact, only when it could be collected: and experience proved that, at the winding up, there always occurred a great loss upon it—if not in money, at least in time, which, to most stockholders, was the same thing. It usually proved a mere wreck and remnant. And so well was this understood, that, when it was known that the charter of the old United States' Bank was not to be renewed, its stock, which had stood as high as 140 per centum, fell to 90 per centum in market. As to the conditions of the present Bank, Mr. G. said it was impossible he should know them: but one thing he did know, and so did every body else, that great mismanagement of its concerns had at one time taken place, and great losses had consequently been sustained. How such an amount of loss had been covered up, so as to admit of the present dividends, he knew not; but for one, he was inclined to believe that those losses had not, to this day, been recovered from, and that, on examination, it would be found there was still a deficit in the funds of the Bank.

From what he had stated, he thought it must appear that the present dividends made by the Bank did not constitute the only element of the price its stock at present held; but that there was another, and a very important element, that entered largely into it, viz. the expectation that the concerns of the Bank would continue to go on, and that, when the present charter should expire, the institution would still be continued under a new one. This was the general expectation of all who held its stock, of all who bought it. And why should they not, said Mr. G., expect this at your hands? Have you done nothing to create such an expectation? To answer this question, let us look for a moment at the past history of this institution. You have done, and you have undone; you have built up, and you have pulled down: you have made experiments on the want and on the possession of such a thing, until at length, I had believed that it was now a point conceded, an opinion, in which sensible men of all parties were agreed, that such a Bank was a necessary machine in the State—an engine which entered as an

DEC. 21, 1827.]

*Bank of the United States.*

[H. or R.]

elementary part into the operations of a well ordered Government. I know that doubts are held, and have been loudly expressed, as to the constitutionality of a national Bank: I hold such doubts to be very unfortunate, and am myself free from the least share of them: but I did understand, that even those who believed no provision for such an institution to be contained in the Constitution, were themselves obliged, by the pressure of experience and of facts, to acknowledge, that it was an engine essentially and indispensably necessary to the application of the power of the Government to the public good.

In 1781, the old Congress, that feeble and flimsy association, so void of all energy, and so destitute of every thing like efficient control of the public finance, even that Congress ventured on a kindred measure, incorporated the Bank of North America, and took shares in that Bank, which was at the same time, a State institution. The experiment failed to produce any restoration of gold and silver, and Congress sold out its shares. No sooner did this take place, than the Government was pressed by the Bank, the Bank itself was pressed by the State of Pennsylvania, the Directors were harassed on every side, and then you did, through the State of Pennsylvania, what was afterwards done directly by the United States: under the inordinate fear of Banking institutions, the charter granted to the Bank, by the State of Pennsylvania was repealed. The effects of such a step were soon and deeply felt. Foreigners immediately withdrew their funds. Doubts were thrown out among capitalists generally as to the security and permanency of the institution, and such became the state of things, that the State of Pennsylvania found itself obliged to restore the charter; but it was under many limitations and restrictions. In 1790, you chartered the first Bank of the United States, limiting its existence to twenty years. This act was not passed without being warmly contested; it was then, as since, opposed on constitutional grounds: but the act passed, and the Bank was established. But the views and feelings in which the opposition originated continued to be entertained, and when the twenty years had run out, the charter was suffered to expire by its own limitation. Before it died, you sold out your stock; and then another state of doubt and uncertainty involved the capitalists of the country. But the want of a Bank was so severely felt by the Government, that, after having failed in the various expedients which had been tried as substitutes, in 1816 you once more incorporated a new Bank of the U. States. That act spoke a very intelligible language. It proclaimed to all the world that you had tried in vain to do without such an institution; that you had been taught by the best of teachers, experience; and had learned that a National Bank was not only advantageous, but necessary and indispensable. In the same year you funded the debt of the United States, and issued stocks not only at 3, 4, and 5 per cent.; but the greater part at 6, and even 7 per cent.; redeemable at pleasure. You next entered into an agreement with the Bank that, if it would take 7 millions of your stocks, you would take the like amount of the stock of the Bank. The agreement went into effect, and you became stockholders in the institution to the amount of seven millions of dollars. There was, I grant, no express agreement with the Bank that you should never sell out this stock; but there certainly was the fullest understanding that you were to be permanent holders of it. In a short time the stock rose very high; it reached even 150 per cent. But though you were then paying nearly double interest for money and a sale at that rate of advance would have been a very profitable operation, such an idea was never so much as heard of. As a mere speculation it would certainly have been attended with immediate advantage: but it would have aimed a blow upon the national credit such as no present profit could justify, or even tempt you to inflict. The inducement, at this day, is far less.

In contemplating this short history of your banking operations, will any one contend that one important element in the price of the National Bank is not the public expectation that Government will continue to be interested in the Bank? If it is in vain to argue that a mere withdrawal of the Government from a share of the stock, while all its other relations to the Bank remain unaltered, ought not, on principles of logic, to affect the price of the stock. The question is not what ought to be the effect, but what is the effect. Whether right or wrong, the fact is so. It is always so. I care not whether men ought, or ought not to reason, that the Government acts from merely selfish motives; if they do reason so, the effect on the money market is just the same as if they ought to reason so. 'Tis vain to fight against the uniform course of human affairs. It is especially so in all that relates to matters of money and of credit. When capitalists see you holding on as stockholders to the end of the time limited by charter for the continuance of the Bank, they naturally infer that the fact of your having an interest in continuing the Bank by a new charter, will have an influence on the probability of that event. But if they see you abandoning your interest in the stock on the ostensible ground of mere constitutional scruples, or on any other ground whatever, it will, it must, it does, affect the value of that stock. If you are owners, they conclude you feel differently from what you would feel, if you were not owners.

If at a time when you were under the greatest conceivable pressure for money, you continued, nevertheless, to hold on upon this Stock, when you could have sold it at a profit, and now, when under no pressure at all, you suddenly conclude to sell, and that with the prospect of a less profit, what will men, especially what will moneyed men, naturally conclude? Sir, it is utterly impossible that their confidence in this stock shall not be shaken. Many of its holders are foreigners, remote from your debates and your reasonings. They will look at the naked fact, and what their inferences will be, it is not possible to doubt. True, it may be, and I know it is, desired by many, that our Stock should not be held so largely by foreigners. But how will you prevent it? The capital of the world knows no such things as nationality. Capital, in all countries, is one and the same thing. What touches any part touches the whole. You can deal no blow on capital here, on which, will not rebound from all other moneyed countries. This is unavoidable. Things are so, whether right or wrong, and you cannot change them. You are, and of necessity must be, dependent on the opinions of capitalists abroad, in all your financial operations. This is inevitable, and so far as it goes, it is mutual. No financial operation can take place in Europe, which is not felt here; but, as the capital in Europe is, beyond all proportion, greater than that of the U. States, their effect on us is so much greater than our effect on them. Need I remind any one who hears me, of the effect which was felt in every corner of this country, from the embarrassments of the Bank of England a few years ago? No, Sir. Whether you will, or whether you will not, the thermometer which regulates your credit, and which affects every department of your financial means, hangs in the Royal Exchange; there it hangs, nor can you take it down. The adoption of such a measure as is now before us, would deal a blow which would be felt by every foreign Stockholder the instant the news reached him. Nay, the very discussion of it has, I doubt not, already sunk the stock at least five per cent. The gentleman who introduced it, with a frankness which certainly does him honor, has told the House that he did not vote for this charter, and will not vote for its renewal. I believe I know enough of his opinions, (having formerly heard him avow them in this Hall) to conjecture, with some degree of certainty, what is the real ground of his desire to

H. or R.]

Bank of the United States.

[Dec. 21, 1827.]

see such a sale as he proposes take place. I cannot but believe that he is, at bottom, influenced by his constitutional objections to any National Bank, in any form: and I therefore feel warranted in the conclusion, that the present proposition is virtually an announcement that the same battle is to be fought again which took place at the granting of the present charter, so soon as its limit shall approach a termination. I deprecate such a contest. My own views of the Constitution on this matter, are firmly settled; and I am deeply impressed with the conviction, that the Government is under peculiar obligations to guard the credit of the Bank, and of its Stock, with the most assiduous care. It is by that credit that we are enabled to go abroad, to meet the Capitalists of the old world, and to obtain the funds which the country requires, at the cheapest possible rate. To do this, is not merely good faith. Your good faith alone will not enable you to procure money on easy terms. It is the steadiness of your financial system, which as much, if not more, renders this attainable. Sudden changes in your moneyed plans, have an effect to terrify the capitalist at a distance; he doubt understand them, and all his fears are roused at once. You determined, a little while ago, to exchange your 6 per cents. for a lower stock, and as, in doing this, all the holders could not continue, you made them draw lots to determine who should have the chance of holding on. As soon as this arrangement was known, it affected your character for permanency, for steadiness; and what was the consequence? The 6 per cents. are now at par, or thereabouts, while your 3 per cents. (because you tied the hands of the Commissioners of the Sinking Fund from touching but a small part of them) stand at an advance. Here your good faith was not in question. You preserved this as much to one one class of holders as you did to the other; but the permanency of the one stock was affected, while that of the other was not; so the one fell and the other rose. The holder did not doubt your faith, but he did not choose to be paid off against his will, when he would have preferred to remain your creditor.

And, sir, you must hire money: you have a deep interest in the rate at which it can be borrowed, because you must borrow. The condition of this country is a very peculiar one. In 1805, the Secretary of the Treasury (then Mr. Crawford) affirmed, in his annual report to Congress, that the United States had been in debt from their very origin; and he said truly. From the moment the feet of our ancestors touched this soil, to this moment, we have been in debt; we live and flourish by being in debt; it was the foundation of all our prosperity as a People. And why? Because, owing to our connexion with the greatest and most powerful nations of the old world, we were enabled to borrow money there at 5 per cent. which we could immediately invest here at 10. We could do this, because the country was in a state of safety, was a new country, and stood in need of all those improvements which call for, and which richly repay, the application of capital. So long as a country has the first necessities of a nation to provide, it must ever be its interest to borrow money. Roads, canals, public buildings—all the works of incipient industry, furnish a use for it, which will always justify the country in hiring; and will more than afford a moderate interest to be paid for it.

Here the great machine by which capital is to be created is only in a state of preparation; in Europe it is already prepared. Our capital, the capital of the whole United States, with all they contain, is, when compared to them, as nothing. I venture to say that the operations of the city of London, for a single week, exceed all those of the United States for a year. It is manifest, therefore, that our relation in respect to money is a relation of dependence, and that, of course, it is our most

evident duty, in a fiscal point of view, to do whatever tends to preserve our credit, and facilitate our operations as borrowers. Believing that the measure proposed by the gentleman from Virginia was calculated to have a directly opposite effect, I am decidedly and wholly opposed to it. I believe that, as a financial scheme, it will prove wholly deceptive. If you wish to pay off seven millions of your debt, there are a dozen other modes by which you can do it better. I hope, therefore, that the House will not only reject the measure, but will do so with promptness and decision.

Mr. STEWART rose not to enter into the debate generally, but merely to present one or two objections to this measure, which had not been adverted to by other gentlemen. The great object of the proposition, as avowed by the mover, was, to hasten the extinguishment of the national debt, by selling the bank stock, and thus increase the means of the Treasury to accomplish it. If gentlemen will look at the effect of the sinking fund of ten millions of dollars on the national debt, it will be obvious to every one that, instead of increasing, we shall be compelled to diminish the present sinking fund, and arrest the rapid progress we are now making, which will shortly lead to great financial embarrassments.

What is the situation of the public debt, as exhibited by the Treasury Report laid upon our tables a few days since? And what will be the effect of this proposition upon it?

On the first of next month, the whole of the  
national debt will be - - - \$ 67,413,000  
Deduct the 3 per cents. - - - 13,296,000

Leaves - - - \$ 47,117,000

Which could not be redeemed when above 65—they were now at 87, and would necessarily continue to rise in the market as the other stocks were absorbed, and the capital sent abroad seeking investment.

By selling the bank stock at its present value, \$8,600,000, and applying the proceeds, with the annual sinking fund of ten millions of dollars, to the national debt, it will be found that, at the end of the year 1830, there will remain less than \$2,600,000 of the public debt redeemable; consequently, there must remain idle in the Treasury, of the sinking fund,

In the year 1831,	a surplus of	\$ 7,400,000
1832,	" "	5,061,000
1833,	" "	11,896,600
1834,	" "	18,931,000
1835,	" "	23,561,000

These large balances of the sinking fund will annually accumulate in the Treasury, there being no portion of either principal or interest of the debt to which they can possibly be applied. These sums must then remain idle and useless in the Treasury, unless, indeed, the gentleman from Virginia, [Mr. BARNUM] will consent, as I am quite sure he will not, to apply them to the work of internal improvement—to the construction of roads and canals.

The gentleman [Mr. BARNUM] suggests, in an under tone, said Mr. S., the reduction of the sinking fund. This will be necessary whether the motion of the gentleman be adopted or not.

Excluding the Bank stock and the three per cents, it would be found that, by the operation of the present sinking fund, there would, at the end of the year 1830, be only \$4,356,000 of the national debt redeemable; consequently, there would be—

In the year 1831,	a surplus of	\$ 5,644,000
1832,	" "	3,304,000
1833,	" "	10,138,000
1834,	" "	17,173,000
1835,	" "	21,822,000

Dec. 21, 1827.]

*Bank of the United States.*

[H. or R.]

When the last portion of the debt will be paid off, and this vast balance of the sinking fund will be left on hand.

Such will be the result of the operations of the existing sinking fund, even should the proposition be rejected. These large accumulations of money in the Treasury must occur—it is unavoidable, unless you reduce the sinking fund to \$7,000,000. He had made a calculation, by which it appeared that the whole of the public debt (the Bank stock and three per cents. excepted) would be completely extinguished in 1835, when the last portion of the debt became redeemable, by a sinking fund of \$7,000,000, and leave a surplus at the end of that time of \$185,000; in 1836 seven millions of the Bank stock could be paid off if deemed expedient.

By thus reducing the sinking fund to \$7,000,000, \$3,000,000 would be annually released from the public debt, which could be applied to a system of internal improvement, producing the most happy effect upon the national prosperity. It would not postpone the final payment of the debt, but only throw forward the surplus of the redeemable debt in 1828 and '29 upon the years 1831, '33, and '34, when very small portions of the debt would be redeemable; and thus the whole of the sinking fund would be kept actively and profitably employed until the final extinction of the debt in 1835. Hence, Mr. S. contended, whether the proposition be adopted or not, it was the dictate of a sound and enlightened policy to reduce the present sinking fund from \$10,000,000 to \$7,000,000.

But the gentleman from Virginia [Mr. BARBOUR] suggests to me the reduction of the duties. To this Mr. S. said he could not assent; the duties were imposed for purposes of protection, and not for revenue: they were imposed to protect our national industry—to protect domestic manufactures from the ruinous effect of foreign competition. He could not, therefore, consent to their repeal. He would collect the revenue for one important object—the protection of our manufactures—and send it back to the People who paid it, for another equally important object, the improvement of their country.

By adopting this policy, you will prevent, measurably, the exhausting and injurious effects of withdrawing annually from the pockets of the People ten millions of dollars, and putting it beyond their reach; by this means three millions of it will be returned to its ordinary channels of circulation, promoting, at the same time, the most important national purposes—the permanent improvement of the internal condition of our common country.

There were many other strong considerations in favor of the adoption of this measure, which it was unnecessary at this time to urge upon the attention of the House. Enough had been said, he trusted, to show that there was no propriety in adopting this measure to accelerate the extinguishment of the national debt, the great and principal object of the motion.

On the contrary, instead of hastening, it was evidently the policy and duty of the Government to check its too rapid march towards the final extinction of the National Debt. We are running far ahead of the National Debt, and shall, if we stop not soon, have, as appears, large sums in hand which cannot be employed. A motion, therefore, to reduce the Sinking Fund to \$7,000,000, would be much more reasonable than the one now submitted, virtually to increase it. Besides, by reducing the annual Sinking Fund, we will not postpone the period of the final extinction of the national debt—but merely equalize the payments, by transferring the excess of one year to another, when little or nothing was payable: if the sinking fund were twenty millions instead of ten, the debt could not be paid before the year 1835, when the last portion became redeemable—the holders of the stock, it was well known, would not accept the payment as long as they could avoid it. It is not the public credi-

tors, but the Representatives of the People, who are forcing them thus hastily to discharge the public debt. It appeared to him unjust that the whole weight of the debt should be thrown upon the shoulders of those who had to fight the battles and bear the burdens of the war by which this debt was created.

The strong argument urged in favor of the motion, that it would hasten the payment of the public debt, went, therefore, for nothing—it was unfounded in fact. If you had a hundred millions of dollars idle in your exchequer, you cannot pay the debt until 1835, when the last portion becomes payable, and this can be as well accomplished by a sinking fund of seven, as of seventy millions.

These were among the reasons which should induce him to vote against the propositions: he had thought it his duty to present these views of the real state of the finances, not merely in reference to the question now to be decided, but to prevent the idea from going forth to the country that we were obliged to sell our bank stock to pay our debts; that the Government was embarrassed and put to its last shifts to pay the public creditors, when, in fact, the financial concerns of the Government were never in a more prosperous condition than at the present moment. We are left free to appropriate liberally to objects of national importance, and it would be no apology to say, we cannot fulfil the public expectations because we are in debt. We are pressing our creditors, not they us. Mr. S. concluded by saying, there was no reason to sell this stock to pay the public debt, and it had been clearly shewn, by other gentlemen, that, in every other point of view, it was impolitic—he therefore hoped that this subject, and the public mind, would be put at rest, by a prompt and emphatic rejection of the proposition.

Mr. RANDOLPH, of Virginia, said, that he had not risen to debate the question at all: for he believed that whatever other opinions might be held as to the resolution, all must unite with him in thinking that it was not at all well-timed. I was in hopes, said Mr. R. that we should meet, despatch the necessary public business, and return to our respective homes, for once, as early this year, as the Constitution will oblige us to go home the next. My object in rising, is to move, (and I hope my worthy colleague will excuse me) that the resolution lie on the table, with the view of not taking it up again at the present session. Mr. R. then moved to lay the resolution on the table.

On this motion, Mr. TAYLOR, of New-York, asked for the yeas and yeas, and they were ordered by the House.

The question was then put on ordering the resolution to lie on the table, and decided in the negative.

Mr. FORT said that there was no gentleman who had a greater desire than he had, that the time of the House should not be unnecessarily consumed, and that this question should receive a prompt decision. He could not however agree with the gentleman from Va. who had just taken his seat, that the resolution was ill-timed; he thought it well-timed—yet it was a question which ought to be settled as speedily as possible. He believed the general sense of the House was against the proposition. Nevertheless, the discussion of it was not useless or improper, as the nation would look to the debates of this House, as to a proper source from whence to derive information on the subject. He rose with a view to advocate the resolution, but in doing so, he felt great difficulty and great embarrassment, as he must follow the honorable gentleman from Virginia, who had given to the subject the investigation of a master, and had presented his view of it in so ingenious and eloquent a manner. He thought the argument of that gentleman had not yet been refuted; he had rested his calculations on a mathematical basis, but

H. or R.]

Bank of the United States.

[Dec. 21, 1827.]

they had not yet been met: those who had attempted to meet them had not drawn their topics of argument from the deductions of arithmetic, that sure, unerring guide, which never deceives those who rely upon it, nor leads to a false conclusion. The gentleman, said Mr. F. has given a comprehensive view of the whole subject—he has treated it with the skill of a master, and who shall venture to follow him? The subject was confessedly one of great obscurity: it has puzzled the wise, and the fool need not be ashamed to confess his ignorance of it. Yet he thought it might be still farther simplified. What was the nature of this institution? when was it chartered? and for what purpose? and what was the condition of the national currency when it first went into operation? The currency was in a broken and confused situation—the various kinds of paper were made payable at short distances of time, and credit was very generally impaired. To remedy this state of things, and to aid the Government in its financial operations, a National Bank was created, with a capital of thirty-five millions of dollars. This amount was thought to be very large, and fears were entertained that so much stock would never find purchasers at its par value. Those who felt these apprehensions reasoned from principles which had been now so ably laid down in relation to the proportion between demand and supply. To aid in the disposal of this stock, the Government took it to the amount of seven millions, and received from the Bank a *bonus* of \$1,500,000. (On this subject some dispute had arisen, but it had finally been decided that the Bank had a right to give this sum.) What was the result of the experiment? Twenty eight millions of the Stock was thrown into the market in one day. Was there any difficulty in finding purchasers? Did the Stock sell? It was a time of great pecuniary distress: did this prevent the sale? The whole amount was bought up almost as soon as it was offered in market. What a comment did this fact furnish on the present fears of gentlemen! When it is proposed to sell, we are told the market will be glutted, and down goes the Stock. Nay, as soon as the proposal is heard of, down will go the Stock. But can you, at this time, glut a market with seven millions, which, so long ago, took twenty-eight millions without the least difficulty? We are told that the value of stock is a moral consideration—that its value depends much on whether the charter is to continue; and that, if this is not likely to be the case, it will be of the less value, because there is a difficulty in closing the concerns of the Bank. But if the holders of Stock are under an erroneous impression as to the probability of the charter's being renewed, the sooner they are undeceived, the better. Is it not due to them at once to say, that Government is under no obligation to renew it? Certainly. When the period for its renewal comes, those who shall occupy seats in this House will judge of the propriety of renewing; not from any obligation they are supposed to lie under to renew it, but from considerations drawn from their views of the good of the nation. The gentleman from Massachusetts has told us, that, before the old Bank expired, its Stock rose to 140 per cent. by the mismanagement of the institution. If this be so, what security have we, that the bubble will not again burst? What certainly have we, that the present advance of 23½ per cent, is not also the consequence of some mismanagement? Who are the dealers in Stock? and why does Stocks rise and fall, so that by their fluctuations whole fortunes are often swept away? The reason is plain: There are a few persons who know the causes of the changes in price, while the great mass of the holders know nothing at all of the matter, and are left to the mere mercy of events. But, if the Bank is really so situated that the nation can know nothing of its concerns, the sooner we get rid of it, the

better. The nation is a mere Stockholder in the Bank. It has, as such, all the rights of any other Stockholder. And may sell out its interest whenever it may think it most expedient to do so. But, what right have we to suppose that the holders of the Stock do not themselves know its true value? The selling off of our portion of the Stock can have, if any, but a very trivial effect. Our selling out of our Stock cannot justly be interpreted as a proof that the Government have withdrawn their protection from the Bank; there is no gentleman here who thinks of touching the charter during the period it has to run—and the buyer of the Stock knows this. He goes into the market with his wits about him. Do gentlemen suppose that the buyer of this Stock is in ignorance of what is transacted here? And why do they suppose he will fear to purchase; if, while 7 millions of the Public Stock is taken out of it, by paying so much of the Public Debt, the same amount is thrown into it by the sale of our Bank Stock? Surely, by such a transaction, the market will virtually be left as it is at present. I am willing to allow that the Stockholders purchased with the understanding that the Government would continue to hold its Stock in the Bank. It certainly was not to be anticipated that the Government would sell out during the present year. But the question of its value is a matter of very simple calculation. According to the security of payment, and the rate of interest paid, so will be the price of the Stock in market. Our citizens are not going to be deceived. We have thrown enough into the market to test its value, and that value is well ascertained.

I have, however, no desire longer to consume the time of the House, nor should I have said what I now have, had I conceived that the same view of the subject had been given by others.

Mr. HAMILTON said that, after the discussion which the subject had received, and all that had been said, and so well said, he should not have been disposed to protract, in any degree, a debate, out of which little practical usefulness was likely to arise, if some observations, looking to ulterior consequences of no small moment, had not fallen from some of the gentlemen who had entered into the discussion, which he thought did not belong either to the crisis or to the subject itself. He should, otherwise, have contented himself with a silent vote in the negative, however highly he respected the motives of the mover of the proposition, and have rested the vindication of the vote he was about to give on the unanswerable argument which his colleagues and the gentleman from Massachusetts (Mr. GONNIM) had presented of this subject.

But gentlemen had not stopped where this question properly ended; the course which they had taken in their argument, had seemed almost to imply, that the decision of the present question had, if not a direct, at least a remote connexion with a larger and more important inquiry in relation to the policy of a renewal of the charter of the Bank of the United States. Now, for one, he wished this kept entirely out of view; and he protested, *in limine*, against either the discussion or vote of the House on the proposition of the gentleman from Virginia being considered as an indication of the feelings, much less a commitment of the opinion of this body, to which no such question even indirectly belongs, and which the best interests of the country requires should be an open question, to be decided by those who are to come after us, with a knowledge amplified and corrected by the experience of eight years to come. He was aware that it would be a large, he might almost say a momentous question, perhaps in a period of peace the most so of any which was likely to agitate this Confederacy for the next quarter of a century. He was aware that this gigantic institution, the

DEC. 21, 1827.]

*Bank of the United States.*

[H. OF R.]

Bank of the United States, would be brought to a strict account; that it would be inquired how it had discharged the high purposes for which it was created; whether it had, indeed, given us a uniform currency, copious and healthful; whether it had equalized the exchange of the country, and had applied, at the periods it was most wanted, a remedy to one of the severest evils that can befall a community at all advanced in civilization and the arts—a decreasing circulating medium. These were questions, he, for one, was willing to leave with those who would be called upon to decide them, as well as the vast and complicated relations, constitutional and political, which belonged to the whole topic.

It was true that his colleague (Mr. McDuffris) had expressed his satisfaction that the gentleman from Virginia should have indicated his belief that the charter of the Bank of the United States would be renewed. He, Mr. H., would not say that such a sentiment was not founded on enlarged considerations of national policy, but he would undertake to say this, that, without public sentiment in the State from which they both came, underwent some change, before this question came up for consideration, if he and his colleague entertained such opinions then, he rather thought their constituents would be apt to depute some other agents than themselves, to represent their sentiments on this subject, however highly and justly the constituents of his friend and colleague appreciated his (Mr. McDuffris's) public services. The truth was not to be concealed, that in all those States in which the income of the Government vastly exceeds its local expenditures, the operation of the Bank of the United States is felt with more or less severity and inconvenience; on the other hand, in those States where the Government spends locally a greater part of what it collects, the operation of this institution is not only comparatively innocent, but beneficial. South Carolina happens, unfortunately, to be in the former predicament, out of that very condition of things which he had indicated, and, although the Bank of the U. States was a mere instrument, it was very natural for those who were writhing under the exhaustion, to find fault with the organ of suction itself, and in the agony arising from taking the medicament, not to be entirely satisfied with its sanative influence.

There was another point in this discussion against which he would enter his protest, and that was the influences that were employed from abroad, for begetting an extraordinary sensitiveness in this House that any allusion to the Bank of the United States, and the connexion of the Government with it, was a most serious derangement of the financial condition of the country. Some gentleman seemed to think this subject was only to be touched by the practised hand of a fundholder; that a man of plain sense and common honesty was not to approach it; and above all, it was eminently mischievous for the Representatives of the People to entertain such a discussion, or inquire into our interest in this co-partnership, forsooth, because the speculations on 'Change might be suspended for a day or two, and some over-grown stock jobber realize two or three per cent. less than he otherwise would. He knew well that a plethoric fundholder was one of the most sensitive mortals upon the face of the earth; that he considered the barometer of 'Change Alley, of almost as much value as the scriptures; and a fall in the price of stock nearly as severe a calamity as the entire loss of the sacred writings. Cobbett has humorously told us, that nobody can touch a ruffle in the brocade of the Old Lady in Threadneedle Street, as he calls the Bank of England, without giving her a fit of hysterics and setting the whole country in commotion. We seem to be coming to the same state of things. But this is not all: my friend from Virginia cannot introduce a matter involving a mere financial question of profit and loss, without being charged with a party plot of the worst omens.

Now, sir, although this gentleman has quite wit enough to contrive, and quite firmness enough to carry into effect, a tolerable conspiracy on all proper occasions, he has too much honesty to be engaged in any that are not in harmony with the purity and integrity of his whole life; and quite too much wisdom to undertake a conspiracy, without previously providing conspirators, which he seems to have overlooked in this matter; yet, depend upon it, that many an old fundholder, roasting his feet before the fire, will tremble in his flannel for his plum, and no doubt exclaim—there, you see how it is the moment these Jackson men have got possession of the House; away goes the bank of the United States "sky-high," and we shall next see the "military chieftain," after his election, making his way, sword in hand, into the vaults of the Bank, and seizing its coffers as his especial portion of the booty after the strife and victory. Be quiet, gentlemen. Be assured we do not mean to run our heads against the Bank of the United States—and this our vote will show.

But, sir, to be serious, I am far from thinking that it is an evil to those who permanently invest in the stock of the United States Bank, to know that the policy of that Institution may sometimes be discussed here, however prejudicial it may be to the interests of those who speculate in its scrip.

If our silence at any time when we ought to speak gives an artificial appreciation to this stock, it is the widow and the orphan, and those who are the victims of their own ignorance and the knavery of others, who suffer, and who will be sure to suffer, if any false deductions are made from the sentiments which the House is about to pronounce on the single proposition before them.

That I am opposed to the resolution of the gentleman, I need scarcely repeat, and for reasons which are at once connected with considerations that carry with them somewhat the force of a moral obligation; reasons which were stated with unanswerable force by my colleague, [Mr. DAYTON] which may be comprehended in a single sentence, to wit: that it entered into the consideration of the 1,500,000 dollars which the Bank paid the United States as bonus, that this co-partnership should continue during the duration of the charter.

Besides, on the ground of expediency, I am satisfied that the sale of that portion of stock which the Government holds, would be attended with a loss, not equivalent to the amount conjectured, but quite sufficient to render it an unthrifty operation. Not, indeed, that seven millions of stock of the Bank might not change hands in the course of the year, without a material depreciation; that is to say, through the transactions of private sellers; but the very moment the Government becomes a seller in the market, it would be taken not alone as a conclusive proof that the charter was not to be renewed, but the impression would be created that even the facilities which the Government gives this institution, in its various transactions, were in jeopardy, the very moment our co-partnership was at an end; from which would follow a ruinous depreciation of its stock.

I say, then, let this institution go on unembarrassed by either our fears or prejudices; let it enjoy all those advantages for which it has honestly and faithfully paid a full equivalent. And whilst we are provident of the present, let us be uncommitted as to the future.

Mr. WEEMS said, he had yesterday opposed the motion for adjournment from his anxiety to see the question disposed of, and had not intended to say a word in the debate; but since it had been discussed to day, it had presented itself to his mind in a double aspect. One of these views had been, in a great measure, anticipated, by the gentleman from South Carolina, who had just taken his seat; he would therefore curtail what he had intended to say on that head. He joined heartily in the protest



H. or R.]

*Bank of the United States.*

[Dec. 21, 1837.]

against any pledge being derived from the decision of the present question, as to what this House would do when the question of renewal of the Bank charter should come before it. He held that the House would be under no obligation derived from this source, but perfectly free and unfettered as to granting or refusing. He was opposed to the resolution; not, however, because he held the sale of Stock to be any violation of a contract with the Bank. The contract of Government with the Bank contained two specific obligations; first, that the Government shall supervise the manner in which its affairs are conducted. This stipulation was separate and independent; it was introduced because the United States were to make all its deposits in this Bank. But a second stipulation was, that the Government should have a share in the direction, as it continued bound to superintend also the liberties and interests of the American People. Should a mammoth institution like this be left without any special guardianship or control, it might possibly become an instrument in the hands of some ambitious aspirant to put a crown upon his head and ruin the freedom and happiness of this People. The next stipulation was, that the United States should hold one fifth part of the stock of the Bank. As a stockholder, however, she has clearly a right to sell out whenever she shall deem it expedient for her fixed interest to do so. We are told in the volume of truth, "all things are lawful to me, but all things are not expedient." The sale was lawful, but he was opposed to it as not being expedient—and of this he did not despair to convince the gentleman from Virginia from the arguments he had himself employed. That gentleman had shewn that the price of the stock depends upon the abundance of the means to purchase it, and the difficulty of other investment, and had correctly insisted that if, while United States stock is diminished by redemption of the Public Debt, the means of other investments are supplied by throwing so much Bank stock into market, no great difference in the state of the market was justly to be apprehended. There might perhaps be a temporary depression in the price of this stock, but it would be only temporary and transient; so much of the gentleman's argument he entirely agreed. Another point of the argument was, that, in proportion as the Public Debt was paid off, the opportunities of investment enjoyed by the public creditors, ought to be increased. This also was true as a general position. But were they not abundant, and daily increasing? This was a moment of vast speculation in undertakings of all sorts. The stocks in market were almost innumerable: Manufacturing associations, canal companies, road companies, &c. &c., were all competitors for the loose and floating capital of the nation. This was, therefore, a most unpropitious moment at which to offer our stock for sale. The modes of investment were already possessed—and, according to the gentleman's own doctrine, in relation to demand and supply, the stock could not be expected now to hold its price. But should Government wait till these several stocks were in a good degree taken up, the United States' Bank Stock might be offered with much better prospects of a profitable sale. Instead of 23 per cent., it might then bring 50, and even 60 per cent. advance.

This view of the subject was, he thought, sufficient to show that it would be bad policy to adopt the resolution. He had ever been a friend to the Bank, but he did not, nevertheless, believe that Government were at all bound to hold the stock any longer than it might be for its pecuniary advantage.

Mr. S. WOOD, of New York, next addressed the House in opposition to the measure. After recapitulating the fiscal calculations on which the mover placed the expediency of the sale, Mr. W. proceeded to show that the supposed gain of 1,600,000 dollars would not be

realised. The gentleman had stated only the credit side of the account, and seemed to forget that, by selling out our 7 millions, we parted with a capital which would continue to yield an annual interest of 70,000 dollars. Here Mr. W. went into a long calculation, the result of which was understood to be, that, allowing the stock to retain its price at 23 per cent. advance, the United States would gain by the sale only 453,000 dollars, instead of 1,600,000 dollars.

He then proceeded to consider the probability of the stock's retaining its price, and contended, that such a supposition was disproved by the gentleman's own principles. He said, that the stock derived its value principally from the permanency and security which belonged to it. The 3 per cents. were high, because they had long to run, but the United States' Bank stock, instead of being secure for even eight years, might be redeemed to-morrow. He denied that the price of this stock presented any strong temptation to capitalists. It was worth, by the gentleman's own shewing, but about 4½ per cent. but there were steamboat and canal stocks in abundance, almost any of which offered a more inviting prospect. But, besides this competition for investment, the gentleman had not warranted his wares; he had also prudently shielded himself from any liability to which he might have been subjected, by a concealment of their defects; he had put the purchasers on their guard against ascribing too much value to the stock, from a hope of the extension of the time of redemption, by apprising them of his hostility to the renewal of the bank charter; that this was honest and honorable, although not calculated to enhance the price of the article. Many other stocks, while they yielded a larger dividend, promised a much better prospect of permanency.

Mr. W. next dwelt on the probability of the price being purposely depressed by the combination of money dealers, and went into a series of statements, going to shew the prospects of profit under various supposable degrees of depression. He concluded this calculation and the arguments connected with it, by shewing a strong probability of loss, instead of gain, by the operation of selling.

He then went into some observations of a more general character. The first had reference to the probability of the charter being renewed. He regretted this topic had been introduced at all; it was calculated to affect the national credit, than which nothing was more delicate or more easily injured. He adverted to a saying of Mr. Crawford, that there never had been an instance, in which a legislative body attempted, by legislation, to regulate the national currency, in which they had not completely failed. In this matter, mere theory was ineffectual and deceptive; experience alone could be relied on.

He then drew a striking picture of the gloomy state of the public resources during the late war, and the contrast produced in two years by the operation of the National Bank, during which time the amount of paper currency had fallen from one hundred and ten millions to fifty three millions. He enlarged on the salutary influence of this institution, in regulating the issues of the local banks, and yet in treating them with all reasonable indulgence. It was not, he insisted, in the power of this Bank to be oppressive in its operations; the Government had a complete and constant control over all its proceedings, and could, in a moment, correct any abuse, should it ever be attempted. He paid a merited compliment to the gentleman who presides over the exchequer, (Mr. McDUFFIE, Chairman of the Committee of Ways and Means,) for the honorable sentiments he had expressed in relation to the introduction of party bitterness into such a discussion as this. Such sentiments were worthy of the station he occupied, and added, that he should as soon



DEC. 21, 1829.]

*Bank of the United States.*

[H. or R.]

have expected that a reversioner, who had obtained possession of the estate before the expiration of the term of the tenant for years, would commit waste, as that that honorable gentleman would lay violent hands on any of our national establishments. He gave the mover of the resolution. (Mr. BARBOUR,) full credit for the purity of his motives, but proposed other modes, which he thought preferable for accomplishing the object he professed to have in view; and went into a calculation to shew the rates of profit which might be made by the issue of a new stock, supposing it to bear 4, 4½, and 5 per cent. interest. He concluded by expressing his hope that the resolution would be rejected.

"The Question" was now loudly demanded from all sides of the House; when

Mr. BARBOUR rose to make some concluding remarks in reply. He was not, he said, in the habit of intruding himself upon the attention of the House, after hearing a general call for the question, such as had just been made; but he would, on this occasion, ask leave to offer one or two observations, and to present some accurate calculations, by aid of which the views of the gentlemen who had opposed the resolution might be traced to their actual results. As to the great alarm which seemed to prevail, in regard to the depression in the price of the stock, it might at once be obviated by introducing in the bill which provided for the sale a limitation of the price at which it should be effected: a minimum, which would effectually guard against any depression below that point.

[Mr. B. then went into a calculation, the object of which was to obviate the positions taken, with a view to shew that no profit would result from the sale. But as we should do injustice to his statement, by giving it in an inaccurate or partial manner, and as it is next to impossible to give a perfect report of arithmetical statements from the ear alone, we must omit this part of his remarks.]

As to the general principles which had been advanced on the other side, he would not detain the House save by a single remark; and that was, that if he could for one moment believe, that, by introducing the present measure, he was in the remotest manner touching the pledged faith of the Nation, the resolution would have fallen still-born from his hand. That faith which holds together the moral as well as the political world, he would never violate. Complaints had also been made, that, by effecting such a sale, the Government would treat the Bank unjustly. This, also, was what he would never be guilty of; but was this complaint well founded? Gentlemen spoke of the great advantages conferred by the Bank on the Government, and speak as though we were under obligations of gratitude to that Institution. Obligations of gratitude! And are we, as stockholders, to be bound on this consideration? The benefits have at least been fully reciprocated. Nay, the deposits alone of the immense funds of the nation were an abundant compensation. We place in the hands of this institution an annual amount of twenty millions of dollars. Now, it was perfectly well known to all persons conversant in banking operations, that cash in the vaults of a bank forms almost as efficient a fund on which to proceed, as the stock itself. It is true this amount is liable to be called for by its owners at any moment: but it generally happened that, while sums were drawn out by some, they were deposited by others, and that one so nearly balanced the other, that the specie in the vaults had very truly been said to change its owners much more frequently than its place. The Government, too, can borrow money at five and four and a half per centum, and might even get it at four per centum. The Bank had secured by its charter the important privilege of receiving six per cent. interest on all the notes discounted by it, which privilege was secured for twenty years.

And though the rate of stock may be diminished by the mismanagement of the institution, that is not to be charged to the Government, and does not enter into the consideration of gratitude. Besides, this Bank is a kind of monopoly of the advantages derived from Government: for the Government is bound to charter no other Bank within the United States, unless in the District of Columbia. Mr. B. concluded, with declaring that though he would never be the conscious instrument of violating in any manner the faith of the Government, he did not think that the Bank could make any just complaint so long as it continues to get more than an equivalent for all the advantages ever derived from its institution.

The question was then taken on the adoption of the resolution, by Yeas and Nays, as follows:

YEAS—Mark Alexander, Philip P. Barbour, Henry Daniel, John Floyd, of Va. Tomlinson Fort, Thomas H. Hall, Joseph Lecompte, John Roane, Daniel Turner—9.

NAYS—William Adams, Samuel C. Allen, Willis Alston, John Anderson, Samuel Anderson, William S. Archer, William Armstrong, John Bailey John Baldwin, Noyes Barber, David Barker, jr. Daniel D. Barnard, John Barney, D. L. Barringer, Ichabod Bartlett, Mordecai Bartley, Isaac C. Bates, Edward Bates, Philemon Beecher, John Bell, John Blair, Thomas H. Blake, Titus Brown, John H. Bryan, James Buchanan, R. A. Buckner, Daniel A. A. Buck, Rudolph Bunner, Tristram Burges, Samuel Butman, C. C. Cambreleng, Samuel P. Carson, John Carter, Samuel Chase, N. H. Claiborne, John C. Clark, James Clark, Lewis Condict, Henry W. Conner, Richard Coulter, W. Creighton, jr. David Crockett, B. W. Crowninshield, John Culpeper, Thomas Davenport, John Davenport, Warren R. Davis, J. J. De Graff, Robert Desha, J. T. Dickerson, William Drayton, Joseph Duncan, H. W. Dwight, Jonas Earll, jr. Edward Everett, James Findlay, John Floyd, of Geo. Chauncey Forward, Joseph Fry, Nathaniel Garrow, George R. Gilmer, Benjamin Gorham, Innis Green, Henry H. Gurley, John Hallock, jr. James Hamilton, jr. Jonathan Harvey, Charles E. Haynes, Joseph Healy, Selah R. Hobbie, James L. Hodges, Gabriel Holmes, Jonathan Hunt, Ralph J. Ingersoll, Samuel D. Ingham, Jacob C. Isaacs, Jonathan Jennings, Jeromus Johnson, Kensey Johns, jr. Richard Keese, Adam King, George Kramer, Joseph Lawrence, Prior Lea, Isaac Leffler, Robert P. Letcher, Peter Little, John Locke, John Long, Wilson Lumpkin, Chittenden Lyon, John Magee, John H. Marable, Henry Markell, Henry C. Martindale, William D. Martin, Dudley Marvin, Lewis Maxwell, John Maynard, William McCoy, George McDuffie, Robert McHattton, Rufus McIntire, Samuel McKean, John McKee, Charles F. Mercer, Orange Merwin, Thomas Metcalfe, Daniel H. Miller, Charles Miner, John Mitchell, Ths. R. Mitchell, Gabriel Moore, William T. Nuckolls, Thomas J. Oakley, Jeremiah O'Brien, Robert Orr, jr. George W. Owen, Dutee J. Pearce, Elisha Phelps, Isaac Pierson, David Plant, James K. Polk, William Ramsay, John Reed, Joseph Richardson, William C. Rives, William Russell, Lemuel Sawyer, A. H. Shepperd, John Sloane, Alexander Smyth, Peleg Sprague, Michael C. Sprigg, William Stanberry, John B. Sterigere, Andrew Stewart, Henry R. Storrs, John G. Stower, James Strong, Samuel Swann, Benjamin Swift, Joel B. Sutherland, John W. Taylor, Hedge Thompson, Wiley Thompson, Phineas L. Tracy, James Trezvant, Ebenezer Tucker, Starling Tucker, Joseph Vance, Espy Van Horn, S. Van Rensselaer, John Varnum, G. C. Verplanck, Samuel F. Vinton, George F. Wales, Aaron Ward, G. C. Washington, John C. Weems, Thomas Whipple, jr. Elisha Whittlesey, Charles A. Wickliffe, Lewis Williams, James Wilson, Joseph F. Wingate, John J. Wood, Silas Wood, John Woods, David Woodcock, Geo. Wolf, Silas Wright, jr. Jno. C. Wright, Joel Yancey—174.

H. or R.]

Old Sedition Law.—*Revolutionary Land Warrants.*

[Dec. 24, 27, 1827.]

So the resolution was REJECTED.  
The House adjourned till Monday.

MONDAY, DEC. 24 1827.

## OLD SEDITION LAW.

Mr. HAMILTON submitted the following:

Whereas a law was passed by the Congress of the United States, approved on the 14th July, 1798, entitled "An act in addition to an act for the punishment of certain crimes against the United States;" which said act is commonly known by the name of the Sedition law.

*Be it resolved*, That the said law was a violation of the Constitution of the United States, by "abridging the freedom of the press."

*Be it further resolved*, That, as several persons were indicted, convicted, and suffered in pecuniary penalties under this law, that the Committee of Ways and Means be directed to report a bill which shall make full provision for refunding to the said persons the amount, with lawful interest, of the fines which they may have paid to the respective Marshals of the District Courts empowered to levy and receive the same. And in case of the death or the absence from the United States, of any of the said parties, then to their legal representatives, or such person or persons as may be duly authorized to receive the same.

Mr. HAMILTON said, that he did not rise for the purpose of asking the House to consider, at the present moment, the resolutions which he had just had the honor of submitting. His object was rather to indicate the time at which he should ask such a consideration: for he was aware that the resolutions covered too much ground, and involved too many delicate considerations, both of principle and expediency, to be precipitately discussed.

He hoped that, as an act of justice which he owed to himself, he might be permitted to avow, that, in moving in this matter, he was influenced by no desire to make the past subservient to any purpose of contemporary excitement. The resolution were introduced because he believed that the parties who had suffered in pecuniary penalties under the Sedition Law, were just as much entitled to have the fines which they had paid refunded to them, as an ordinary suitor in a Court of Justice was to have a sum of money refunded to him which he had paid, either through fraud or mistake, and, in his humble opinion, the only effectual mode of offering a fit atonement for the violation inflicted on the Constitution, by the passage of the Sedition Law, was to make full indemnity to those who had suffered by its enforcement.

The question was one purely of abstract justice and constitutional law, and, as such, he desired to present it. He challenged the fullest discussion and freest opposition, and had no hesitation in declaring that, if, in the light which the debate was calculated to elicit, he should be convinced that he was sustaining, on principle, an untenable position, he would be the first to relieve the House of all further trouble in regard to the resolutions, by moving to withdraw them. But, believing precisely the reverse, all he asked was an equal frankness on all sides of the House, that the question might be met, not blinked or shunned, and finally, openly, and manfully, set at rest forever.

He would, therefore, for the present, move that the resolutions be printed, and lie on the table, and would further give notice that, on the second Monday of January next, he would respectfully ask of the House their consideration.

The resolves were ordered to lie on the table accordingly.

The House adjourned.

THURSDAY, DEC. 27, 1827.

## REVOLUTIONARY LAND WARRANTS.

The following resolution, submitted by Mr. MINER, on Monday last, was taken up and read.

"*Resolved*, That the Secretary of War be directed to lay before this House a statement of the number of Military Land Warrants due to officers and Soldiers of the Revolutionary War, which remain in his office uncalled for, designating the number of warrants and quantity of land due to the line of each State, respectively. And that he also state what number of such warrants have issued from the War Department within the last five years."

Mr. CONDUCT suggested a doubt of the prudence of such a measure as the resolution proposed. If the information sought for was to be published, the interests of those whom the gentleman wished to benefit would be exposed to injury, and a scene of speculation take place such as every one would deprecate.

Mr. MINER observed, that the names of persons entitled to Military Bounty Lands were not asked for by the resolution, and would not, of course, be given. The information sought was, the number of warrants due to each Line on the Continental Establishment, and the number of warrants issued during the last five years. At the last session, Mr. M. said, he had taken occasion to draw the attention of the House to this subject; and on his motion a resolution was adopted, authorizing a committee to inquire into the expediency of extending the time for soldiers to apply for their warrants. A bill was reported, and a law passed for that purpose. At that time he learned and stated the extraordinary fact, that there were no less than six hundred land warrants due to the Pennsylvania line alone. The presumption was a fair one, that there was a proportionate number due to the line of every other State, existing at the Revolution; in the aggregate making some thousands of warrants, embracing some of the first lands in Ohio. In this point of view, it would be seen to be a matter of considerable importance. My purpose, said Mr. M. in asking information in this precise form, was to attract the attention, and awaken the interest of many members, to the subject. Each gentleman, from the old thirteen States, seeing the number of warrants still due to his own State, would, of course, feel a more lively interest in the matter, than he would do to learn, merely, the aggregate number of warrants due to the whole army. As it regarded Pennsylvania, he felt a deep interest in the subject; six hundred military land warrants, distributed among her old soldiers, or their representatives, would carry comfort to many a cottage. It was their due. It was the price of their toil and blood, and ought not, in his opinion, to be withheld from them longer. No private individual would feel justified, if he had title papers, or property of another in his possession, of which that other person was ignorant, in remaining silent, and keeping possession, because the owner did not ask for that which, though his own, he was ignorant of. No, sir, an honest man would take pains to inform the rightful owner—to bring home to him a knowledge of his rights. Mr. M. thought it our duty to do so. It could be rationally accounted for, that such a large number of land warrants remained due, only on the supposition that the persons owning them, were ignorant of their just claims: near half a century had passed away; the soldiers living were old and poor; it was time knowledge, and thereby justice, should be brought home to them. That it was ignorance of their rights prevented application for their warrants, was partially proved by a fact which had been stated to him. A gentleman in Maryland, highly respectable and intelligent, did not obtain a warrant due him, ever since the Revolution, until within three or four years, accident having brought to him a knowledge of his

Dec. 31, 1827.]

*Protection of Public Buildings.—Protection to Manufactures.*

[H. OF R.]

right. If intelligent men were ignorant, the poor and unlettered soldier might be presumed also to be uninformed of his just claims. Should this resolution pass, said Mr. M., and the information sought be obtained, it was my intention to propose another measure, that is, to give information in every State of the names of persons entitled to land warrants. But heretofore the War Department had, and very wisely, kept such information to itself, lest speculators should purchase up the soldier's rights for a mere trifle, and obtain all the benefits themselves. If information should be publicly given, this must be effectually guarded against. To provide such safeguard, at the same time that information, without which the soldiers could never obtain their rights, was a part of his plan. He would provide by law that no transfer should be valid for five years, nor then, unless approved by the Governor of the State where made, as the guardian of the soldiers' rights. With such provision, he thought the name of every person entitled to a warrant might safely be made public. But this was matter for future consideration. No such publication was now contemplated—no such information was now asked for. The information sought by the resolution could neither benefit the speculator, nor injure the soldier. It would be general, and of a character he thought useful and proper.

Mr. MCCOY opposed the resolution, as likely to be productive of more harm than good. Should the Secretary of War publish the names of these warrantees, it would lead to something worse than speculation: it would produce fraud and forgery. He could not see the use of calling for such a list. It may be inspected by any member at pleasure, on the books of the Department. Let gentlemen examine it there, and if they found the names of any of their own constituents, they would convey the information to them in a private manner, and thus avoid the dangers which would necessarily attend a publication of the names to all the world.

Mr. WRIGHT, of Ohio, presuming the gentleman who moved the resolution was not aware that a similar call had been made a few sessions ago, called his attention to that fact; and, referring him to the documents then received from the Department, moved that the resolution lie on the table, at least till the gentleman could have an opportunity of examining them.

The motion prevailed, and the resolution was laid on the table accordingly.

#### PROTECTION OF PUBLIC BUILDINGS.

On motion of Mr. MARTINDALE, it was

*Resolved*, That the Committee on the Public Buildings be instructed to inquire and report to this House, whether, any, and, if any, what provision it is expedient to make by law, to place the public buildings and paved walks, constructed at the National expense, under the supervision and protection of the permanent police of the city; or whether it be necessary and expedient to create a separate and distinct authority, whose duty it shall be specially to watch over the National property in this city, and to maintain the buildings and pavements in a state of constant preservation and repair, and in a condition suited to the purposes of their original construction; or whether these duties have already been devolved upon any agents of the Government, and how they have been performed.

In supporting this resolution, the mover said, that it could not have escaped the observation of every gentleman who was in the habit of walking on the Pennsylvania Avenue, that the intention of erecting and paving the side walks of that Avenue, and of various parts of the public ground, was almost, if not wholly defeated. In saying this, it was not his intention to cast censure on any individual, or on any public body, (for he did not know himself, under whose charge these works are executed,) but merely to bring the fact, as it existed, to the notice

of the House. It was a fact, that liquid mud, to a considerable depth, covered many parts of these pavements: by which, the very end for which so large an expense had been incurred, was lost. It must, he said, have struck the feelings of all those gentlemen who had visited the other cities of the Union, when they passed, from the neatness, cleanliness, and comfort, exhibited in the state of their streets, to the public Avenues of a City, placed by the Constitution under the immediate care and inspection of the Government. In these cities, the walks were kept in a state of decency, and comparative neatness, by some process of cleansing—and it was certainly very desirable that a similar system should be introduced here. With this view, he had introduced the resolution just read.

The resolution was agreed to.

MONDAY, DECEMBER 31, 1827.

#### PROTECTION TO MANUFACTURES.

Mr. MALLARY, Chairman of the Committee on Manufactures, rose in his place, and said, that, by direction of that Committee, he moved the following resolution:

*Resolved*, That the Committee on Manufactures be vested with the power to send for persons and papers.

Mr. McDUFFIE made some inquiry as to the object of this motion, when

Mr. MALLARY observed, that, in submitting the resolution, he had discharged a duty which he owed to the committee. He must now discharge another, which he owed to himself, in declaring that the resolution was not one which expressed his own views on the subject. He had opposed it in the committee, and should be equally opposed to its adoption by the House.

Mr. STRONG said, that the resolution struck him as of a very extraordinary character. His impression, with regard to it, might be erroneous; but it presented itself to his mind in such a point of view that he thought the House had a right to expect that some member of the Committee would at least state the reasons of asking a power so great and so unusual. He presumed there must be the most urgent reasons to have induced the Committee to request of this House authority to bring any citizens of the United States before them whom they might choose to send for, and compel them to give answers to every inquiry which should be addressed to them. If such reasons did exist, he hoped they would be stated.

Mr. RANDOLPH asked that the resolution might be again read, and it was read accordingly.

Mr. WRIGHT, of Ohio, said he agreed with the gentleman from New York (Mr. STROWE) that the resolution proposed by a majority of the Committee of Manufactures, was one of extraordinary character, and required serious consideration. He was not aware that a demand for the like powers had ever been made in Congress by a Committee whose duties were similar to that of the Committee on Manufactures, since the organization of the Government. Propositions for a grant of power to a committee to send for persons and papers, had, he thought, hitherto been confined to committees exercising the judicial power of the House; others might have been introduced, but, if so, they had escaped his observation. He wished to vote on the question understandingly, and was desirous of hearing from the majority of the committee the reasons which, in their opinion, rendered the proposition necessary, and what object was to be attained. The Chairman had avowed his opinion that it was unnecessary, and his determination to vote against it. The gentleman from New York (Mr. STROWE) had called for information from the majority of the committee, but no response had been given to the call. He (Mr. W.) seconded the call of the gentleman, and would unite with him in the effort to obtain a response. He could not vote for any proposi-

tion of so novel a character without being satisfied of its reasonableness and expediency. Sir, said Mr. W. what object is to be gained by conferring the power sought by the committee? Does the committee want information? If so, on what particular subject connected with its duties? If the House is informed of the specific subject, probably some gentleman on the floor may supply it, or refer to some document where it can be had. Is it desired to ascertain if it be expedient to encourage the manufacturing industry of the country, if in our power? On that subject, the committee are not, surely, destitute of information. Is the information sought connected with the propriety of protecting any given article manufactured in the country? What article is it? The House, before it grants the extraordinary power asked for, has a right to know. It is no new thing to enact tariffs, either for the purpose of revenue, or of affording protection to our own manufactures. Questions of that kind had been agitated in the country, from the time of the adoption of the present Constitution, and many of the most important articles, now sought to be protected, agitated the last Congress and the preceding one, and had attracted the attention and investigation of the whole community—had elicited much light. Shall we now be told, said Mr. W., we have no information on these important subjects? The facts disclosed throughout the country on these subjects, were numerous and important, and, he should suppose, sufficient to enlighten the Committee on Manufactures. He would again ask for the reasons, on which the proposition was predicated, and until he heard some satisfactory reason, he could not consent to vote to confer so extraordinary a power.

Mr. STEVENSON, of Pennsylvania, said, as one of the Committee of Manufactures who voted with those who, in committee, proposed the resolution before the House, he would, in reply to the call that had been made by several gentlemen on the committee for their reasons for recommending this resolution, assign the general considerations that induced its adoption.

The memorials on the subject of a reform of the tariff of 1824, which have been referred to the committee, are in many instances opposed to each other, and contradictory as regards facts. Assertions are made and contradicted, but data not furnished on which the committee can decide. From Boston a memorial, signed by 1546 persons, many of whom are alleged to be manufacturers, assert that the duties on woollens are sufficient, and that the establishments are flourishing. Others complain of the languishing condition of these manufactures. Information is desired on this and one or two other subjects, so as to establish the facts as to the necessity of protection, such as shall not merely satisfy the committee, but the House. We are also desirous to ascertain the extent of protection necessary, and the best mode or manner of ensuring the protection required. Our information is not as satisfactory as it might be rendered by investing the committee with the power which would be derived from the passage of the resolution. The committee wish authenticated information, in order to do justice to the manufacturer and to give him due protection with justice to other interests. The committee feel no solicitude as to the passage of the resolution. They are willing to act with what light they have, if the House requires it. They point to the means by which they can obtain further, and, as applies to one or two subjects, more accurate information than they can now command. Should the House not grant the power requested, we shall cheerfully agree to their being responsible who refuse. The committee have no feelings other than a desire to faithfully discharge their duty. But they deem it proper to obtain information in the manner pointed out, unless declared otherwise by the expressed opinion of the House. The committee submit the proposition, and devolve upon the House the responsibility of declining to authorize the committee to obtain information in the manner proposed. Should the

House refuse, the committee will be exonerated from any errors into which they may fall by want of attested facts.

Mr. STEWART, of Pa. rose, not for the purpose of discussing the resolution in its present form, but of proposing an amendment, which he would offer after a few remarks. The course pursued by the Committee was, he contended, novel and unprecedented, and one which, whatever might be the motives of those who had introduced it, would have in practice the effect to postpone indefinitely any measure for the protection of manufactures. It would not only put that measure off for the present session, but for the next also: as that would be the short session, and there would be no time to consider a subject of such extent. The House was now advanced nearly a month in its present session, and now, at the end of a whole month, the Committee of Manufactures come forward with a request, that, in order to enlighten their judgment, they may have power to send into all parts of the United States, and bring up the citizens of the country to testify before them. We are to send our Sergeant-at-Arms, (said Mr. STEWART) to New England, to Pittsburgh, to Charleston, to New Orleans. Manufacturing merchants, and all others who may be summoned, must come forthwith at the call of the House; and if they refuse, an adequate posse must be summoned to bring them, and all this at the public expense. At the session of 1823-4, when the general tariff was enacted, the bill for that purpose was reported to the House on the 9th January—it was taken up on the 10th February following, and its discussion occupied the House until the 16th of April—it was then sent to the Senate—and was not disposed of in that body until the 19th of May. Owing to a difference of opinion in the two Houses, a Committee of Conference was appointed, and the bill did not finally pass till the 24th day of May, which was within three days of the adjournment of Congress. Thus nearly five months were occupied on that bill, though it was reported on the 9th of January. The House had been repeatedly told, since the opening of the present session, that it was expected they should go home by the 4th of March—if this expectation was to be fulfilled, what would become of a measure so loudly demanded, and on which it had been expected the committee would, by this time, have reported a bill? Any bill they might report, must necessarily share the fate of that of last Session. That bill embraced a single item only, viz. the article of wool and woollens—it was reported by the 10th of next month, and taken up on the 17th, yet it failed for want of time. If the Committee, at the present session, are to send all over the country for persons and papers before they can so much as determine what articles are to be included in the Bill, it must certainly operate as an indefinite postponement of the whole subject. It inevitably put an end to it for the present session, and the session following was too short to admit any hope of better success. Under these impressions, he considered it his duty to press for a decision as early as possible, and with that view submitted the following amendment, to come in after the word Resolved:

“That it is expedient to amend the existing Tariff, by increasing the duties on the following importations:

- 1st. On raw Wool and Woollens.
- 2d. Bar Iron.
- 3d. Hemp and Flax.
- 4th. Foreign distilled Spirits.
- 5th. Fine and printed Cotton Goods.

2d. *Resolved*, That provision should be made by law, to prevent, as far as practicable, defrauds and evasions practised by Foreign importers, to the injury of the revenue and American manufactures.

3d. *Resolved*, That the Committee on Manufactures be instructed to report a bill, or bills, conformable to the foregoing resolutions.”

DEC. 31, 1827.]

*Protection to Manufactures.*

[H. OF R.]

Mr. FLOYD, of Va. suggested that the amendment was not in order, and the Speaker decided, that, by the 40th rule of order, it was inadmissible.

Mr. STRONG said that he had listened attentively to the remarks made by the honorable gentleman (Mr. STREVENSON, of Pa.) on the other side of the House. As the gentleman was one of the members of the Committee, he supposed the reasons he had offered in support of the proposition were those of the majority of that committee. They did not, however, do away the impression upon his mind, that the proposition was of a most extraordinary character. What are these reasons? Why, that the committee want information to enable them to make up their judgment whether the duty on a yard of cloth, or a pound of wool, shall be a few per cent. more or less; and if the power of compelling the attendance of persons and the production of papers be not granted, that then the responsibility of acting without information will no longer rest upon the committee, but upon this House.

What is the state of the matter, in regard to which information is sought, and to attain which this compulsory power is demanded? The attempt to protect the domestic industry of the country is not new, it has been often made, and has often failed. It has for many years past agitated the whole nation. In 1816, '20, '23, '24, and '26 the question of revising and increasing the tariff was before Congress, with a view to protection. A great mass of facts and information was collected, and may be found in the records and proceedings of this House, in the shape of memorials and reports of debates. The people are still alive upon this subject, and every thing seems to have been elicited in relation to it which can be of any practical utility.

But if this enormous power of sending for persons and papers be given to the committee, what will be the progress of its execution? Will the committee confine its exercise to the District of Columbia? No. To gain all the information which the Committee seem to want, they must send to Baltimore, Philadelphia, New York and Boston—nor is this all—they must also send to Charleston, Savannah, and New Orleans. Can they perform their duty without collecting all the facts within the scope of this power, from Machias to the Gulf of Mexico? And when they have done, what have they but the disagreeing opinions of men? But, sir, can the information be obtained in the extraordinary way in which it is asked for, in twenty, or thirty, or even sixty days? Why incur this delay? If the power be exercised, there will not be time to report and pass the bill during this session. The tariff will not be revised. The industry of the country will not be protected against the ruinous effects of foreign competition. This proposition, if adopted, will delay, and probably put off altogether, the question of protecting the great agricultural, manufacturing, and navigating interests of the nation.

But, Mr. S. said, there was another objection, which he thought of some weight. What is the nature of the power proposed to be given to this committee? It is to send out the Sergeant-at-Arms, clothed with all the power of this House, to summon persons in any and every part of the nation, and to compel their attendance here, in this Capitol. There is no dispensing power. Whoever is summoned, whether he live in Maine or in Louisiana, must come, or be guilty of a contempt of the authority of this House. And for what purpose is this fearful power to be given to this committee? Is it to elicit fraud or crime, in order that the offender may be convicted and punished? No, sir—But it is to enlighten the judgment of this committee, as they say, upon a mere matter of ordinary legislation. Sir, the rightful exercise of this power is confined to a few cases. These are, where frauds or crimes are imputed, and where the sole object is to detect, expose, or punish the guilty. There is no in-

stance under this Government, within my recollection, where this power has been given for the mere purpose of enabling a committee of this House to adjust the details of an ordinary bill. What, sir! is this enormous power to be given over into the hands of a committee, of a tribunal of seven men, in this land of freemen, to drag before them, by force, if need be, the citizens of this Republic, to instruct the members of that committee, or of this House, in the common and ordinary duties of legislation! Mr. S. said he hoped not, and he trusted the House would reject the proposition.

Mr. STORIS said, that he had heard this proposition from the Committee on Manufactures with some surprise. He had hoped that, instead of asking for the aid of the House to obtain information, they would, by this time, have reported a bill that should give the farming and manufacturing interests of the country effectual protection. We have, said Mr. S., been in session nearly a month, and seem to have only discovered, at this day, that the Committee on Manufactures need this extraordinary interposition of the power of the House before they act at all on the numerous petitions and memorials already before us from our constituents. The power they now ask has not heretofore been thought necessary to enable that Committee to acquire correct information of the depressed state of our woollen manufactures, or the necessity of protecting them. At other sessions, and for successive years, this subject had been considered by the Committees on Manufactures in both Houses, and bills have been reported and passed without this appeal to us for our interference to coerce our constituents to come here and inform us, in person, of the ruinous condition of their interests. The representations made to us in the memorials on our tables, I believe to be true, and that we can draw from them, and other sources within our reach here, abundant information to enable us to act on the question, so as not to disappoint the just expectation of the country. It is unnecessary to vest the Committee with this power of issuing the parliamentary process of the House. There can be no difficulty in obtaining the attendance of the manufacturers, at this city, if the committee requests it of them. So far as we desire to know the opinions of the wool growers and manufacturers of the country, they have already anticipated us. Their petitions are daily furnishing us with all the information that can be necessary to satisfy us that it is our duty not to let this session pass without doing something to convince them that we are looking after their interests. Instead of waiting to be brought here by compulsion, our tables are groaning under the weight of their petitions. I believe, for one, that we can find all the information we want, as to the details of any measure the Committee will report to us, without first resorting to this legislative chancery process, and bringing the petitioners here, to be personally subjected to a catechism from the Committees of the House. They will answer interrogatories truly if gentlemen wish them to do so, without asking that the Committee shall delay acting at all, until they can send to Boston or New Orleans, or any where else, to ascertain if they sincerely believe the representations they have themselves made on the thousands of sheets that are spread out before us. It may be that the committee, or some one of its members, may desire information even from New Orleans; and we all know that, if nothing is to be reported until they can bring witnesses from that quarter, we may not expect to hear of any bill until towards the first of March. We are not so destitute of information here, in my opinion, said Mr. S., from other sources, too, than the memorials of our own constituents. The report of the Secretary of the Treasury has presented us with a body of valuable information on the principal subjects that we shall act upon, if we do any thing at this session. It furnishes such a mass of useful facts, and presents to us, in

H. or R.]

Protection to Manufactures.

[Dec. 31, 1827.]

such clear and convincing lights, the necessity and policy of sustaining, by an adequate increase of duties, the manufactures which he recommends to our protection, that we can hardly expect to be better satisfied than we must be, if we candidly examine it. With all the means in our hands that we may have, if we prosecute this subject diligently, the vesting of this unusual power in the Committee is, in my opinion, useless. The Committee may differ essentially in their view from others in the House who are friendly to the system of protection. They may come to a conclusion on general principles of policy widely different from the House, as to the particular interests that need protection. On the question of a general policy, I hope they will not differ from us. But, before I vest them with the power of calling my constituents here, to be subjected to their interrogations, I should wish to know with certainty that they have made up their minds to report some bill at all events. We may then be acquiring some information for ourselves, if we desire it, beyond what we now have. As soon as we can ascertain what particular articles the Committee will recommend to our favor, we may easily settle the degree of protection that will effect the object. I thought that there were certain articles about which the friends of the system could not differ, and that, by this time, we should have had our attention called to some specific proposition in the form of a bill. The gentleman from Pennsylvania (Mr. STEVENS,) informs us, that one object of vesting this power in the Committee is, that they may not incur the responsibility of any inadvertent errors that may find their way into their reports, and that, if the House deny them this power, that responsibility will then be upon the House. I am willing, said Mr. S. for one, to take upon myself my full share of any such responsibility, and if the Committee should err in any respect for the want of information, will most cheerfully acquit them. But there is a responsibility of another kind that I am not prepared to take, and that responsibility is the defeat of the whole measure, by the delay that must unavoidably succeed, if we adopt the proposition now before us. In my opinion, said Mr. S., the passage of this resolution will produce the defeat of the Tariff. Whatever the intentions of its advocates may be, the necessary effect of it will be to procrastinate the whole subject to so late a day, that it must at last go over the session; and if it now fails, it is in vain to expect its revival hereafter. We are now at the end of the first month of the Session, and have already heard the hope expressed openly, in the House, that we shall adjourn by the fourth of March. The bill of last year was not even acted upon in the other House for want of time, and we are now at the commencement of a new and unusual mode of proceeding, that must consume several weeks, if the examination which the Committee seem to propose is thoroughly made. I infer, too, from the remarks of the gentleman from Pennsylvania, that the Committee have not yet prepared a bill of any description. They ask for this power, that they may determine, in the first instance, what articles need protection, as well as the amount of it. If they cannot, in their own opinion, discreetly act, without this power from the House, then it is to be presumed that they have not yet prepared any measure; and if we grant them the power, we shall not expect to hear from them till all their examinations of the manufacturers have been completed, and till they have afterwards matured some project, to be founded on the information which they propose to acquire in that way. It requires no great share of sagacity to perceive, nor much temerity to foretell, that, if this proposition is adopted, and the Committee undertake to perform a duty commensurate with its full import, we may dismiss the whole subject from the House, as a defeated measure. I shall not be disappointed if those who are opposed to any increase of duties, should support the resolution: for I believe that

it will prove, in the end, to be the most effectual way to defeat all the petitions before us; but I hope that the friends of the farming and manufacturing interests will not sustain a proposition that must, by its necessary operation, indirectly disappoint their constituents. I consider that in voting on this question, I am virtually deciding whether I will act on the subject at all; and, in this view of it, the present proposition shall receive no favor from my hands. If the Committee intend to offer us any measure for the protection of the interests of those whose petitions have been referred to them by the House, (and I hope we shall soon have it before us,) I am willing to trust to the information already in their power. I hold their intelligence in too high estimation to doubt that they can offer us a bill that shall leave no doubt of our intention to meet the full expectation of the country.

Mr. OAKLEY said that the resolution, as moved by the chairman of the committee, appeared to him to be couched in too general terms. It did not shew with sufficient clearness the object for which the proposed power was asked. That object, as he understood it, was, that the committee might be enabled to examine witnesses on the subject submitted to them, and thus get at the facts calculated to enlighten the judgment, not of the committee merely, but of the House. That this was the object of the resolution, he thought was manifest, and he therefore proposed to amend it by inserting, after the word "papers," the following: "with a view to ascertain and report to this House such facts as may be useful to guide the judgment of this House in relation to a revision of the tariff duties on imported goods."

Mr. STEVENSON thought the amendment ought not to prevail. Gentlemen had deprecated the delay which would result from adopting the resolution. The evident effect of the amendment would be, by requiring a detailed report, to delay the bill. The committee had a due reference to time, when they agreed to the resolution. The committee will not retard the report of a bill, so as to be too late for legislation. The argument of the gentleman from New York, [Mr. STONAS] is, therefore, fallacious. It is founded upon error. The committee have determined to report in reasonable time. The authority asked, it is not too much to presume, will be used with reasonable discretion. It is not intended to send to Orleans, Missouri, or to Maine, for information; much of it is at hand, even here, but it is wanted in an unquestionable form, and there is no power to command it.

Mr. S. said the committee possess sufficient information on several of the subjects referred, but want it on others. He would not dwell on the arguments of gentlemen who urged that the adopting the resolution would delay a report; it was argument against fact. The committee had determined to report in January, and will do so. He again stated, that the committee were not solicitous on the question of passing the resolution, but would prefer it without the amendment, unless the committee would be sanctioned in extending the report to a later day. He was averse to the report and passage of bills without due examination of facts. For want of due reference to facts, this House last Winter passed a bill, apparently, in part, for the benefit of our farmers. Its operation, as may be now seen, by reference to the imports of the year, would have been a fraud upon the hopes of the wool-grower—so in effect, if not in intention. The bill seemed to increase the duty on imported wool, but was so worded as to add nothing to the duty on wool costing not more than ten cents. It left an opportunity to invoice the great part of the wool imported, at or below that price. To shew the facts, in part, if the House will pardon me, I will state the importations into the collection district of Boston, for the last three years.

From October 1st, 1824, to October 1st, 1825, costing above ten cents, \$157,424. Not over ten cents, \$40,143.



Dec. 31, 1827.]

Protection to Manufactures.

[H. OF R.]

From October 1st, 1825, to October 1st, 1826, costing above ten cents, \$118,801. Costing not over ten cents, \$54,980.

From 1st October, 1826, to 1st October, 1827, costing above ten cents, \$93,273. Costing not over ten cents, \$132,450.

The quantity of wool imported into the Boston district for the year ending October 1st, 1827, costing above ten cents, was three hundred and fourteen thousand six hundred and ninety-six pounds. Of that costing not over ten cents, one million four hundred and seventy three thousand two hundred and ninety pounds. Here, then, you have brought into one port alone this enormous amount, and that costing not over ten cents, would, under the fallacious provisions of the woollens bill, have paid no additional duty. The present duty of fifteen per cent. on the cost of the above, is an average of about one penny per pound. A vast protection to the wool-growing farmer, indeed. The woollens bill would not have increased this. Sir, I am the friend of the farmer and of the manufacturer, and seek information in order to do their interests justice. The agriculturist and manufacturer of Pennsylvania are willing to be judged by facts, and will not suppress inquiry.

I have pointed out what would have occurred, in part, under the provisions of the woollens bill, in order to shew how necessary it is to do something more than to cry tariff: we prefer information from the first sources. The committee will not delay their report beyond January, and it is better to so frame their bill, and arrange its provisions to existing exigencies, than to cast it crude and indigested into this House, founded in error, and fraught with discord.

The amount of wool imported into Boston, costing over ten cents, has been diminishing for three years; that stated as costing not over, has been greatly increasing. The revenue may be suffering, and the farmer too, by the great advantage of invoicing wool not over 10 cents.

Mr. MALLARY said that the reasons which induced him to oppose the resolution had been stated by him when last up, and he should not have risen at present, but for the last remark of the gentleman who had just taken his seat. Mr. M. was here proceeding in a course of general remark, by way of reply, when—

Mr. OAKLEY suggested that it was not in order to go into the merits of the resolution itself, when an amendment to it, only, was under consideration.

The SPEAKER pronounced the remarks of Mr. MALLARY to be not strictly in order.

Mr. MALLARY then resumed, that he could not perceive that the amendment varied in the least the principle of the resolution. It rendered it, indeed, somewhat more specific, but the same reasons which applied to the one, applied with equal force to the other. His objection to the amendment, like that to the resolution, was, that the People of this country have already acted on the general subject with full knowledge and great intelligence. Their wishes had been explicitly stated; and, if they were all summoned here to testify, the committee could get no more, in substance, than they had already. If gentlemen wished to know the actual condition of the various branches of manufactures throughout the country, they had already all the requisite information to guide them. Did the committee want light on the general question, whether farther protection was needed on our woollen manufactures, or did they doubt that those of hemp and iron ought to share in a system of protecting duties?—Surely not. Such knowledge as they had, was all they needed as practical men, and was sufficient to enable them to come to such a result as would answer the public expectation. It certainly looked very much as if the object of the gentlemen, in introducing such a resolution as this, was merely to produce delay. The committee had

been in session nearly four weeks, and now the gentleman first perceives the want of information as to the objects to be protected; and, in order to get it, asks for the power of sending for persons and papers. But all that was now known, was equally well known weeks ago, and every reason that operates now, operated then.

The committee, said Mr. M., had before it the testimony of some of the most respectable men in the United States—most of whom are personally known to many of the members of this House. But if we had all those before us whom the People of this country sent to represent them in the late convention, and could examine them from this New-Year to the next, we should get but few new facts, and no new views on the general subject. We have abundant information to enable us to judge whether it is not important that something should be done for the benefit of this branch of the national interests. The gentlemen of this House are well acquainted with the interests and wishes of their constituents; nor have they derived that knowledge from examining the price current of one or of two years, which had been calculated, he would venture to say, for the express end of producing an effect. The gentleman from New York, opposite, for example, [Mr. STORRS] knew, as well as any one could inform him, what was the state of the manufacturing interests in the county of Oneida. Other gentlemen had the same knowledge in relation to their respective districts; and, if the committee wanted light, they had only to come to the members of this House and they would obtain it. Such were some of his views in opposing the resolution.

As to the bill of last session, Mr. M. said, the gentleman had certainly gone to the tomb for the subject of his remarks. What was done in the last Congress could not be brought forward as of much avail on the present occasion. That bill, the gentleman says, operated as a fraud on the agricultural interests of the country. It was reported, it seems, by the committee, from a want of knowledge, and its passage by the House was an egregious blunder. Now, what was the real history of that matter? The committee were informed, that, in laying the protecting duty, it would be productive of injurious consequences, if they made the duty on the raw material and on the manufactured article to commence at the same time. It was shewn to them, by satisfactory evidence, that there was an immense capital which had been invested in the manufacture of woollens, and was then idle; and that unless some time were suffered to elapse before the duty on raw wool should be enforced, serious injury must necessarily ensue. Such were the views under which that bill was passed. If they were erroneous, it certainly was not for a want of knowledge of the facts. Does the gentleman suppose that the committee stand in need of having the farmers of this country coming to their committee room to see they are not cheated by the measures of this House? Was it necessary for them to testify in person, before the committee could determine whether the duty on the raw material and on the manufactured fabric, should or should not be simultaneous? The gentleman's whole argument from that bill was inapplicable and out of place. The question which the committee had to decide, and on which the House had afterwards to pass, was a question of expediency. The House did pass upon it, and they fully knew what they were doing.

Mr. M. said that, from information, he was satisfied that the stock of domestic wool was not now sufficient. He had no doubt but that there were spindles enough now idle that could be put in motion, in a short period—perhaps in twenty-four hours—to use an amount equal to the foreign supply. The farmer could not furnish the additional raw material for some time; the manufacturer could put his machinery into immediate operation, &c.



H. OF R.]

*Protection to Manufactures.*

[Dec. 31, 1837.]

As to the statements which the gentleman had quoted, with regard to the importation of the different qualities of wool, in two successive years, he did not see what it proved, nor did he distinctly understand for what purpose it was introduced. Gentlemen all knew that much coarse wool had been imported, and much of it under the value of ten cents.

[At this point the debate was arrested by the Speaker, who announced that the hour allotted for reports and resolutions had expired.]

On motion of Mr. MALLARY, however, the rule on that subject was for this day suspended, two-thirds of the House sustaining his motion to that effect.

Mr. MALLARY then resumed his speech, and was proceeding to make some remarks on the effects of the provisions of the tariff bill of 1824, when he was called to order by Mr. INGHAM, of Penn., on the ground that these remarks had no necessary connexion with the amendment.

The SPEAKER so decided: when

Mr. MALLARY observed, that the gentleman on the other side, had not, he believed, been checked in a course of pretty general remarks on the same subject, and he had supposed that he was at liberty to follow his example: but he should certainly submit to the decision of the Chair; and Mr. M. then took his seat.

Mr. LIVINGSTON said, two objections had been stated to grant the power requested by the resolution. First, that it is unnecessary, inasmuch as the House and the committee are already possessed of all the information which can be produced by the examinations which the resolution authorizes. Secondly, that the inconvenience attending the delay necessary to procure the testimony will more than counterbalance any advantage we might expect in obtaining it. If the first suggestion be true, there is an end of the question: it will be nugatory to give the committee power to examine witnesses, to procure evidence which we already possess; but the manner in which the objection is made, I fear, will show conclusively that we are not quite so well informed as those who urge it would have us believe. But, however gentlemen may be satisfied with the extent of their own knowledge, we owe something to the respectable committee that has asked us for this delegation of power. They tell us that there are material points of the subject on which they desire to be informed before they can present us such a bill as they can recommend to be passed, and they ask the means to procure it. What answer shall we give them? Shall we say, we understand the subject perfectly; bring in your bill as well as you can; we want no information from you? Shall we reverse the rule of business in this House, and, instead of employing a committee to state facts, and give us their deductions from them, shall we oblige them to bring in a bill without any knowledge of the subject, and supply the gross deficiency by our superior knowledge? But, before we take this course, it is worth enquiry whether we ourselves possess this knowledge, and to what extent? We will take this from the gentlemen who oppose the resolution, if any member in the House possess the information. They have it, and they have not left us in doubt as to the kind of evidence on which they rest their belief. What more, say those gentlemen, can be desired? Have we not memorials from all the manufacturers? Do not our tables groan with the weight of their complaints? What more can be desired? Something more, in my opinion: and if this is the best evidence—and it must be supposed to be such, for it has been relied on by all who spoke against the resolution—it is the strongest argument that could be used in favor of the measure proposed. I will believe that many of these memorialists are very respectable people; but are they disinterested? Their object is to obtain a protecting duty amounting to a pro-

hibition of all foreign manufactures. And to persuade us to tax the whole community to the amount that such a measure necessarily involves, they tell us that, with the present protection, high as it is, their establishments cannot exist; that it is a losing business; that they are obliged to discharge their workmen; but that, if we will agree to tax the rest of the community, to enable them to become rich, as soon as this object is attained, their prices will fall, and we shall obtain their manufactures cheaper than we can import them now. But, sir, before I yield to this fine reasoning; before I agree to impose this tax upon my constituents, I must be permitted to say that I want evidence; that my duty will not permit me to rely on the bare assertion of any one, much less on that of interested persons, be they ever so respectable. I want to know whether it is true that the manufacturers of wool are really going to ruin with a protecting duty of more than fifty per cent. I want to know the reason of this, if it be true; and I want to know from what facts the conclusion is drawn that the same manufacturers which cannot exist now, as we are told, with this enormous protecting duty, and the corresponding price it produces, will be enabled to sell their goods cheaper, at a future date, than they can be imported without that duty? A long professional practice has taught me the danger of relying on the testimony of interested witnesses, and has also shown me the great utility of cross examination. From disinterested witnesses it is calculated to elicit truth; but it is invaluable, for the detection of all those subterfuges to which interest resorts, in order to hide the truth, or give a false color to a true statement.

The manufacturers say that their present profits are an insufficient inducement for carrying on their business. They have told us so for years; yet they carry it on. They told us they must cease to exist, if we did not increase the duty; yet they still exist. Yet they increase; and we do not hear that one million of dollars that we were last year told was invested in the business, has been withdrawn. Nay, I have been informed, (but do not vouch for the fact,) that, during the last session, at the very moment we were told that the manufacturers were discharging their hands, preparatory to their dissolution, at that very moment, I have been informed, that several new incorporations were made, with very large capitals, for carrying on the same business. Be this as it may, there is certainly some inconsistency between the allegations of impending dissolution, and the actual existence of these valuable establishments; it is this that I wish to penetrate by evidence, by publicity. Let us examine these manufacturers, and know what they mean by a fair profit. If it should appear on this examination that they make ten per cent. clear profit, but do not think that a sufficient encouragement. I should be glad to know whether the House would coincide in that opinion and go on protecting until they can make 15 or 20—not I for one; I will never consent that my constituents shall pay such a tax in order to produce such an enormous profit. It may be, sir, that the representations are true: if they are, it is to the advantage of the manufacturer that the truth should appear by such testimony as will give it credence. Now, sir, how is it proposed to legislate? On our own information, and that which we may chance to obtain from interested sources. Gentlemen give us their opinion. I have the utmost respect for it, but I want to know on what it is founded; it cannot be from practical knowledge, it must be therefore from information; but I want that information on oath; I want it in the shape of evidence; and as much as regular judicial testimony is superior to hearsay, so much is the evidence which the committee desire to obtain, superior to that which the House now possesses.

The bill which passed this House, the last session,

DEC. 31, 1827.]

*Protection to Manufactures.*

[H. OF R.]

strongly shows how useful this mode of obtaining information would have been. Wool under ten cents cost was left untaxed, because it was supposed that little of it entered into the fabric of cloth; yet the information given by the gentleman from Pennsylvania, shows, that the quantity imported of that species, the last year, was more than four times that of the higher priced. Then we acted from general information, perhaps from the allegation of those interested to deceive us. If we had tested this by a cross examination on oath, the truth would have appeared, and we should never have passed a bill so ungenerous to the farming interest.

As to the delay, I do not apprehend it. All the information wanted can be procured in a few weeks; but were the delay greater, the advantages to be obtained from it would more than compensate for any disadvantage attending it.

But the practice is new! Too new, sir! Too rare in our legislation. All our laws, particularly those for the protection of commerce or manufactures, would be better, more stable, more wise, if we had sooner resorted to it. But, though new to us, we knew its effects. The Parliament of Great Britain, sitting in the most commercial town of Europe, where information may be procured on every subject by every member, at his will, does not rely on that information: they pursue this course. Not an alteration is made in any department until witnesses have been examined and cross examined before an open committee, and their examinations reduced to writing and submitted to the House. We have in our library forty or fifty folios filled with these examinations. If found necessary there, how much more so here, where we are shut out from all information but that which we can procure by letters from a distance, without the sanction of an oath, frequently from interested persons, and without the advantage of cross examination, to elicit the truth. Suppose, as may be the case, that the representations we have received are true; certainly the truth will appear, and the more convincing, when supported by legal proof, than by loose opinion. If this resolution do not pass, it will be said that the truth was concealed; that the parties feared to be brought to their oath. But, if it pass, and the statements should prove correct, we may then vote conscientiously, because we shall vote with a knowledge of the facts before us.

For these reasons I give my support to the resolution.

Mr. OAKLEY now expressed his apprehension, that the House was in danger of being prematurely involved in the discussion of the general subject. The question now to be decided, was on the adoption of the amendment, and, on this point, he had supposed, when he offered the amendment, that there would have been but one opinion. If, said Mr. O. you grant the power asked, shall or shall not the object of granting it be expressed in the resolution? That is the question, and the sole question before the House; but, as the amendment I offered appears to involve some gentlemen in difficulty, and is especially disapproved of by a member of the committee opposite, (Mr. STEVENSON,) I will now withdraw it, and if in order, will move another in its place. Mr. O. then moved to strike out the whole of the original resolution moved by Mr. MALLARY, after the word "Resolved," and in lieu thereof, insert the following:

"That the Committee on Manufactures be empowered to send for, and to examine persons on oath, concerning the present condition of our manufactures, and to report the minutes of such examination to this House."

Mr. STEWART thought that this amendment was substantially the same as the other. As a friend to the policy of protecting the home interest of this country, he had hoped that the House would, by this time, have received from the Committee of Manufactures, a bill, rather than a resolution for enquiry. He had hoped so

especially, when he perceived the anxiety manifested on this subject, by so large a portion of this community.

[Mr. STEWART was here called to order by Mr. McDUFFIE, on the ground that he was discussing the original proposition on a question of amendment, when, admitting that the amendment did not go to change the character of the original resolution. The CHAIR did not sustain the objection of Mr. McDUFFIE.]

Mr. STEWART then proceeded to observe, that the power asked by the committee was not only novel and extraordinary, but wholly unnecessary. The honorable gentleman from Louisiana, had asked, with much emphasis, whether the House would deprive its own committee of information which they considered necessary to a right discharge of their duty? To this question he answered No; but he would in turn enquire whether this committee had not all the ordinary means of obtaining such information as was indeed necessary? Had they not the same means that all other committees had, and might not every other committee of the House ask for this power with equal reason? Did they not possess more information on the subject of manufactures than had ever been accumulated before? Had they not all the facts which had been collected by their predecessors? Certainly. But he would ask further, what has this committee done? If they want further information, have they addressed letters to such persons as are able to furnish it? Could there be any doubt, that if they did this, full and correct answers would be received? For himself, he had none, but would be glad to know if the letters had been written. The committee, said Mr. S., have the reports of those who introduced the tariff bill of 1816, that of 1821, and that of 1824, which was reported by the committee on the ninth day of the next month. My colleague [Mr. STEVENSON] says that he wants information, and has referred the House to certain facts in a statement relative to the importation of wool: but where did the gentleman get that statement? He got it from the Treasury report. Does he want the committee to be clothed with power to send for Treasury reports? Sir, before I confer such a power as is now asked for, I should be glad to know how it is to be exerted, for what end, and to what extent? For whom are these gentlemen going to send? Is it for the manufacturers? If it is, will they not also send for the various Chambers of Commerce in our Atlantic cities, (for I presume witnesses are to be heard on both sides,) and, sir, must they not send to the South? Must they not bring Governor Giles and Doctor Cooper to enlighten them on the constitutional question? Nay, sir, will they not have to send for the farmers of the United States to testify as to the effect of the tariff on agriculture? Sir, we shall want a whole regiment of Sergeants-at-arms to carry their warrants into effect. But, for my part, I want no information from the manufacturers. I am not now legislating for them, I am legislating for the farmers. I have nothing to do with the manufacturers. I repeat it, I am legislating for the farmers, I am trying to build up a home market. I am endeavoring to provide for the farmers of the United States peace markets for their raw materials, for their flour, for their pork, for their corn, for their beef, for their butter. And this measure I cannot consent to see delayed by what amounts, in my judgment, to an indefinite postponement. I want to see neither our manufacturers, nor our Chambers of Commerce, nor our farmers coming before this committee. They have all told us what they want. I do not wish to see them brought from their various homes—and, sir, I ask at whose expense? Certainly at their own, for it is they who at last must pay for it.

[Here Mr. S. was called to order by Mr. CAMBRELENG: but the CHAIR pronounced him not to be out of order.]

H. or R.]

Protection to Manufactures.

[DEC. 31, 1827.]

Mr. S. resumed his speech, and further insisted on the impropriety of conferring a power so great as was now demanded, and so novel in its character, without some very extraordinary reason for its exercise. His objections to the grant was, that it was unnecessary—as all needful information was within reach of the committee without it. He hoped the committee had at least made the trial of obtaining this information by correspondence. If they had done this, and failed to obtain it, they would come before the House with a better grace. The House was now within a few days of the time when the former bills on this subject had been reported. To begin at such a period of the session, to send for persons and papers, was virtually to postpone, and certainly to defeat the whole measure.

Mr. BUCHANAN said, as my colleagues [Mr. STEVENSON and Mr. STEWART] have expressed opinions directly at variance with each other, I shall state my reasons for the vote which I intend to give. I am in favor of the amendment proposed by the gentleman from New York [Mr. OAKLEY]; not because it varies in principle from the resolution reported by the Committee of Manufactures, but because it expresses more fully and distinctly the objects which that committee had in view.

It has been stated and urged by gentlemen, in this debate, that the vote which may be given in favor of the resolution, ought to be considered as a vote against the policy of protecting domestic manufactures. I protest against any such inference. It is at war with the fact. It assumes the principle, that, because the friends of the resolution wish to cast all the light which can be shed upon the subject—because they wish to act with knowledge and deliberation—that, therefore, they are opposed to the protection of domestic manufactures. It assumes the position that the desire to obtain information concerning a measure, necessarily pre-supposes hostility to it. This is a singular mode of argument. I feel confident, that, when the House shall have acquired a knowledge of all the facts—and when they shall be spread before the nation, in an authentic form, we shall pass a bill much more satisfactory to ourselves and to our country, than we can do without the information.

But, it has been stated that the delay which must follow the adoption of this resolution, will defeat the bill, at the present session. I have been astonished to hear this argument urged, after the explicit declaration of the Committee of Domestic Manufactures. One of its members [Mr. STEVENSON] has solemnly declared, that delay has not been the object, nor will it be the effect of the measure. They have determined to report a bill during the next month, and hope they will be enabled to do so, some time before its close. After such a declaration upon this floor, will any gentleman again repeat, that the intention of the majority of the committee is delay? I trust not. Upon the ground of delay, therefore, there is no reason for voting against this resolution. Much as I desire more information concerning the manufacture of woollens, if I could, for one moment, believe, that the passage of this resolution would prevent us from acting efficiently upon the tariff, during the present session, I should vote in the negative. I apprehend no such result.

Gentlemen have argued, that the power to send for persons to testify, which the respectable Committee of Manufactures desire to obtain from the House, is dangerous and unprecedented. What a mere bug-bear is this argument! If two of your citizens engage in litigation, no matter how contemptible the subject in dispute may be, your laws will compel the attendance of witnesses, whatever may be the individual sacrifice. Justice must be done between them. And shall it be said, that, when a measure, deeply affecting the interest of every man in the United States, is before the Representatives of the People, that it is the exercise of extraordinary power,

to compel the attendance of witnesses who can give us practical information upon the subject? This power has never before been questioned, since I have been a member of this House.

For my own part, I am a sincere friend to the Tariff, and have no doubt that the manufacture of woollens requires additional protection: the great question is, in what degree? We must know the extent of the evil, before we can proportion the remedy to it. Upon this subject, my principles have never changed. I have ever been in favor of affording such protection to our domestic manufactures, as will enable them to enter into fair and successful competition with foreign manufactures, in our domestic markets. If you go beyond this point, you reach prohibition; and thus afford an unnecessary and unjust protection to the manufacturer, at the expense of the consumer. On the other hand, if you fall short of it, you disappoint the just hopes of the manufacturer, and withdraw from him the foundation on which he has a right to expect that he shall stand. It is not easy to determine the precise point to which we ought to go. To err on the one side, will injure the manufacturer—to err on the other, will injure the consumer. The woollen manufacturers themselves differ, as to the degree of protection necessary. How, then, can we decide between them, without calling them before us, and ascertaining the facts upon which their respective opinions rest? My colleague [Mr. STEWART] may know the precise degree of protection necessary. I confess I do not. Even the Committee of Domestic Manufactures are in the dark upon this subject.

Who are the manufacturers, that we dare not approach them? Shall we be so careful of their accommodation, that we must act blindly, rather than send for them to give us information? Shall we run the risk of injuriously affecting the agricultural interest, and all the other interests of the country, rather than send for a few of those gentlemen who are our petitioners, to inform us as to the degree of protection which their establishments require? This would be ill-timed and injudicious kindness. If we send for them, their expenses must be paid by the House. It certainly cannot be a very grievous matter for them to spend a few days here, during the fashionable season, at the public expense, when so many of our citizens visit Washington voluntarily, at their own private cost.

I confess I did not understand by what authority my colleague [Mr. STEWART] undertook to propound the questions which he has done to the Committee of Manufactures. They are not now upon their trial. They are not bound to answer such interrogatories. They have exposed their reasons for making this request before you, and they merely wish to obtain your advice upon the subject. They will rest satisfied with whatever may be your determination.

Before I sit down, I must say, I am glad that my colleague [Mr. STEWART] and myself at length agree upon the articles proper to be embraced in the Tariff. The abortive attempt which he made to amend this resolution, shews, that he is now willing to protect other interests besides those contained in the Woollen Bill of the last Session. Since that period, new light, from some quarter, has beamed upon his mind; and who can, therefore, tell, but that the information sought to be obtained by this resolution, may illumine the minds of others? At the last Session, when I proposed to include in the Woollen Bill several of the articles enumerated in the amendment which that gentleman has this day offered, he voted for the previous question, which was carried; and thus my purpose was defeated.

Mr. BUCHANAN here yielded the floor to Mr. STEWART. Mr. STEWART rose to explain. He had, at the last session, voted for every proposition the object of which

Dec. 31, 1827.]

Protection to Manufactures.

[H. OF R.]

was to protect either manufactures or agriculture. He had never voted against a Tariff question, and never would. He had never voted against a single proposition in any shape, which, in his judgment, was calculated to protect domestic industry. He had voted for the woollens bill of last session, not as being all that he wished, but as being all that he could get—and on this ground only.

Mr. BUCHANAN said, I cannot be mistaken in the fact, that the gentleman [Mr. STEWART] did vote for the previous question, upon the occasion to which I have referred. It will be for the House and the country to decide, whether the explanation of that vote which he has now given, be satisfactory or not.

Mr. RANDOLPH rose. His object was, he said, barely to offer a single suggestion, in addition to the very judicious and valuable observation which had fallen from the gentleman from Louisiana, [Mr. LIVINGSTON] and one which, considering his professional experience and eminence, he wondered he should have overlooked. It was that this resolution proposed to give to the committee the great benefit of *viva voce* testimony in contradistinction to that which was written only. He was not himself a professional man, but he would leave it to those who were of the profession, and understood the difference between examinations and cross-examinations, and depositions in Chancery, to how much more a *viva voce* examination was calculated to extract the truth from a witness whom one could see and hear, than that of a bill and answer in Chancery, where the witness is absent, and can be neither seen nor heard. The difference between these two modes of examination amounted, in most cases, to the difference between arriving at a true or a false conclusion. One word more, and he had done. It was not his place, he said, to interfere to settle the difference between the two Representatives from Pennsylvania—*"Non nostrum tantas componere lites."* This debate had, however, had the effect to disclose that something, of which the wisest man living had denied the existence—which was "something new under the Sun." For, the gentleman from Pennsylvania [Mr. STEWART] had discovered that a committee of this House, some years ago, did make a report upon a certain day in the next month. Now, if facts like these can be brought forth upon the testimony of members of this respectable House, said Mr. R., there is no knowing what may not be elicited by a personal examination of those intelligent persons whom the committee propose to summon before them.

Mr. WOOD, of New-York, said, that his objection to this resolution rested on none of the grounds which had been stated. I doubt, said he, the power of the House—that is my difficulty. It has been once decided, at least as I understood, that the whole judicial power of this House related to two classes of cases only. The one is, that of contested elections; and the other respects cases of malversation in office. Such has ever been my opinion. This, therefore, is a novel case for the exercise of such a power. The manufacturers apply to us for an increase of duties. Does this differ from an ordinary application for relief? Not at all, as to this principle. I therefore think it a case where we have no power. Every committee clothed with such a power is constituted a judicial tribunal. Where do we get the power to do this? I deny that it exists. The facts which bear on a petition must be substantiated by the petitioners in their own way. If their allegations are believed to be false, it is the duty of the committee to report against them; but if they believe them true, and the request reasonable, it is the committee's duty to report in their favor. If the petitioners volunteer, without any compulsion from us, to submit affidavits, and to exhibit their accounts, their allegations may be thereby confirmed; but this is a matter which must be left entirely to themselves; and when

they have produced such evidence as they think fit, it is then for the committee to judge of its credibility, and report accordingly.

Mr. BURGESS, of R. I., said, that he did not rise, at this late hour, to discuss the merits of the resolution, or the amendment, but to move a postponement of the whole question till Wednesday next, and that, in the meanwhile, the SPEAKER should examine the records of this House, to discover whether any precedent exists for the grant of such a power, in a case like that now before the House.

The question being put on the motion for postponement, it was negatived by a large majority.

Mr. WRIGHT, of N. Y., then addressed the House, and said, that, as he had been honored with a situation in the Committee of Manufactures, he felt the more entitled to ask the indulgence of the House, in offering a few statements and explanations, in reply to what had been advanced on the other side; and he would first remark, that it was three weeks, and not four weeks, as had been said, since the members composing that Committee, had been announced to the House. For some days after their appointment, not a single memorial, either for or against an alteration in the present tariff of duties had been laid before them. Then a few petitions, very briefly and generally expressed, were received from two or three of the States; and, if the gentlemen who seemed to censure the Committee for negligence, had had an opportunity of examining these documents, they would have found that they all had relation to what had been denominated "A National Convention in Pennsylvania." Petitions of this kind were all that the Committee had before them for a considerable time. When he said this, he meant officially before them, in such a manner that the Committee could act upon them. He admitted, indeed, that the members of the Committee had, individually, seen a pamphlet which had been very freely circulated, and which had respect to the doings of that Convention. But it was never placed officially before either the House or the Committee, until about ten days ago. This was all the time the Committee had had to deliberate on several distinct propositions submitted to them, and he might be permitted to refer to the proceedings of this House, and to its progress in business, as an answer to the imputations thrown out as to the industry of the Committee. The resolution which had been this day offered, had been resolved on, in Committee, some days ago, and it was presented to the House on the very first opportunity that offered. He had been an advocate for its adoption, and he would now briefly state some of the reasons that had influenced him. It had been said, that all the information, necessary to a right decision on the general subject, is already before the House and the Committee. This might be true, for aught he knew. His own experience in legislation had been very short, and he was unable to say what amount of knowledge might be possessed by others, but for himself, from the industry which he had been able to bring to bear within the short time allowed him, (and he had examined diligently all the public documents and reports of former Committees which were said to contain this species of information) he found himself still greatly at a loss, and in want of much information, of which the public documents were destitute. The whole subject stood in need of the exhibition of more precise detail. Two questions had been submitted to the committee; the first was, are any alterations at all, in the existing Tariff at this time necessary? It had been said, that on this point the public mind had been deeply interested, and the public sentiment expressed with sufficient clearness to authorize the Committee in coming to an affirmative decision. Should this be admitted, another question arose, and that was, to what extent is this alteration necessary, in order to attain the ends in view? On

H. of R.]

Protection to Manufactures.

[Dec. 31, 1827.]

this question, gentlemen might examine all the memorials of the Manufacturers, all the reports of the Committees of Manufactures, as well as the Executive communications, (at least as far as he had been able to investigate them) and they would not discover any thing to inform them whether five, eight, or fifty per cent. was to be added to the present rate of duties. Now this was precisely the kind of information of which he stood in need; he meant to be understood as referring to some particular branches of manufacture; and there were others of a similar character, on which other petitions might yet be presented. There were, however, some branches to which these remarks did not apply.

But one chief subject on which he felt this want of information, was the manufacture of woollens. The Harrisburg Convention, had, on this subject, proposed a series of minimums, to constitute a scale of duties which, according to their judgment was requisite and proper for the protection of that manufacture. But, had the members of that Convention given to the world any facts, calculated to shew that the rates they proposed were such as precisely to furnish the degree of protection required, and neither to fall short of, nor to exceed it? He could not find this in their pamphlet.

In what situation then did he stand? As a servant of the House, he was commanded to examine a certain subject, to bring his mind to a conclusion with respect to it, and report a bill for the action of the House. The House had a claim upon him for the performance of this duty, and he was unwilling to be compelled to report upon the subject, when he was not in possession of the facts requisite to form a decision. If, indeed, the House should say to him, go on, and do as well as you can, with such lights as you have, he was perfectly willing to obey them. All he wished was to express the difficulty under which he labored in the discharge of his duty, and to ask the House to assist him. If they should be of opinion that it was improper to do so, he was entirely willing to proceed with such means of knowledge as were in his power.

To the questions whether this was a novel case, and whether the power now asked resided in the House, he did not profess himself able to decide; his parliamentary experience had not been such as to enable him to do so. He would, however, suggest to his colleague [Mr. OAKLEY] who had offered the amendment, that, as it now stood, it did not require the witnesses who might be summoned, to bring with them any papers. Supposing, then, that the committee should send for the agent of some manufacturing establishment, for the purpose of examining him in relation to its concerns, would not the witness, in order to give precise replies, want the books of the establishment? By referring to these, his information could be rendered specific. He suggested, therefore, whether the amendment ought not to be so modified as to attain this object.

Mr. CAMBRELENG expressed himself in favor of the resolution. He said he had occupied himself during the Summer in collecting what information was in his power, on the general subject of the woollen manufactures of this country, and he had obtained from different quarters statements directly the reverse of each other. He had found that some fabrics yielded the manufacturers 25 and others 50 per cent. upon their capital. As an instance of the contradiction to which he had referred, Mr. C. stated one case. A memorial, received at the last session from one of the New England States, declared that the capital employed in a certain manufacture had suffered a reduction of more than 10 per cent. He had happened, in the Summer, to fall in with one of the proprietors of the very establishment to which that memorial referred, who told him that on the 1st of April they had taken one account of stock, and on the 1st of October another, and that the difference was such, that, during those six months they

had been enabled to divide 10 per cent. profit upon their capital. Mr. C. said that he was anxious that the committee should be enabled to decide between conflicting statements of this description. For this end there was no need of sending to Machias, or Missouri, or New Orleans. He had no doubt that his colleague was correct in saying that the gentlemen concerned would of themselves be very willing to come here and testify. He knew of one gentleman from New York, who was shortly expected here: he was an extensive manufacturer, and had lately been enlarging his establishment. When that gentleman arrived, Mr. C. said, he should wish to go before the committee and examine him for himself, and he thought that every other member of the House ought to do the same. Sure he was, he said, that if they did not do so, they would not do their duty. One gentleman had expressed great surprise that such a resolution as this should be offered, and another had doubted the power of the House to grant such authority. It had been called an unprecedented measure. For himself, he believed it quite unprecedented that any party or combination, of whatever name, whether friend or enemy to a proposed measure, should attempt to stifle information, and keep the House in the dark. Gentlemen ought not to depend on the statements of any memorials whatever, but ought to adopt the practice of the British Parliament, and bring the manufacturers before them, take minutes of their examination, and publish them to the nation. Some of the memorials, Mr. C. said, intimated that their business was a losing one. The statement of others was very different. They professed themselves satisfied with the tariff as it now stood, and able to do a profitable business without further protection. If, however, this interest is really suffering, let that suffering be made clearly manifest, and then let the friends of the manufacturers introduce and carry through this House such relief as their situation may require.

Mr. OAKLEY said, that almost every gentleman who had spoken, seemed to misunderstand his amendment, and he began to think he misunderstood it himself. One of his colleagues had started a doubt as to the power of the House to grant such authority as was now asked. For himself, Mr. O. thought, it was founded on the common law of Parliament. The Legislature must possess all that power, which was requisite to procure the information necessary to its acting understandingly, on every subject which came before it. But it certainly did not follow, should this resolution pass, that the committee must, therefore, resort to coercive measures. But if the House should doubt its power to authorize them to do so, nothing was easier than to modify the resolution, so as only to invite voluntary attendance. He did not, however, believe there was the least occasion for solicitude on this subject. The manufacturers, instead of needing to be compelled, would eagerly embrace the opportunity of attendance.

The gentleman who had just taken his seat, Mr. O. said, had alluded to an individual residing in the district which he represented, and who had been delegated by the People of the county, to attend to their interests before this body. He is (said Mr. O.) a man of great experience and of great intelligence. He is not only willing, but anxious, to testify under oath, before a committee of this House, and there to show why it is necessary that further protection should be extended to the woollen manufacture; and I venture to predict that the result of his examination will be of ten-fold more advantage to a right understanding of this subject, and to the interests of the manufacturers, than that of all the gentlemen on this floor. It need not be apprehended that witnesses are going to be dragged before this House by any oppressive coercion. If the manufacturers have truth on their side, they will promptly and anxiously disclose the

Dec. 31, 1827.]

Protection to Manufactures.

[H. or R.]

real state of facts; and our calling them will, in my judgment, be a means of bringing this matter to a close in a much shorter period than any other measure that could possibly be adopted. Gentlemen seem to apprehend not only delay but defeat to the general measure, should the resolution pass. I, on the contrary, do verily believe that, if the committee shall exercise their power with discretion and in good faith, instead of retarding, it will greatly expedite the passage of the bill. I have, to be sure, no personal experience in legislating on this subject, but I have had occasion to remark, while observing what has been passing here, that much of the time of the House has been lost, owing to the difference of gentlemen as to the real state of facts. One has declared it to be in one way, another in another; and thus, day after day has been wasted in getting at the facts with which the discussion ought to have started. My pursuits in life have been such as to preclude me from all practical knowledge, on the subject of manufactures; and if, to supply my own deficiency, I look to the members of this House, on whom am I to rely? On the gentleman from Pennsylvania, [Mr. STEWART?] Certainly I should fully rely on any fact he would state from his own knowledge; but his facts are derived from others! On my colleague from New York, [Mr. STOWES?] For his opinions I have the highest possible respect; but his opinions in the matter rest on the facts as he learns them from others. On what, then, can I rely? I am reduced to the necessity of acting by faith. Now I am unwilling to do this, unless it is absolutely necessary. If, indeed, I am driven to the necessity, I must give my vote by the best lights I can obtain, but if I can get better, as I believe I can, through the medium of this resolution, I shall certainly be desirous of so doing; and surely the gentlemen themselves must be satisfied, that such a course will conduce to the promotion of their own views.

From the course of the discussion, which had taken place, Mr. O. said, he rather thought, that the idea would be held out, that all those who advocate the proposition now before the House, are opposed to manufactures. Mr. O. protested against any such inference. He stated that he was himself a decided advocate of domestic industry. He was desirous to give it such encouragement, as should enable it successfully to compete with foreign manufactures. In one word, he would encourage our own manufactures, but he would not force them. Shew me, said he, that further duties are necessary, to enable the domestic manufacture to compete, on equal terms in our market, with the foreign, and I will go as far as any gentleman in this House to do what is necessary for its protection. On this subject, Mr. O. said, his information was by no means of a decided character. Some manufacturers have said, that they can get along very well without any additional protection; whilst others maintained directly the contrary. Now, Mr. O. asked, is it not due to the People, before we impose upon them any additional burthen, to ascertain whether it is necessary to do so, in order to obtain the object, which they themselves have in view? We are informed, said he, by the members of the Committee of Manufactures, that even the memorials differ, as to the facts of the case which they present to Congress. If they thus differ in their statements, how is the committee to determine between them? If the authors of the memorials were here to be personally examined, the causes of the difference could be easily ascertained. Nor did Mr. O. suppose, that the measure, if it succeeded, would lead to any material delay: nor did he believe, that it would be necessary for the committee to send to remote parts of the country for witnesses. He believed, that if it was known, that this House wished persons to appear before its committee, they would have before them, in a very few days, as voluntary attendants, more persons than they wished to

examine. For, if the manufacturers, in their allegations, have truth on their side, they will be glad to disclose it; and, if they have truth on their side, they will be glad to disclose it under oath. If there should be any unreasonable delay of a report on this subject, it will be the fault of this House: for, if the committee show any disposition to evade this duty, and delay a report, on the ground of the examination of witnesses, it would be competent to this House to withdraw the authority it had given, &c.

Mr. O. proceeded to answer the objections to the exercise of the power, from which, in the modified form proposed by his amendment, he contended, no inconvenience was likely to be experienced.

Whether this resolution should be adopted or not, Mr. O. said he had his views in relation to the general policy of the protection of manufactures; and, when necessary or proper to express them, he should do so. But before he came to the application of his general views to the business of legislation, he wished to have more definite information as to facts. He wished to have it ascertained, for example, by a careful examination of testimony, whether a man of sufficient skill, capital, and economy, cannot now manufacture woollen cloths, and make upon that business, in competition with the foreign manufacturer of the same article, a reasonable profit. If so, was there any gentleman in this House who wished to go further in the protection of that manufacture? Surely not. Now, on this point of fact, Mr. O. said, some gentlemen were satisfied. He was not so. If the result of the proposed examination were to make it apparent that further protection was necessary, then let it be given; but let the truth be ascertained, to whatever conclusion it might lead.

In reference to the remark which had been made, that the information already before the House on the subject, came from an interested quarter, Mr. O. said, it does so; and to be correct, it must come from such quarter, because those only who are interested are qualified to testify on the subject. He did not object on that account, therefore, to the testimony on the subject before the House, but only wished an opportunity to examine and cross-examine the witnesses on the subject, to obtain a view of the truth in all its bearings, &c. He wished to know the amount of capital employed in particular branches of manufactures; the expense of such manufactures; the annual profit upon the capital, &c.—particulars which could not be obtained with certainty in any other way than by oral testimony, &c. &c.

Mr. BURGESS now moved an adjournment, but withdrew his motion at the suggestion of

Mr. BARTLETT, who moved to lay the resolution on the table, with a view to take it up on the first succeeding hour of business.

The motion was negatived, without a division; and the question on Mr. OAKLEY'S amendment being about to be put,

Mr. CONDUCT asked that it be taken by yeas and nays, but the House refused to sustain this request.

Mr. WOOD, of New York, said he was not satisfied with the answer of his colleague. The power of the House of Commons, and the power of Congress, were very different things. Parliament had no written Constitution to control it; and its members are in the daily habit of doing what would here be considered as unconstitutional, and highly improper. He believed, however, that even in England, in examinations had with respect to the corn-laws, and some other subjects, those who testified had gone voluntarily before the House. No compulsory process had been resorted to. He repeated the declaration of his opinion, that the only cases in which the House has a right to send for persons and papers, are those of impeachment, and of contested elections. The power to be exercised was a very high and



H. or R.]

Protection to Manufactures.

[Dec. 31, 1827.]

awful power, and, with all humility, he might be permitted to say, the House, in this case, cannot exercise such power. When an individual comes before you, and asks relief, you have no right to compel him to declare, upon his oath, on what ground he rests his claim. It is an imposition to attempt it. To do it, would be tyrannical in the highest degree. If the committee sends for a person, it must send a warrant, or a subpoena, and the individual sent for must come, and must answer. If not, you commit him for a contempt, and, when he has come, and stands before your committee, what are the rules to govern the committee in their examination? Courts have rules to restrain them. A committee has none. They are left to their mere discretion, and the individual must bring all his books and papers, if required. \*Sir, this is an inquisition, which every Court of Law abhors. It is odious, and oppressive, in the highest degree, and I, for one, will never consent to it. \*

Mr. STEVENSON, of Pennsylvania, now called for the reading of an extract from the Journals of the House, which had respect to the granting of similar power, to a committee who were ordered to investigate the sale of lots belonging to the United States, in Washington City.

Mr. SPRAGUE next addressed the House in reply to (Mr. OAKLEY,) whose argument, he said, had proceeded on the ground that there was no need to compel the attendance of witnesses, inasmuch as all the persons interested would flock to this city, to give, of their own accord, the required information. All, then, that was proposed, was, to authorize their examination when they should come. Now, I, said Mr. S. had always thought that the committees of this House possessed this power already, and this opinion has been confirmed by a recent statement of the Hon. Speaker. The resolution, however, says, that the committee shall have power to send for persons to testify. My answer, then, to the gentleman from New York, rests on the ground which he has assumed. If these witnesses will come voluntarily, the power proposed to be granted is wholly unnecessary, and I for one never will clothe any individual or collective body with unnecessary power, especially when the power asked for is both great and unusual. That now asked is such a power, and, by the gentleman's own showing, it is unnecessary. But I go further, and say, that if the committee shall propose an oath, and the witnesses shall decline it, the inference to be drawn from their refusal is, that they suppose the information they are required to give is contrary to their interest, and that the representations they have submitted in their memorials is not strictly consonant with truth.

I agree with the gentleman from New York, in the opinion, that so soon as the wish of the committee shall be publicly known, the manufacturers will instantly flock to this House; but the granting such a power as is expressed in the resolution, will naturally infer that the committee are to exercise it, and to delay their investigation till they can do so. The amendment of the gentleman changes the whole ground at first taken. He asks the information for the House; but the committee ask it for themselves.

Mr. OAKLEY here explained, and acknowledged that if the committee was already possessed of power to examine witnesses on oath, the resolution would be unnecessary. On that point, however, he was desirous of information; the practice was different in his own State. He presumed, from the form of the resolution, the committee intended to ask for this power; and he now heard it said on all hands around him that there could be no doubt about the matter, and that no such power was in the committee until granted by the House. He concluded, therefore, that the gentleman from Maine must have been under a mistake.

Mr. WRIGHT, of Ohio, said, if he understood the

question before the House, it presented itself in this aspect: 'The Committee on Manufactures ask of the House to confer upon it power to send for persons and papers, without specifying any particular object for which the power is sought. The amendment offered by the gentleman from New York, [Mr. OAKLEY,] proposes to grant the power to examine witnesses, on oath, touching the present condition of our manufactories, and to report their testimony to the House. I sought, said Mr. W.; in the inquiries I before directed to the majority of the committee, information which would enable me to discharge the duty devolved upon me, that I might vote understandingly on the proposition. I do not desire to withhold any information that can be obtained, bearing on the subject before the committee. I have listened, sir, attentively, not only to what has been said by the two gentlemen who are members of the committee, but also to what has fallen from all the other gentlemen who have addressed the Chair, in the hope of learning the specific beneficial object to be attained by agreeing to the proposition of the committee, but have listened in vain. The gentleman from Pennsylvania, [Mr. STEVENSON] from the committee, informs you he wants the power to send for persons and papers, in order to obtain information that will reconcile the contradictory statements in the memorials sent to the committee; that will advise him what subjects require an increase of duty, and the quantum of increase; that will remove the committee from any imputation of error; and that will devolve upon the House the responsibility of refusing the information sought. The gentleman from New York, [Mr. WRIGHT,] who is also a member of the committee, wishes the power granted that the committee may ascertain what subjects need protection, the quantum of increase in the duty that will attain the prudential point, and to enable the committee to sustain their bill or report when before the House. It will be seen, sir, by any gentleman, who will advert to the inquiries made, that the information given by the committee does not touch the subject, and is not satisfactory. After all we have heard from different quarters of the House, who can say to what point the inquiries of the committee will be directed? Do they want information of our capacity to manufacture woollen goods, or iron, or any other article? Or whether either of those articles are protected? We are not told, and we know not, only from conjecture. It is true, the gentleman from Pennsylvania [Mr. STEVENSON] speaks of the quantity of wool imported into Boston for the three years past, showing a constant decrease in the quantity of fine wool, and a corresponding increase in the quantity of coarse wool imported; but I am not able now to see how that fact affects the question, or, if it does, the gentleman seems informed on the subject. He has already the information he desires.

In discussing this subject, it is proper to inquire if this House is possessed of the extraordinary power sought to be conferred on this committee, and, if it is, whether it is expedient to exercise that power on this occasion? I will not affirm, sir, that the House has not the power: for I am ready to confess, that, on that subject, my mind is not free of doubt. I am aware that the power is exercised by the Parliament of England; but I cannot admit that every thing that has been done by that body, may be done by this House. The power is exercised in Parliament under some limitations and restrictions, which I am not now prepared to particularize. I may be permitted to say, however, that a strong argument against the existence of the power in this House is found in the fact that, from the adoption of the Constitution until this period, during all the different subjects discussed in Congress, during all the former animated and warm discussions on the Tariff question, it has never been sought to confer this power on any committee of the House, ex-



Dec. 31, 1827.]

*Protection to Manufactures.*

[H. or R.]

cept on subjects connected with the discharge of its judicial functions; and no such committee has ever before asked to have this power conferred. I do not say this is conclusive that we have not the power; but, I think it well worthy of serious consideration.

But, sir, if we have the power, is it expedient to exercise it on this occasion? Gentlemen are desirous of obtaining evidence of facts: are they within their reach? Can a knowledge of them be obtained through the medium proposed? The memorials, we are told, present conflicting opinions and statements, leaving the committee in doubt and difficulty as to the truth. Will the exertion of the power to examine witnesses, on oath, remove the difficulty? You desire to know the state of your manufacturing establishments, the amount of protection required, if any. This depends on matter of opinion, not of fact. When you have examined your witnesses, and obtained their opinions, as to the cause of the depression of the manufacturing interest, you will find them variant, like all other human testimony, conflicting and contradictory; and then will devolve upon the committee the performance of the very same duty they wish to avoid, by their application to the House—the task of reconciling, if in their power, contradictory statements and opinions, and eliciting the truth from the whole mass of evidence. This will be the case, in a greater or less degree, whether you have one witness or many, and is well known to all in the habit of searching for truth in the testimony of witnesses. No good, then, will result from conferring this power. Gentlemen certainly do not wish to falsify the custom house entries, abstracts from which are annually laid before us. In relation again to the article of wool that has been mentioned, the custom house entries show the quantity and kinds imported; and if there be any information back upon that point, or any showing whether the increased importation of coarse wool is owing to the employment of false invoices, reducing the price of the wool abroad, to defraud the revenue, I suppose that can be obtained from the Treasury Department upon an ordinary call of the House, without the power sought to be obtained. The proposition is inexpedient, on other grounds. As a precedent, it is exceedingly dangerous. Should the grant of such a power become common, it would lead to the exercise of inquisitorial powers. The gentleman from New York (Mr. WRIGHT) has told us that, if the proposition of his colleague obtains, it will fall short of his object in one particular. He adverts to the possible necessity of examining an agent of some manufacturing establishment, and objects that the power is not given to compel the production of the books of the Company before the committee. Are gentlemen prepared, sir, to establish an inquisition in this country, that shall pry into the business concerns of individuals, upon common subjects of general legislation? I hope not. The delay attending the exercise of this power, if granted, will, in my opinion, inevitably defeat any efficient legislation, having, for its object, protection to our manufactures during the present session. I do not mean to say the committee so intend; but, I do mean to say, such is the natural tendency of the proposition, and such, I think, will be its result. It is singular, sir, that at this particular time, when the country is alive to this subject, it should be thought advisable to introduce this proposition. Are gentlemen prepared to say to those who have so long asked our protection, go your way, we do not understand your claims? I have felt it to be my duty to present these considerations to the House. It is not my object to consume time. I am not satisfied with the reasons given for the proposition. In any and every aspect in which I am able to view it, it appears to me inexpedient. I am not able to see any possible good that can result from it; on the contrary, I fear much evil.

Mr. RANDOLPH said, that of the existence of the power in the House to examine persons upon oath, and consequently of the power to delegate it, there had never been, during thirty years that he had had the honor of a seat in Congress, a shadow of doubt. It had been exercised ever since he was a member of the House, and long before. It was now within six weeks of being thirty years since the following act was passed.

[Here Mr. R. quoted an act giving the power of administering oaths to the Speaker, to the Chairman of Committees of the Whole, and the Chairman of the Standing Committees of the House.]

This law, said Mr. R., supposes there may be occasions requiring the exercise of this power by the Standing Committees of the House. My recollection on this subject is very different from that of the gentleman from Ohio, who has just taken his seat. I know that such powers have been given by this House to committees, and that committees have required from the House, on different occasions, the power to send for persons and papers. This same law was re-enacted in 1817. It was first passed in February, 1798. I acknowledge that those were hard unconstitutional times, and ought not to be drawn into precedent; but this law has since been re-enacted, in other and better times.

Mr. SPRAGUE now made some observation, which was not distinctly heard by the Reporter, but was understood to be, in substance, that Committees of the House do possess the power to take testimony on oath, without being specially authorized.

Mr. RANDOLPH said, true, sir, they do possess that power, but not to send for persons.

Mr. SPRAGUE resumed. The gentleman from New York says, that the manufacturers will come willingly, and of their own accord, and he also said, that if the committees already possess the power to take testimony, this resolution was unnecessary. It is now admitted that they have that power; my proposition is then fully established, unless the granting of a power to send for persons implies that such a power is necessary, and must be exercised. I hope it will not be contended, that the power of the committee depends on the question, whether the witnesses will have to be brought forcibly or not. The power is in the committee by its organization.

Mr. OAKLEY said, in reply, that he had not been aware, when last up, that a power to take testimony on oath was vested in the committees of this House; but since such appeared to be the fact, he hoped the Committee of Manufactures would avail themselves of it. Should any of the witnesses called before it refuse to testify on oath, the House could then exert its power to compel them: if, however, they will attend and testify voluntarily, said he, I shall be content. If any gentleman shall wish to coerce their testimony in any case, he will have an opportunity of applying to this House for the power to do so. Mr. O. felt satisfied, therefore, that the committee would, in one way or the other, attain the objects in view, and he, therefore, now felt very indifferent whether the resolution passed or not.

Mr. FLOYD, of Virginia, said, that it seemed to be thought by some gentlemen that these manufacturers would come voluntarily before the House, and give any testimony that was required. I, said Mr. F., am of a different opinion. I believe that the time has come when Congress is bound to present to the country some authentic data on this subject of protection. I have been a member of this House when the former Tariff Bills were passed, and was once a member of the Committee of Manufactures, and I well remember that, from the very first Tariff down to the last which passed this House, the same cry was constantly repeated, "Give us but this, and we will be satisfied." The gentleman from Pennsylvania has told the House, with very great empha-

H. OF R.]

Protection to Manufactures.

[Dec. 31, 1827.]

sis, that he never voted against a tariff bill in his life, and never will vote against one. Almighty God! And are we come to this state of things? A gentleman from New York informs us that we have, already, information in great plenty; that the reports made when the last tariff bills were before us, contained all that we need to know. Unluckily, I was in the minority when that bill passed. I happened to come from the country that was to be squeezed, and I well remember the manner in which that bill was got up. At one time it was asked, in the Committee, Shall we put iron wire into this bill? And, at another time, a handful of wood screws was laid upon the mantelpiece of the Committee room, to give the Committee ocular demonstration that we could in this country, make wooden screws: (nay, it was but the other day when a petition on this very subject of wooden screws, was presented to this House.) As an instance of the impropriety of listening to such petitions, I will just state one fact. Some gentlemen took it into their heads that we could, in this country, manufacture umbrellas to great advantage, (and it is true enough that we can make fine umbrellas in great numbers,) and they prayed this House that the importation of square wire might be prohibited, because that kind of wire was employed in making the stretchers of the umbrellas. Well, the House granted the petition; square wire was prohibited; and what followed? These umbrella makers were obliged to import the stretchers ready made, because they could not make them of our own wire, and the importation of square wire had, at their own request, been prohibited. On the subject of iron, we had a low and whispering voice from Virginia. In consequence of this, I made inquiry of one of the principal iron masters in that State, whether any further protection was indeed necessary to that branch of manufacture, and I found that this man had been asked to sign the petition that came up to this House, but had positively refused, saying, that he could not, in conscience, ask for the additional duty; but, if Congress would force it into his pocket, he should certainly be very well satisfied. I farther found, that the Manufacturers are in the habit of selling their iron to their own neighbors, at a certain price, and after carrying it eighty miles by land, they will sell it at twenty dollars per ton less. Now, who pays for this? Another thing I have observed is, that whenever there happens to be a surplus in the National Treasury, these people immediately ask for new duties, because they can then urge that these duties will not injure the revenue. During the present session we have been told in the report of the Secretary of the Treasury, (who seems on this occasion to have acted the part of deputy President, for who empowered him to recommend measures to this House?) that we shall have a surplus of five millions in the Treasury. Immediately, these Gentlemen Manufacturers congratulate one another, that now is a fine time to get a new Tariff. But, if the Committee shall be empowered, as it is now proposed, to send for persons and papers, their contradictory statements will be exposed to the public, and the truth will come out. And is not this a consideration which deserves our serious regard? Besides, I would ask if one man sets up a manufactory in a country where provisions are cheap, where the population is abundant, and the people poor, where he has a great water power, and where he can bring the raw material to his very door in ships, whether he cannot afford to sell his manufactures cheaper than another man, who is obliged to transport his materials far into the interior, and there to pay from thirty to forty thousand dollars for a steam engine? One of the gentlemen from Pa. (Mr. STEWART,) has told us that this measure is all for the benefit of the farmers. Sir, I am a farmer; I hold an estate in Virginia; and while members of this House were voting a Tariff to protect the suffering manufacturers, I was selling corn at ten cents

a bushel. The gentlemen, though they were importuned not to insult the agriculturists of the country, put into their bill a duty of twenty-five cents per bushel on imported wheat, while flour is now selling in Virginia at three dollars and fifty cents a barrel.

Now, I appeal to this House whether it is not time to take some step to put a stop to this eternal cry about protection. From 1818 to this hour, the manufacturers have been continually telling us that they would be satisfied. But are they satisfied? If the Committee shall be clothed with the power they now ask, they will, of course, be bound to use it in a prudent and proper manner. If they shall transcend their authority, and attempt any oppressive measures, they will offer contempt to this House, and any individual on whom they may make the experiment will find prompt and ample protection at its hands. The committee must exercise so great a power on their own high responsibility, and I, for one, have no fears that they will abuse it.

The question was now taken on the amendment of Mr. OAKLEY, and carried in the affirmative—ayes 100, noes 78.

Mr. HOFFMAN moved to lay the resolution upon the table: whereupon, the question being taken, it was negatived without a division.

Mr. HOFFMAN then said that, in relation to the subject which had been referred to the Committee of Manufactures, he desired and needed information, as much as any one. He represented, indeed, a district which was not specially interested in the protection of the manufacturing interest: had it been otherwise, he might have sought, with more diligence, to inform himself on the subject; as it was, however, he had sought information with some care, but without success. Yet, anxious as he confessed himself to be, to get further light, he was not willing to hazard what had been said, and, perhaps, with some justice, to be the destruction of the proposed grant of protection, by delay. He had hoped to have obtained the information he desired in an authentic form, by testimony under oath. The allegations of the petitioners would then have been supported by something that could with certainty be relied on. It was certainly very desirable to dispense with long arguments to determine matters of fact. Those gentlemen, however, who are most interested in the general question, distinctly tell the House that the adoption of such a resolution as is now proposed, will, in its effect, be equivalent to an indefinite postponement; and I feel myself, said Mr. H., induced by their arguments to vote with them. I do this, however, on the ground that they speak in good faith when they assure us that they have all the necessary knowledge of the facts. I know that good accounts are kept by those who conduct our manufacturing establishments. The price of the raw material is recorded, and an accurate account of all the subsequent expenses attendant on its manufacture, so as to enable the owners, after a proper allowance for the interest of their capital, to fix on a price yielding them a reasonable profit. When, therefore, gentlemen tell us that they have all the knowledge of these matters which the question requires, I expect them, of course, to be prepared with extracts from the books of the manufacturers, shewing the prices paid by them for materials and workmanship, and those received for the manufactured article. We shall then be abundantly able to judge of the degree of protection they require. I am the rather induced to take this course, from having observed, that, while cottons are exported by us to foreign countries, no woollens are exported. I feel, therefore, inclined to allow some farther protection on the latter. On these two grounds, I am disposed to vote with those who oppose the present resolution. I feel indebted, however, to the Committee on Manufactures for having brought forward the measure at this time. It will be immediately promulgated, and the country will be ap-

JAN. 2, 1828.]

*Navy Hospital Fund.—Chesapeake and Ohio Canal.*

[H. 67 R.]

prised of the information which that committee feels a need of. The manufacturers will, therefore, have an opportunity of shewing the truth and sincerity of their representations to this House. If, therefore, after the lapse of a few days, they do not present themselves here with the fullest evidence in the case, the conclusion drawn inevitably by all men will be against them. But if the manufacturers shall come before us with such precise and detailed statements as shall substantiate the declarations made in their petitions and memorials, then all that will remain for us to decide upon, will be the principle itself of granting protection: and, with respect to that as a general principle, I confess myself to entertain little doubt. They have now been fairly and fully notified of what we want, and I hope they will come forward with promptitude and furnish it. The only objection which, in my mind, remains unanswered, is, that, if the resolution is rejected, the manufacturer is to be left to come here at his own expense. This, I think, will not be treating him so well as he ought to be treated. The resolution in its present form does not propose any tyrannical compulsion, but merely offers an invitation to those gentlemen to come here, at our expense, to give us the knowledge they possess, and which we require. However, as the friends of the manufacturing interest appear decidedly to disapprove of the resolution, I have concluded to vote with them.

The question was then taken upon the resolution as amended, and decided as follows:

**YEAS.**—Messrs. William Addams, Mark Alexander, Willis Alston, John Anderson, William S. Archer, William Armstrong, John S. Barbour, Philip P. Barbour, Stephen Barlow, John Barney, D. L. Barringer, Burwell Bassett, George O. Belden, John Bell, William L. Brent, John H. Bryan, James Buchanan, Rudolph Bunner, C. C. Cambreleng, John Carter, N. H. Claiborne, John C. Clark, Henry W. Conner, Richard Coulter, Henry Daniel, Thomas Davenport, Warren R. Davis, John J. De Graff, Robert Desha, Clement Dorsey, William Drayton, Joseph Duncan, Jonas Earle, junr. James Finley, John Floyd, of Virginia, John Floyd, of Geo. Tomlinson Fort, Chauncey Forward, Joseph Fry, Levin Gale, Nathaniel Garrow, George R. Gilmer, Innis Green, Henry H. Gurley, Wm. Haile, Thomas H. Hall, James Hamilton, jr. Jonathan Harvey, Charles E. Haynes, Selah R. Hobbie, Gabriel Holmes, Samuel D. Ingham, Jacob C. Isaacks, R. Keese, John Leeds Kerr, Adam King, G. Kremer, Joseph Lecompte, Prior Lea, E. Livingston, W. Lumpkin, John Magee, J. H. Marable, Wm. D. Martin, Wm. McCoy, George McDuffie, Robert McHatton, Samuel McKean, John McKee, Charles F. Mercer, John Mitchell, Thomas R. Mitchell, James C. Mitchell, Thomas P. Moore, Gabriel Moore, William T. Nuckolls, Thomas J. Oakley, Robert Orr, jr. George W. Owen, James K. Polk, William Ramsay, John Randolph, James W. Ripley, William C. Rives, John Roane, Augustine H. Shepperd, Alexander Smyth, Michael C. Sprigg, William Stanberry, James S. Stevenson, John B. Stengerc, John G. Stower, Wiley Thompson, James Trezvant, Daniel Turner, Esy Van Horn, G. C. Verplanck, Aaron Ward, C. A. Wickliffe, George Wolf, Silas Wright, jr. Joel Yancey.—102.

**NAYS.**—Messrs. Samuel C. Allen, Samuel Anderson, John Bailey, John Baldwin, Noyes Barber, David Barker, jr. Daniel D. Barnard, Ichabod Bartlett, Mordecai Bartley, Isaac C. Bates, Edward Bates, Philemon Beecher, Thomas H. Blake, Titus Brown, R. A. Buckner, Daniel A. A. Buck, Tristram Burges, Samuel Butman, Samuel Chase, James Clark, Lewis Condict, Wm. Creighton, jr. B. W. Crowninshield, John Culpeper, John Davenport, John D. Dickinson, Henry W. Dwight, Edward Everett, Benjamin Gorham, John Hallock, jr. Joseph Healy, James L. Hodges, Michael Hoffman, Jonathan Hunt, Ralph G. Ingersoll, Jonathan Jennings, Kensey

Johns, jr. Joseph Lawrence, Isaac Leffler, Robert P. Letcher, Peter Little, John Locke, John Long, Chittenden Lyon, Rollin C. Mallary, Henry Markell, Henry C. Martindale, Dudley Marvin, Lewis Maxwell, John Maynard, Rufus McIntire, William McLean, Orange Merwin, Thomas Metcalfe, Charles Miner, Thomas Newton, Jeremiah O'Brien, Dutee J. Pearce, Elisha Phelps, Isaac Piereson, David Plant, John Reed, Joseph Richardson, Wm. Russell, John Sloane, Oliver H. Smith, Peleg Sprague, Andrew Stewart, Henry R. Storrs, James Strong, Samuel Swann, Benjamin Swift, John W. Taylor, Phineas L. Tracy, Ebenezer Tucker, Joseph Vance, S. Van Rensselaer, Samuel F. Vinton, George F. Wales, G. C. Washington, Thomas Whipple, jr. Elisha Whittlesey, Joseph F. Wingate, John J. Wood, Silas Wood, John Woods, David Woodcock, John C. Wright.—88.

So the resolution was agreed to; and, at 5 o'clock, the House adjourned to Wednesday.

WEDNESDAY, JANUARY 2, 1828.

## NAVY HOSPITAL FUND.

Mr. McDUFFIE, from the Committee of Ways and Means, reported the following bill:

A bill making an appropriation to the Navy Hospital Fund.

*Be it enacted, &c.* That the sum of forty-six thousand two hundred and seventeen dollars and fourteen cents be appropriated, out of any money in the Treasury, not otherwise appropriated, to the Navy Hospital Fund, and that the Secretary of the Treasury be directed to pay the same to the Commissioners of the aforesaid Fund, upon their requisition:

The bill was twice read, and committed for to-morrow.

## CHESAPEAKE AND OHIO CANAL.

Mr. MERCER, from the Committee on Roads and Canals, made a report, accompanied with a bill to amend and explain an act, entitled "An act confirming an act of the Legislature of Virginia, incorporating the Chesapeake and Ohio Canal Company," and an act of the State of Maryland for the same purpose. Which bill was twice read and committed for to-morrow.

Mr. MERCER also reported the following bill:

A bill authorizing a subscription to the stock of the Chesapeake and Ohio Canal Company.

*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, authorized and directed to subscribe in the name, and for the use of the United States, for ten thousand shares of the capital stock of the Chesapeake and Ohio Canal Company, and to pay for the same, at such times, and in such proportion, as shall be required of the stockholders, generally, by the rules and regulations of the Company, out of the dividends which may accrue to the United States upon the Bank Stock, in the Bank of the United States; provided, that not more than one fifth part of the sum, so subscribed for the use of the United States, shall be demanded in any one year, after the organization of the said Company; and provided, moreover, that, for the supply of water to such other Canals as the State of Maryland, or Virginia, or the Congress of the United States may authorize to be constructed, in connexion with the Chesapeake and Ohio Canal, the section of the said Canal, as leading from the head of the Little Falls of the Potomac River, to the proposed basin, next above Georgetown, in the District of Columbia, shall have the elevation above the tide of the River, at the head of the said Falls, and shall preserve throughout the whole section aforesaid, a breadth, at the surface of the water, of not less than sixty feet, and a depth, below the same, of not less than five feet, with a suitable breadth of bottom.

*Sec. 2. And be it further enacted,* That the said Secretary of the Treasury shall vote for the President and Direc-

H. or R.]

Internal Improvement.

[JAN. 2, 1828.]

tors of the said Company, according to such number of shares as the United States may at any time hold in the stock thereof, and shall receive upon the said stock, the proportion of the tolls which shall from time to time be due to the United States for the shares aforesaid; and shall have, and enjoy in behalf of the United States, every other right of a stockholder in the said Company.

This bill was committed to the same Committee of the Whole, as the preceding.

#### INTERNAL IMPROVEMENT.

The following resolution, offered some days since by Mr. MAXWELL, was taken up and read :

“Resolved, That the Secretary of War be directed to communicate to this House the report of the Engineers employed to examine and ascertain the practicability of uniting, by a Canal, the waters of James and the Great Kenhawa rivers.”

And the question being on its adoption,

Mr. FLOYD, of Virginia, said, that he was not altogether satisfied with the resolution. He believed they had got all the information they wanted in Virginia on the subject of it. We, in Virginia, (said Mr. F.) have some feeling as to the conduct of the Administration on that point. The late Governor of that State seemed to think that the Engineering performed there by order of the General Government, was merely a bribe for her good opinion; and Mr. F. did not know that his opinion on that subject was very different from his own. Why the United States' Engineers should have been employed for so many months in surveying this route between the James and the Great Kenhawa rivers, (said Mr. F.) I cannot myself very well understand. But this I know, that all the money of the United States would not make a canal between those two rivers. Between the James river and New River, which is a branch of the Kenhawa, I grant it may be done, but not between James River and the Great Kenhawa itself. Why is this survey pressed upon us, when our own Legislature has long ago caused the same route to be examined by an Engineer who was the master and instructor of this very brigade which has been engaged so long in the survey, and which, I understand, is to be employed there again next season? It has greatly the appearance of a political design on the part of the Administration. In indulging such an opinion, I hope I do them no injustice; I would not willingly do this, for they have sins enough, God knows, to answer for, without being charged upon suspicion. Entertaining these views, I have prepared an amendment to the resolution, which I now offer to the House.

“That the President of the United States be requested to cause to be laid before this House, the instructions given to the Engineers who have been ordered to examine the passages through the mountains of Virginia, with a view to the location of turnpike roads, railroads, and canals. Also communicate what progress has been made in the various works, how many surveys have been completed—how much has been done of those unfinished and how many unsurveyed or unexamined which it is contemplated to examine. How many Engineers have been employed in that service—their rank, and pay: likewise, how many men have been employed by these Engineers in that service; and if not finished, at what time it is presumed this work will be completed.”

I have made some alteration, as will be seen, in the form, as well as the extent of the resolution: For a new practice has of late crept into the mode of doing business in this Government. This House, instead of calling for information from the President of the United States, calls upon his Secretaries, who are the mere creatures of law; nay, so far has this gone, that even the Secretary of a Department, instead of giving, upon his own responsibility, a condensed statement of the facts inquired for, goes

to his clerks, and sends us in bulk, the reports of these clerks to the Hon. Secretary himself, for the House to make what they can of them. By this mode of proceeding, all responsibility is shifted from the President or his Secretary, and if erroneous information is sent to the House, and any inquiry is made, why, forsooth, it was an error of one of the clerks. I have worded my amendment so as purposely to avoid this.

Mr. MERCER regretted that his colleague had preface his amendment by a series of remarks which were wholly unnecessary to the sustaining of it. Perhaps the gentleman was not aware, that, in what he had said, he reflected not only on the Executive, but on thirty or forty of his fellow members of this House. The proceedings of the Administration in this matter, whether right or wrong, were had in pursuance of the recommendation of between thirty and forty gentlemen who had been members of a former Congress. If the gentleman, before he uttered the remarks he had just made, had taken the trouble to read the documents which had been furnished to the House on this subject, he would have perceived that the application of those gentlemen to have this survey effected, proceeded on the grounds of the compact between the United States and the State of Ohio, (the same instrument which was, in fact, the foundation of the Cumberland Road,) and of two successive resolutions of the House of Delegates of Virginia, (one of which was likewise concurred in by the Senate of that State,) on the same subject. The compact he alluded to contained a provision that “one or more” lines of connexion should be established by roads between the Atlantic and Western waters, leading towards the State of Ohio. The road from Cumberland to Wheeling formed one of these lines of communication; but the instrument equally sanctions another between the waters of James and the Great Kenhawa rivers. So much, therefore, for the right of Government to order these surveys.

But further: In the year 1815, the Legislature of Virginia invited the General Government, as well as the Government of Kentucky and Ohio, to unite in the construction of a Canal, or Rail Road, between the two rivers last mentioned. And, in the year following, a similar resolution was recommended to the Legislature of Virginia, by the Board of Public Works for that State, and was passed almost unanimously. It was, indeed, true, that the same route had been examined by a very distinguished gentleman in Virginia, (he did not know whether he was very skilful and experienced in Civil Engineering, but he was certainly a most accomplished Military Engineer,) Mr. Crozet. But, it was nevertheless true, that, since the year 1812, it never could be ascertained whether the proposed connexion was, or was not practicable, until the recent survey by the United States' Engineers. Mr. M. said, he felt the more entitled to speak with confidence on this subject, since he had himself been one of the Commissioners appointed by the State of Virginia, to make the examination, and had performed the most hazardous part of that duty, and he could declare that he was now as fully convinced of the practicability of the undertaking, as he was of any fact in Natural history. He had made the preceding remarks, in order that the responsibility of originating those surveys might rest, where it ought to rest, on himself and the other gentlemen who had recommended the measure to the Executive.

Mr. FLOYD spoke in reply, declaring that he should not retract one word of what he had said when last up. His colleague on the right must himself be convinced that, in what he had just advanced, he was under an egregious error. I said, (observed Mr. F.) that the waters of the New River and of James River might be united—but how could this connexion be contemplated by the contract with Ohio, when, according to the gentleman's shewing, it is now first ascertained that such a connexion

JAN. 2, 1828.]

*Public Land Debt.*

[H. OF R.]

is possible? The Engineers of Virginia have examined the very route now proposed. [Here Mr. MASON, speaking across, in an under voice, said, "they never touched it."] They have touched it; and they did examine it. Besides, this canal is on the same route with the contemplated road to New Orleans, (that is, if the President has yet determined on which side of the Mountains that road is to pass.) But, though several different surveys have been made, the Engineers are not yet done with it. Now, what are we to think of this? A bill has, to be sure, been reported this morning, on the subject of the New Orleans road, but (by reason of the new practice into which we have fallen, of not having bills read through on their first reading,) I do not know what it contains. The road must go either East of the mountains, or up the great valley. I presume it will go through the valley; and if so, then this canal will be almost immediately in the route. But this is not a road to Ohio; it runs through Tennessee and Alabama. What then can this canal, or this road, have to do with the contract between the United States and Ohio? But, I am told by the gentleman, that some members of Congress petitioned the President for this survey. I was apprised of that fact, but I had thought that the Cumberland road fully satisfied our contract with Ohio. This, however, I will say—and I say it that the Administration may hear it—that I do know much more of their operations in the upper country than they think for, and, at a suitable time, I shall disclose what I know, let the consequence fall where it may.

Mr. MERCER insisted that his colleague was mistaken as to his facts. The practicability of connecting the James and Kenhawa rivers by a navigable canal, had been first ascertained by the United States' Engineers. The report of Mr. Crozet on the subject, was subsequent to that of the United States' Engineers. His report threw a doubt over the result at which the United States' Engineers had arrived. As to the compact with Ohio, it provided for "one or more" roads between the Western and Atlantic waters; it must therefore, of course, comprehend a road between the Great Kenhawa and the James rivers. But the route in question had nothing to do with the road to New Orleans; the former would intersect the latter at right angles, and, of course, the two routes could not run over the same ground. Of the road to Orleans, the present Vice President was the original mover, and Mr. M. said he applauded his sagacity for suggesting it. Three different routes for this road were originally contemplated: they had since been surveyed; but no report in relation to either had been made at the last session, because the committee of Roads and Canals had been overburdened with business which had the precedence. A bill for the construction of this road was now, for the first time, reported. The route of the road could not have been earlier fixed by the present Executive. It could not, therefore, have been sooner determined. Mr. M. said, in conclusion, that he had not risen, on the present occasion, with any view of protecting the Executive from censure, but merely to vindicate himself and those gentlemen of the House who had been associated with him in the recommendation of the survey referred to. The very first time he had raised his voice in debate in this House, more than ten years ago, was in favor of the power of Government to make roads and canals, and for many years, as was known to his friends, all the energies of his mind had been constantly and faithfully devoted to this subject. He cared not who ruled, so that his country prospered.

Mr. BARTLETT rose upon a point of order, and suggested a doubt whether the amendment proposed by Mr. FLOYD, did not so far differ from the resolution of Mr. MAXWELL as to be inadmissible under the 40th rule, as being a substitute for it.

The SPEAKER decided that the amendment was in order, being only an extension of the object of the resolution.

Mr. FLOYD again arose. He said that his colleague had totally changed his ground. He now says that the fact of the practicability of a connection of the two rivers was first ascertained by the United States' Engineers. I admit, (said Mr. F.) that the first survey was made by them, but I still insist, that Mr. Crozet did examine the route and ascertain the practicability long before they did. Mr. F. concluded by saying, there was nothing in his amendment which called upon the gentleman to defend either himself and his associates, or the administration.

Mr. MAXWELL said, it was not his desire to oppose the inquiry proposed by his colleague opposite, (Mr. FLOYD.) That gentleman was at full liberty, so far as he was concerned, to obtain any information he might wish; but, he was unwilling that such a call should be substituted for the resolution he (Mr. M.) had offered. The survey which he wished to have laid before the House was, he understood, prepared and ready to be submitted. His objection to the gentleman's amendment was chiefly grounded on its extent, and the delay which must necessarily be occasioned by the adoption of it.

The question was then put on the amendment, and it was rejected.

The resolution of Mr. MAXWELL was then adopted in its original form.

#### PUBLIC LAND DEBT.

The House went into Committee of the Whole, Mr. P. P. BARBOUR in the Chair, on the bill to revive and continue in force the several acts making provision for the extinguishment of the debt due to the United States by the purchasers of the Public Lands, and on the bill for the relief of Purchasers of Public Lands which have reverted for non-payment of the purchase money.

The first of these bills having been read—

Mr. ISACKS, Chairman of the Committee on the Public Lands, rose to explain the nature of the bill now before the Committee of the Whole. It would be perceived that the bill contained nothing new; it proposed merely an extension of time; it did that, and it did no more. The ruinous policy of what was denominated the credit system, expired in 1820, and in the succeeding year Congress legislated for the relief of the purchasers who were unable to complete their payments. The act of 1821 was the basis of the several subsequent acts on this subject. The persons indebted to the United States for land, were divided by it into three classes. The first class contained such as had paid only one-fourth part of the purchase money; these were allowed eight years to complete their payments. The second class comprised such as had paid one-half of the purchase money; these were allowed six years. Those who had paid two-thirds were arranged in the third class, and were allowed four years. In 1824 another act was passed, extending the time of the former bill about eighteen months; and, in 1826, the time was again extended to a period, which expired on the fourth day of July last. The present bill was merely for the purpose of extending it to the fourth of July, 1829.

Mr. I., after some general remarks on the importance of the subject, concluded by reading an extract from the report of the Commissioners of Public Lands.

Mr. MCCOY inquired whether the amount of one million and upwards, stated by the Commissioner to have been received, had been actually received in money, or only by the relinquishment of land warrants?

Mr. ISACKS replied, it was received partly in one way, and partly in the other—but could not state precisely the proportion, without reference to documents.

H. OF R.]

Removal of Indians.

[JAN. 3, 4, 1828.]

The bill was then laid aside, and the Committee passed to the next of the bills referred to the same Committee; and the said bills were reported to the House, and ordered to be engrossed for a third reading.

THURSDAY, JANUARY 3, 1828.

Mr. BELL moved the following :

*Resolved*, That the Committee of Military Affairs be instructed to enquire into the expediency of establishing an armory on some point on Harpeth river, in the State of Tennessee.

The resolution having been read,

Mr. BELL, of Tennessee, said, as the resolution which had just been read was intended only to direct the attention of the Committee on Military Affairs to the subject embraced in it, he did not present himself before the House for the purpose of making any remarks upon the general expediency of establishing an armory upon the Western waters, nor with any view, in detail, of the grounds upon which he would urge the situation of that particular district of the West, for such an establishment, designated in the resolution. But, said he, as, in offering it, I do not intend to pay a mere compliment of the season to the interests of that section of the country which I have the honor to represent, I beg leave now to state, that, if the subject shall be thought of sufficient consequence to engage the serious attention of the committee, (and, in my judgment, it deserves a place in their deliberations,) I expect to be able to shew, that the country upon the lower branches of the Cumberland, and upon the south side of it, combines all the advantages desirable in a site for an extensive manufactory of arms, common to those places, which have hitherto been brought to the notice of this House, under more favorable auspices. I expect also to shew, that this part of the country possesses other advantages which are peculiar and exclusive; and I will, in due time, take the trouble upon myself of embodying the information necessary to this effect.

That I may not be thought too sanguine in my estimate of the condition, both national and adventitious, of the section of country alluded to, permit me to state one fact, which, I am sure, our Atlantic brethren will not be unconcerned to hear. Within the last four or five years, the manufacture of bar iron in Middle Tennessee, has increased in such a degree, that the produce of the works upon the Juniata, which formerly found an extensive and profitable market in that country, is now rarely to be met with in our shops, and the Swedes iron, which, though the product of the industry of another hemisphere, and burthened, as it is, with duties, has been afforded in our market lower than the Juniata, is also fast disappearing. In truth, however ill adapted the population of that State may be to other manufactures, that of iron must flourish, both by reason of the superior quality of ore which abounds there, and the diminished, and still diminishing value of that kind of labor which is almost exclusively employed in reducing it. In the same tract of country, water power susceptible of application to all kinds of machinery, exists to every necessary, and even desirable extent. Fossil coal, too, is found upon the banks of the Cumberland, and, as the means of transportation by water, to every point upon the Mississippi and its branches, at this time accessible from other quarters, are not restricted from this point, I am persuaded it will be found, upon enquiry, that no greater mistake could be committed, than to suppose, either that the principal materials consumed in an armory, or that all the essential articles of subsistence could not be afforded upon as low terms there, as at any other place in the Western country. There are other considerations connected with this sub-

ject, which, in my opinion, should give this point on the Western waters, a decided preference over those which seem to have been more attended to; but these I will not now urge, nor even mention. Such a course, I apprehend, would be likely to provoke an immediate discussion, which would be premature, and might be useless. The suggestions already thrown out, are designed not so much to make any impression upon the House, as to elicit a full enquiry on the part of the committee, and the character of the gentlemen placed upon that committee gives me the assurance that the proposition contained in the resolution will receive a candid and impartial examination.

The resolution was agreed to.

FRIDAY, JANUARY 4, 1828.

REMOVAL OF INDIANS.

Mr. HAILE said, that he had some days since laid on the table of the House a resolution in reference to the removal of the Choctaw and Chickasaw Indians, which he desired now to call up for consideration.

The resolution was read as follows :

*Resolved*, That the Committee on Indian Affairs be instructed to enquire into the expediency of making an appropriation to enable the Choctaws and Chickasaws to explore the country beyond the river Mississippi, and to provide the means for the support of such Indians who are disposed to emigrate, and are willing to embrace the benevolent objects designed by the Government."

To this resolution Mr. SMITH, of Indiana, offered an amendment, when it was before the House on the 11th December, to include the "Pattawattamie and Miami Indians," and the question occurred on this amendment.

Mr. McLEAN, of Ohio, (Chairman of the Committee on Indian Affairs,) stated, that the committee had the subject of that resolution now before them, and were preparing a report upon it, which they intended shortly to present to the House.

Mr. HAILE observed, that his resolution had, he believed, been offered previously to any other, on the general subject of the removal of Indians, and he had been told by those gentlemen who had offered amendments to it, that they would consent to withdraw those amendments in order that his might be considered separately. The honorable Chairman of the Indian Committee was not, he apprehended, fully acquainted with the situation of the two tribes to which his resolution referred. In 1820, there had been guarantied to the Chickasaws and Choctaws, by the Government of the United States, a large tract of land West of the Mississippi; but, since that treaty, no steps had been taken to carry this pledge into effect. On the contrary, 3000 whites had encroached upon their territory, and were driving them back, at the same time that every inducement had been held out to them by the Government, to obtain their consent to emigration. Under these circumstances, the tribes referred to, had peculiar claims on the attention of the Committee of Indian Affairs, and he wished that Committee to report to the House, whether, in their judgment, the tract guarantied by the treaty, was to be given, as it had been promised, or some other tract in lieu of it.

Mr. SMITH, of Indiana, having no objection to the object of the resolution, and not being desirous of throwing any obstacles in the way of its adoption, withdrew the amendment to it which he had before offered.

Mr. FLOYD, of Va., said, he believed this was the first time an appropriation had been asked from this House to enable Indians to go into the wilderness to explore it. He had thought that the object of the system adopted by the General Government, with respect to the Indians, was to civilize those People, and to get



JAN. 4, 1828.]

Canal in Michigan.

[H. OR R.]

them out of the wilderness. As the reverse, however, seemed intended by this resolution, he was opposed to its adoption.

Mr. HAILE said, that Government had made a treaty by which they were bound. If solemn treaties were to be considered as of any avail, and the Government meant to act in good faith, these Indians ought to receive what had been promised them. It was with a view to this end, that he had offered the resolution.

The question being put, the resolution was adopted.

Mr. MITCHELL, of South Carolina, offered the following resolution:

*Resolved*, That the Committee of Ways and Means do enquire into the expediency of repealing so much of the 16th section of an act to prohibit the importation of slaves into any port, or place, within the jurisdiction of the United States, etc., as requires that the owner or captain intending to transport a slave, coastwise, from one port to another, in the same State, shall previously deliver to the Collector a manifest, specifying the name, age, etc., of said slave, and swearing that the said slave had not been imported since the year 1808, and that he was held to service by the laws of the State.

Mr. MITCHELL said, that, without some explanation of the facts referred to, the resolution must be, in a great measure, unintelligible. In 1807, Congress, in pursuance of a clause in the Constitution on that subject, passed an act suppressing the slave trade. The 10th section of that act required, that, when a slave arrives in any part of the United States, in a vessel of more than 40 tons burthen, the captain and owner must unite in an oath, that the slave had not been imported since the 1st January, 1808. This ceremony was accompanied with fees to the Collector of \$1 50, and if the parties failed to comply with this requirement of the act, the vessel was to be confiscated, and the captain to pay a fine of \$1,000. At the time this act passed, these requirements were wise and proper; because, at that time, our whole coast swarmed with vessels engaged in the slave trade; but the object of this and other acts had been fully accomplished, and that trade might now be pronounced, so far as we were concerned, to be completely suppressed. The last accounts received from our station in Africa, declared that the English and American branches of the trade had ceased. All those formerly engaged in it, had, by the severity of our laws, been expelled from the country, and no such trade was now carried on in any part of our coast. The act to which he referred, therefore, while it imposed a very severe tax on the People of the South, was, under the present state of things, productive of no benefit whatever. Its operation was harassing and oppressive. If a gentleman wished to go with his servant, from Charleston to Beaufort, the captain is under the necessity of giving, in his manifest, an account of that slave. His oath, and that of the owner, must be submitted to the Collector, though that officer should know ever so well the fact to be substantiated; and, if a gentleman sends his slave up and down, fifty times in the course of the year, the same ceremony must be gone through. This is trouble and expense, without any useful end.

Mr. M. said, that, though he was himself a slave holder, he was as warmly and as sincerely opposed to the slave trade as any gentleman from the Northern States possibly could be, and could he be convinced that such a provision as this was necessary to the putting down of that traffic, he would be the last man to oppose it; but he was convinced, that it was wholly unnecessary, and as it interposed a vexatious embarrassment in the intercourse between the Southern States, he was desirous of seeing it repealed; but wished to obtain the opinion of the Committee of Ways and Means on that subject.

Mr. MERCER said, that, without intending to ex-

press any opinion upon the subject of the enquiry which the gentleman from South Carolina was desirous to institute, he could not refrain from correcting the erroneous impression which he seemed to have formed, that the slave trade was abolished. On the contrary, he believed that it was now carried on to as great an extent as at any former period of its history; and to some extent, though precisely to what, by American capital, he would not undertake to determine.

The resolution was then adopted.

#### CANAL IN MICHIGAN.

Mr. WING offered the following:

*Resolved*, That the Committee on Roads and Canals be instructed to enquire into the expediency of appropriating a sum of money for examining and determining upon a suitable route for a canal across the peninsula of Michigan, to connect the waters of Lake Michigan with those of Lake Erie.

*Resolved, also*, That the same committee be instructed to enquire into the expediency of appropriating, for the purpose of making said canal, tracts of land on each side of said route, equal in quantity to those heretofore granted for constructing the Illinois and Indiana Canals.

The resolutions having been read,

Mr. WING said, that, as the importance of the resolutions might not at once be apparent to the House, he would ask the indulgence of a moment, whilst he briefly stated a few of the reasons which have indicated the propriety of the present enquiry. The difficulties and dangers which attend the navigation of our Northwestern Lakes; the exposures to which the lives, the health, and the property of individuals, as well as the property of the Government, are subjected; the frequent losses which are sustained, both by the public and by individuals, in encountering a navigation of nearly eight hundred miles in extent, from the head of Lake Erie to the head of Lake Michigan, which is difficult, if not dangerous, even in the most favorable seasons of the year; indeed, the utter impracticability of navigating some of our most northerly lakes and straits, during the Winter months, Mr. W. said, all conspired to render it an object of no inconsiderable moment, not only to the inhabitants of that country, but to the Government itself, to effect as speedily as possible, a safe channel of communication across the peninsula of that Territory.

This object once accomplished, together with that of the Illinois Canal, for the construction of which, the Government has already made a large, if not an ample provision, you not only avoid the necessity, in time of war, as well as peace, of transporting every description of property, destined for the supply of your Northwestern and Western ports, through a long chain of narrow straits, which bring you within musket shot of the British shore; as well as the dangers of a boisterous lake navigation, to which I have just adverted; but you have at once a safe and easy inland communication, upon nearly the whole line of your Northern and Northwestern frontier, extending from New York to the Mississippi.

I present this subject, Mr. Speaker, the more confidently, because it is not trammelled by those constitutional objections which have been heretofore urged against similar propositions from the States. The whole route of this contemplated canal is within the limits of a Territory, over which the United States exercise the exclusive sovereignty; and within which, the United States are the principal owners of the soil. To such as may not have adverted to the subject, who are not intimately acquainted with the geography of that country, and the facilities with which the object may be accomplished, the item of expense might, at first, seem to be an objection. Careful examinations, however, have been



H. or R.]

*Case of Marigny D'Auterive.*

[JAN. 4, 1828.]

made by a number of our most scientific and intelligent citizens, who hesitate not to say, that a canal may be constructed across that peninsula, at less expense than any one of similar extent which has ever been attempted in the Union.

If, therefore, to facilitate the intercourse between the different sections of the United States; if to render the transportation of property both cheap and safe; if to enhance the value of the public domain, by improving it, and thereby inviting to it a healthful and enterprising population; if to give stability to your frontier settlements in that quarter, and add strength to an extended and defenceless frontier, be legitimate objects for Congressional legislation, and worthy the consideration of the Government—then, sir, I may indulge the hope that the resolutions which I have had the honor of submitting, will be favorably received by the House, and will obtain a direction to that Committee from whose investigations, not only the citizens of the Territory, whom I have the honor to represent, who feel a deep interest in the subject, but the Government itself, may anticipate beneficial results.

The resolutions were then agreed to.

#### CASE OF MARIGNY D'AUTERIVE.

The remainder of the day was spent in debate upon a bill for the relief of Marigny D'Auterive. This was a private bill, providing for remunerating the claimant for the lost time of a slave impressed into the service of the United States, at New Orleans, and who was wounded, and also for hospital charges.

The bill having been read, together with the report of the Committee of Claims in the case,

Mr. LIVINGSTON said, that the Committee of Claims, in the report just read, assume it as a principle, that the United States' Government it not bound in any case to pay for slaves injured or lost; because they are not considered as property. A principle like this (said Mr. L.) is one of the most serious importance, not only to my constituents, but to all those who are interested in this species of property, throughout a large and very important portion of these United States. Slaves not property! What are they then? If not property, they are free: if they are not our property, we have no right to their service: if they are not property, the whole foundation on which the Constitution of this Union rests, is shaken. And is it by a by-blow like this, that so important a principle is to be established? I trust not. I trust that the Representatives of those States who are so happy, yes sir, I say so happy, as not to possess any of this species of property, will not, by sanctioning such a principle, lay a foundation for that discontent, for that jealousy, for that division, and for all those most serious consequences which must result from such a decision. The sum in this bill is nothing; it is not to be spoken of—it is not for that I now address this House; but I should basely betray the duty I owe to those who have entrusted their interests to my hands, did I not protest against the admission of a principle like that advanced in this report. Indeed, sir, it can scarcely be believed, that the Committee of Claims intended to establish it. The terms on which we entered into the social compact, and without which it would never have been formed, the laws which have been passed, and the treaties made under it, must all have prevented their coming to this conclusion; and, independent of these, the laws, not of the Southern States only, but in those very quarters of the continent where such an opinion seems now to be held—the laws of those States would have taught them that this opinion could not properly be held. How long is it since, in those very States, the laws which considered them to be as much property, as any other article, have been repealed? In New York, within the year—in other States, they still exist. It would be

well, therefore, for gentlemen who might be inclined to favor the doctrines of this report, to look at home, and see whether, by voting for it, they do not sustain a principle as much at war with the laws of their own States, as it is with the Constitution and laws of the United States. With all this evidence before them, I can scarcely believe it to have been the deliberate intention of the respectable Committee, to declare that slaves were not the property of their masters: yet, whatever may have been their intention, their language is but too plain; the whole tenor of the report admits of no other conclusion. I move you, therefore, an amendment to the bill.

[The amendment of Mr. L. went to introduce a clause allowing the claim for the injury done to the slave, and for medical attendance on him.]

Mr. WHITTLESEY, a member of the Committee of Claims, and who had reported the bill under consideration, spoke in reply. He said he extremely regretted that the gentleman from Louisiana, (Mr. LIVINGSTON) had thought proper to exhibit, in the discussion of this question, so much spirit and warmth of feeling. It is a question, said he, that ought to be decided dispassionately, on its own intrinsic merits, without awaking sectional feelings or jealousies; and he trusted that his (Mr. L's) appeal to Southern gentlemen to rally round his standard, would not, on this occasion, be responded to by them. He might assuredly have abstained from charging the Committee with falsehood, and with having introduced into the report any sentiment or expression, which has necessarily provoked this debate. The Committee studiously avoided touching the question which the gentleman apprehends is so vitally important to the slave-holder. The whole of his argument is based on false premises, and his deductions are of course erroneous. He takes it for granted, that the Committee have said "that slaves are not property." In this he is mistaken; there is no such position taken in the report. They have said, that "slaves are not put on the footing of property, and paid for, when lost to the owner in the public service." Can the gentleman disprove the truth of this assertion, by recurring to a single case, where the Government has paid for a slave lost in the service? When the gentleman appeals to the passions of the Committee, and presses upon its consideration that the Committee of Claims have, in this instance, advanced new and alarming doctrines, it behooves him to look into former reports, and ascertain from them the sentiments of former Committees, when deciding on similar questions. The Committee of Claims gave to this subject the most unremitted attention, and did not content themselves with examining the printed reports, but they also carefully examined all the manuscript reports, from the commencement of the last war; nay, they went still farther; they sent to the Register of the Treasury, and inquired of him whether there were any instances, during the Revolutionary war, where slaves had been paid for by the Government, and the answer was, there were none. It cannot be supposed that, during that long and arduous struggle, when the whole energies of the country were put in requisition, there were no slaves in the service, nor that some of them were not slain in battle, or otherwise lost to the owners. For the information of the Committee, and to remove any impressions which may have been made by the argument of the gentleman, that the present report contains novel principles, Mr. W. said, he would turn their attention to such other reports which had a bearing on the question now under consideration.

Mr. W. said, the first case his researches had enabled him to find, was that of Andrew Montgomery, reported at the first Session of the Fourteenth Congress, and recorded in the fourth vol. manuscript reports, page 160. Montgomery was a Lieutenant in the Rifle Corps, and, at the battle of Fort Mims, his waiter, a slave, was kill-

JAN. 4, 1828.]

Case of Marigny D'Aulivrie.

[H. OF R.]

ed, or captured. The Committee said: "It is conceived the United States ought not to be liable for the value of the slave, if he should be killed, or by any other accident be lost to the owner. If compensation were to be made, it would have the effect of compelling the United States to become the warrantor of the value of the servants, instead of making a reasonable allowance for the hire of a waiter."

The next case was that of William P. Lawrence, same Session, manuscript reports, vol. fourth, page 186. Lawrence was a Surgeon in the Army, and, on the return of the Tennessee Militia, he was ordered to remain at Bogue Chitto, in the State of Louisiana; and attend upon the soldiers who were afflicted with a contagious disease. Nurses could not be obtained, either from the line of the army or the inhabitants. Dr. Lawrence was obliged to put his slave into the hospital to nurse the sick, where he contracted the same disease, and died. The claim was rejected, on the ground that the United States were not liable to pay for the slave. The Committee of Claims, at this Session of Congress, consisted of Messrs. Yancey of North Carolina, Alexander of Ohio, Goodwyn of Virginia, Davenport of Connecticut, Lysle of Pennsylvania, Stanford of North Carolina, and Chipman of Vermont.

The third case is that of Basil Shaw, first Session, Fifteenth Congress, vol. fourth, page 396. Shaw was an Assistant Adjutant General, and took his slave into the service with him, who was killed by a cannon shot on the morning of the eighth of January, 1815, while in the service, and attending to his duty. The Committee, in their report, say: "They are decidedly of the opinion that Congress is under no obligation whatever to remunerate the petitioner—no principle of legislation is perhaps better settled than this, that, for such losses, Government cannot be liable." The Committee, at this Session, consisted of Messrs. Williams of North Carolina, Rich of Vermont, Bateman of New Jersey, McCoy of Virginia, Huntington of Connecticut, Schuyler of New York, and Walker of Kentucky. The case was again presented at the first Session, Sixteenth Congress, and the like decision made. The Committee, at this Session, consisted of Messrs. Williams, Rich, McCoy, Moore, of Pennsylvania, Culbreth of Maryland, Edwards of Connecticut, and Metcalfe of Kentucky.

The fourth case is that of Robert Evans, first Session, Fifteenth Congress, manuscript reports, fourth vol. page 473. Evans was a Captain in General Coffee's Brigade, stationed at New Orleans in 1814 and '15. His slave, a waiter, died from fatigue attending on the sick, and from exposure. The Committee said, in this case, "if he had been killed in battle, the petitioner would not be entitled to any compensation."

The fifth case is that of Jacob Purkill, first Session, Sixteenth Congress, first vol. page 32. Purkill resided in Kentucky, and hired his slave to Willis, to descend the river to New Orleans. On his arrival he was impressed by General Jackson, and put into the Swamp, where, some of the witnesses said, he labored while sunk into the mud up to his hips. He contracted a disease, and died. The Committee said, if the facts were established, beyond the possibility of a doubt, that the Negro contracted the disease of which he died, whilst in the service of the United States, it would be considered consequential damages, for which the petitioner would not be entitled to pay.

There was another case, which was decided by the first Session, Seventeenth Congress, but, Mr. W. said, his minutes did not enable him to give the facts.

It will be seen by these reports, said Mr. W., that the decisions had been uniform, that slaves had not been put on the footing of property, and paid for, when lost to the owner in the public service; and that there was no distinction in the reports between those cases where the

slave was taken into the service by the master, and where he was impressed into it. He denied the right of the Government to impress slaves, and said, therein the interest of the master was amply protected. He said, the country was to be defended by free men, and he would advocate no principles which would enable them to stay at home, and send their slaves into the ranks of the Army, or which would compel the Government to impress them. Slaves can no more be impressed than minors—who are not liable to perform military duty; but suppose a minor, in the time of imminent danger, was in the service, would his parent or master, if an apprentice, have any claim on the Government for a remuneration for his loss, if such minor was killed or wounded in battle? No one will pretend that he would; and why not, if the master is to be compensated for the loss of, or for injury done to, his slave? The service of the minor is not the less valuable because he is white, and the parent or master is ordinarily entitled to it. The discussion of these topics is at all times unpleasant, and, in this instance, it is wholly unnecessary and gratuitous. So far as my information has extended, those in the non-slave holding States have for their brethren in the South the kindest feelings; they consider slavery to be a national evil, and are disposed to relieve the country from it, so far as meets the acquiescence of the slave-holder, and no farther. The gentleman from Louisiana [Mr. LIVINGSTON] has said, that the amount of money involved in his amendment is of no importance; if so, there is no necessity of adopting it: for no principle is involved which need alarm his fears; and, if there is any ground to apprehend danger from any quarter, it is to be found in his argument, and not in the report.

Mr. LIVINGSTON. The gentleman says I have misunderstood the Committee, and that they do consider slaves as property. Well sir, if so why have they not allowed compensation for their injury? But, have I misunderstood the Committee? Have they not carefully employed, throughout their report, in every case (but one) where they speak of the slave of M. D'Aulivrie the word servant, and carefully avoided the word slave? [Here Mr. L. quoted the report.] Now, the gentleman tells us that the Committee have no where said that a slave is not property.

But they have said expressly, that they have not been considered by the Government as property which ought to be paid for when taken for public use. And the addition to the phrase in which it is said that they are not property, cannot qualify it, so as to lessen the effect of that allegation, and the sentence has precisely the same meaning as if it had read thus: "Slaves have never been considered by the Government as property, and therefore are not to be paid for." If they are property, of any description whatever, they must be paid for when taken for public use. The Constitution makes no distinction. It embraces all private property, of whatever nature. If Congress could distinguish, and say, this species of private property shall be compensated for, that shall not, the provision of the Constitution would be nugatory, and every species of property might, in its turn, become the subject of an exception. We must, then, argue upon the report, not upon the explanation of it, given by one of the members who made it.

But, should we adopt this explanation, is the difficulty removed? The same injustice, the same injury, the same danger remains. He says, they are not denied to be property, but they have a peculiar quality attached to them, which exonerates the United States from the obligation of paying for them, when they are taken for the public service. What this circumstance is, he does not explain; but, to say any thing of this nature exists, is to take from this species of property one of those qualities which constitutes its chief value; Property that may

H. or R.]

*Case of Marigny D'Auvergne.*

[JAN. 4, 1828.]

be taken by the public, without any obligation of compensating for it is to make the owner a holder at will; and, besides its unconstitutionality, is an absurdity in terms. The holder is, then, no longer the owner, but the mere possessor at the pleasure of another, who may, at pleasure, deprive him of his possession. Nor is the difficulty lessened by saying, as, I think, has been done, that slaves cannot be lawfully impressed into the public service. The act of seizing any property for public use, is founded on necessity. It is a wrongful act, for which compensation is due, and the Constitution declares that this compensation shall, in all cases, be given. If we say, then, that no compensation is due, where the taking was ill-gal, we declare that it shall not be afforded in the very case in which the Constitution directs it to be made.

The report, then, whether explained according to the version of the gentleman from Ohio, or considered according to the plain meaning of its terms, asserts either that we have no property in our slaves, or that it may be taken from us without compensation; either of which positions are too injurious to our interests, and too subversive of our rights, to pass without animadversion. Would to heaven, sir, that any other construction could be put on this proceeding; most gladly would I adopt it: but it is too plain, too palpable. Every slave-holder who should see, what I trust, however, he will never see, its confirmation by this House, would consider all security for his property at an end, and he would justly reproach those to whom he had confided his interests, with a base dereliction of duty, were it to pass without opposition. Once establish this as a precedent; show that slaves, whether they be considered as property or not, may be taken whenever public utility requires it, without compensation, and the consequences may easily be foreseen. There are those who probably may think that public utility may be promoted by taking them all.

The honorable member from Ohio has been pleased to say, that I have charged the committee with falsehood—he is under an erroneous impression. I was not guilty of the indecorum which such a term would imply, nor have I, in any manner, insinuated the charge; but I must be permitted to arraign the deductions which would deprive one of my constituents of his property, and endanger the best interests of the State I represent. Neither have I appealed, as it is stated, to the passions of any section of the Union. With more reason might I complain of an attempt to enlist prejudice against me by an allegation that I have treated a committee of this House with disrespect. Sir, I make no address to the passions. I demand strict justice and constitutional right—I ask no favor—and if the consequence of denying this right, and adopting the principles of the report have been adverted to, they have not been enforced as they might have been; because they could not but excite feelings that ought to be suppressed. This case has been assimilated to that of an apprentice—but there is no further similarity than this: that, if the apprentice be below the age for serving in the militia, and he should, notwithstanding, be forced to serve, the master would be entitled to compensation for the loss of his time; but if the age of service should arrive before the expiration of his apprenticeship, the claim of the country must be preferred; the master knew, when he took the apprentice, that he was liable to be called on at a certain age, and it must have entered into the consideration of the contract. But both the apprentice and master are free citizens, liable to be called on for the defence of their country; and, enjoying the benefit of that for which they fight, each must take the risk, and neither is entitled to compensation. But what application can this have to a slave who, while his master is serving in the militia, is taken by force to do the drudgery of

the camp? If the ox, impressed in the service, should be killed, compensation, would be given: the slave is precisely on the same footing. We are told, however, that there is a difference; that, though cattle may be impressed, slaves cannot; that they are something that is property, and at the same time not property. But the gentleman cannot draw any intelligible distinction: they are either property, or they are free.

But by way of confirming the doctrine he has advanced, the gentleman resorts to precedents, and he has quoted a string of them, to the number of five or six. His proposition is, that slaves are not to be put on the footing of property, and are not to be paid for as such; and his proof is, that persons who have voluntarily put their slaves in the public service, and exposed them to danger, have not been paid for them if lost! How do such precedents apply to a case where the slave was taken and impressed, contrary to the will of his owner? The owners, in the gentleman's precedents, exposed their slaves for hire, and, in so doing, calculated the risks of the adventure, and took them on himself. But this is a totally different case.

There is another reflection which I am bound to notice. He asks, shall the slave holder be allowed to stay at home and fight the battles of his country by his slaves? No, sir! But, had the gentleman been present, he would have seen that no one staid at home; that no man sheltered himself behind the body of his slave. To a man, the free inhabitants faced the danger where it was most imminent; they did it cheerfully, successfully. No slave was permitted to join in the honorable task—he was taken for servile labor; the patriotic duty of repelling the enemy was performed by freemen, and they performed it nobly. The gentleman's expression implies a reflection on my constituents which they do not deserve, and which I cannot permit to pass, without remark.

[Mr. WHITTLESEY rose to explain. What he had said, was meant merely as applying to the general argument, and had no allusion whatever to the particular case to which the gentleman applied it. He had never meant for a moment, to say, that the slave owners staid at home when New Orleans was attacked. He knew the facts too well to say or think so.]

Mr. LIVINGSTON said, however general the expression, it was one that might be construed into an unmerited sarcasm against his constituents, which he was therefore bound to notice. He was happy, however, to hear that nothing of this kind was intended. He once more called the attention of the House to the serious consequences of confirming the report. Allow the claim, he said, and you do no more than justice; reject it on these principles, and you shake the Union.

Mr. FORT said he rose for the purpose of bringing to the notice of the House a single fact. The gentleman from Louisiana had put the matter on its true footing. If this slave had been impressed and lost, those who impressed him must be held to pay. This principle, so far from never having been acknowledged or acted upon by this Government, had been expressly acknowledged and acted upon in a very memorable instance. The gentleman from the Committee on Claims said, that payment had never been made by this Government for slaves lost, and had quoted a string of precedents to prove it; but of all the cases cited by the gentleman, only one had any bearing on the present bill, and that was the case where the sickness of the slave, contracted in the service, was not certainly proved to have been the cause of his death; but it was this doubt only that was the true reason why the slave had not been paid for, and not any doubt whether the slave was to be reckoned as property. But the instance to which he had at first alluded, was one that could not be denied or doubted. In our Treas-

JAN. 4, 1828.]

*Case of Marigny D'Austerlie.*

[H. OF R.]

ty with Great Britain, this Government openly claims payment for slaves forcibly taken away, and the claim has been allowed, and large sums paid by the British Government on this very principle. If this is not an acknowledgment of the principle by this Government, I am at a loss to conceive what can be; and surely our own Government is as much bound by it as the Government of a foreign country.

Mr. MCCOY, (of the Committee of Claims) said, that this was a delicate subject, and he could not help thinking that the argument of the gentleman from Louisiana was, in its practical tendency, more injurious to the interest of the Southern States than that advocated by the Committee. The Government, (said Mr. McC.) does not pretend any legal right to take and use this species of property, and he was not willing to coerce its employment. He was one of those who would not willingly have a single slave in or about the Army at all. He thought our soldiers should all be freemen. That Government in its treatment of slaves considered them as something more than property. The Constitution does the same—it considers them not only as property, but as persons also. The Government has no authority whatever to call slaves into the public military service. There may be justice in some cases in allowing for their loss: but he, for one, had rather see all the slave owners of the South suffer some loss than grant claims of this kind, and thus sanction the principle that Government has a right to impress slaves into the service. He knew that the States in which this kind of property existed had their own laws, by which slaves were made property in the most complete sense of that term. But these were not laws of the General Government. The Government has no control over slaves—and he would rather lose a slave entirely than admit that the General Government had a right to take it. So far was the Government from pretending to this, or admitting the principle now contended for, when the law of 1816 made provisions for property lost in the late war, a gentleman from one of the Southern States proposed an amendment, which went to include this species of property with other descriptions of it: but the House, on full consideration, rejected the amendment. This fact had a strong influence on the decision of the Committee of Claims. They took the law of 1816 as their guide—and they found pleasure in thus being able to avoid the decision of the abstract question. The subject had not been lightly considered by the committee. He would not, however, go farther into the argument. The House well knew he was not in the habit of talking, and he would conclude by repeating his conviction that the House would do more injury to the slave-holding States, by sanctioning the principle that the General Government have the right to impress a slave, than by refusing the present amendment.

Mr. OWEN, of Alabama, thought that, instead of cherishing a wish to avoid the question involved in the amendment, it was, on the contrary, very desirable that it should be fully presented for decision. Let it be considered, let it be fully debated, and let it be finally acted on. He thought somewhat differently from his honorable friend from Louisiana, as to the present case, not presenting all the points necessary to ensure a full and correct investigation: but if the facts are as stated by the member from Louisiana, and not contested by the member from Ohio, then the case is fully made out; but he apprehended, having once paid some attention to this question, that the record evidence will not support the issue proper to be made. But, yielding in this my opinion, or rather my knowledge of the facts to that of others, and inasmuch, too, as this point is not contested in the report, I will assume, that all that is requisite is embraced; and when the decision has gone forth to the

country, let it be distinctly understood that all the material facts sustain the issue.

It may be objected that the amount of compensation is uncertain, the amount of damage resting alone on the opinions of two persons. All objections on this point should be yielded, when it is recollected that the sum is fixed by the declarations of disinterested neighbors and respectable men, upon oath, duly administered by a competent officer; and to this add the certificate of a physician, more particularly describing the wounds received, and agreeing with the witnesses as to the quantum of damage.

I did prefer that another case, which had heretofore been before the House, and which must again be before it, should have been the one on which this discussion should have arisen: But, Mr. Chairman, the member from Louisiana has thought otherwise; and that it was his duty to go fully into the discussion at this time, and on the case now before the committee; and, as before remarked, the member from Ohio had met and discussed it as presented, I shall not, therefore, change it: I will, therefore, take for granted that the claim is based upon the facts that the petitioner owned the slave; that he was impressed into the service of the Government; that in that service the damage claimed was actually sustained. The point then is, whether this be such property as contemplated in the Constitution, the conversion of which to "public use," calls for "just compensation." Gentlemen tell us that there is something alarming in the discussion of this question. I tell the gentlemen, in reply, that if there be something alarming in it, the greater is the necessity, and the more imperious is the duty to investigate and finally decide it. If it be an unsettled question, and there exists danger, whether real or imaginary, in approaching it, the propriety is obvious of having a speedy determination of it; therefore, this is the proper time for discussion; for when can there be a more auspicious moment? The moment is auspicious, because it is now brought before us; and what can be gained by avoiding it? It is due to ourselves not to shrink from the discharge of duty, whether pleasant or painful in its performance. Its very character has called the attention of the People of this Union to it, and it is due to their good sense, it is due to their repose, and to the prosperity of all, not to a portion only, that it should be met, and calmly and thoroughly investigated and decided.

I shall, therefore, proceed, not fearing nor anticipating consequences. And, sir, could it be presented to Congress for adjudication or legislative regulation, whether the slave was the property of the master or not, I could readily conceive that the most appalling consequences would ever attend its progress here; and, sir, though I have all the confidence that patriotism can demand, in the action of this House or of Congress, acting within its legitimate sphere of delegated powers, yet, sir, the very act of its transcending that limit, would destroy that confidence. It matters not that this step should be on a point connected with this particular class of rights, delicate as it has ever been considered, and on which the jealousy of so large a portion of the People of this country is properly excited, or whether it should be on any other. The first act of assumed unconstitutional right here, is in violation of the charter that binds us together, and therefore becomes a usurpation; and any usurpation is alarming, whether in this Government or any other, but more especially in this.

Is, then, the question to be raised here, whether this class of people is property? Sir, it cannot, nor will not, I hope, be gravely asked or answered; and to my mind it is only involved by your granting the indemnity, or by your refusal of it. If granted incidentally, it is decided; though intrinsically you gave no greater validity to a

y perfect and complete : but if refused, you on a portion of the People of this Union, that have repeatedly granted to another portion, the fifth article of the amendments of the from having due force and execution ; for, hings, it declares, "nor shall private property : public use, without just compensation." If his "just compensation," we must either say late the Constitution, or else you decide that of property. Are you then prepared to make n ? I think not. And, although the member ravelly insists that slaves are persons; yet he rly denied that persons may not be property. it we look to, to ascertain what is or what is ? It is to law ; it is the creature of the law ; etent authority provides that persons are pro- instantly become so. Such is the principle

this question. Slaves are property by laws ss can neither enforce nor avoid ; it can nei- , nor diminish, the right vested in the master ective States within which this people exist. becomes our duty ? Is it not that we should this inquiry, and look alone to the acts of States, either in their constitutional form of , or in their statutory provisions ? Unques- will. You cannot, therefore, if disposed so le that the slave is not the property of the ain States of this confederacy ; but you can e acts of those States which stamp the cha- he slave is to bear. The States, therefore, o grant you the power, before you can exer- ht. I will take this as my position on which decision of this question ; and I had thought ber from Ohio, even, would have given me, east, the sanction of his opinion ; but I think ded, to some extent, even to approach it.

not greatly mistaken, the concession of this s essential to the preservation of any species belonging to the citizens of one State, as well f any other. The right to the horses, carts, rain, of a non-slaveholding State, is secured ipal regulations of such State ; of these they rived without indemnity. If, then, the laws ern States (say the Commonwealth of Vir- please) have made no distinction between f their citizens relative to slaves, and other ely chattels, how can Congress make it ? In nce before you, you propose to pay for the se of the petitioner, and refuse to make in- their driver. The laws of Louisiana secure s as completely their right to their slaves as eir carts and horses, or any species of pro- t right have you, then, to draw a distinction ? his question is where it should be ; permit and your Government is firm upon its basis ; d the consequences I need not here present . Sir, if it availed any thing, I would most

gle my regrets of the existence of this blot utchcon. Ay, sir, I would call it the curse try. But I would stop here. I would not, uasiasts of the day, declaim against that which nedied, and thereby render still more heavy they profess to alleviate. If contentment foundation for happiness, to disturb a peace t the province of a philanthropist. Idle, d be the attempt, if resorted to here, of ex- slave owner in odious colors. The intelli- age in which we live, would recur to causes and the means of even the fathers of the ation to avert, that fixed upon that people n this hemisphere ; and so far from detract- rtues, or religion, if you please, of the pre- n master, the present mode of treatment to-

wards that people, that universally prevails in the South- ern States, does more credit to the human heart, and gives a stronger practical result towards the amelioration of their condition, than all the theories rantingly pro- claimed by the zealots of the day, whose voice is heard every where, but whose judgment and discretion are seen no where.

This digression will find its apology in the declaration tauntingly made, "that white blood was worth some- thing." The whites of the South, in all the struggles that this nation has had to encounter, have never been found wanting ; their blood has so freely flown, that to them it might be said they gave no value to "white blood!" Sir, whenever danger threatened, they never calculated the cost ; property, comfort, life—all have been freely offered on the altar of their country's rights. This, sir is no boon to the chivalry and patriotism of the South ; you cannot recur to any portion of the history of this country, where their deeds are not recorded, and their disinterestedness has ever been proverbial.

But to recur to the question. We are told that there is no authority to impress a slave ; that it is in violation of law ; that this is a species of property above the law. I grant it, sir, and the very same principle I claim as equally applicable to any description of private property. Can gentlemen point me to a code of law regulating im- pressments? None such exists. The very term indicates its character. Its law is power, and its action necessity. It is not, nor ever can be, based upon right ; and the very clause of the Constitution, which I have before re- cited, gives not the right, but recognizes the power, and enforces remuneration. This clause was not ingrafted into the Constitution, to delegate to the Federal Govern- ment a power not previously possessed, but to compel the fulfilment of the demands of justice—a power inherent in all Governments from necessity called into action. All Governments claim the power, but few grant the indem- nity : ours, based upon principles of stern justice, pro- vided for the indemnity, in its fundamental law, but left as it ever should be left—the regulation of the power to be controlled by the exigencies of the case ; and these never should be less than the sternest necessity. Sir, all impressment is above the law : all impressment is a tres- pass against individual right ; necessity, therefore, be- comes the law, and its operation should only be, when for the benefit of the whole it becomes necessary to sacrifice individual interest. Sir, in the case before you, I cannot anticipate a denial of the existence of such necessity : if it ever did exist any where, it surely did exist on this occasion. The case then is made out ; the strong arm of the Government has been exerted to take from a pri- vate citizen his individual property. Can your justice deny the compensation which your power enables you to withhold ! The impressment was from necessity ; the in- demnity is from the law. Sir, I can never believe, when a case is presented as this is, in this Government of de- fined rights and limited powers, that any doubt can exist of the nature of the decision ; and I think I may claim the co-operation of the member from Ohio, as I think he has conceded, if the claim was for property, even this species, if he could consider this so, would grant the in- demnity.

[Mr. WHITTLESEY interposed, and denied having made such admission.]

Mr. O. said, I am sorry to have misunderstood, and certainly did not intend to misrepresent the gentleman. The House, therefore, is called upon to decide the ques- tion. And, sir, if the House can, this country will not, turn a deaf ear to the prayer of this petitioner, and say to him, it is true your slave was seized without your consent, which inflicted on you a loss, but we had the power to commit the act, and our justice does not compel us to in- demnify you. This would surely be at war with any thing

JAN. 4, 1828.]

*Case of Marigny D'Auterive.*

[H OF R.]

that has hitherto been done by the Government of these United States.

Sir, I repeat it, if the States make no distinction between slaves and other property, you have no right to make any; you have no right to refuse indemnity; you are bound to grant it. But we are told that Congress has heretofore purposely avoided the discussion of this question. I am anxious that it should never be avoided again. If it is an unsettled question in this country, it is full time that it was settled. I cannot see, therefore, why this is not a proper period for its settlement, and I demand it at the hands of this Government. I therefore appeal to this House to make this indemnity; and the gentleman from Ohio will pardon me when I say that his string of precedents is unhappily selected; none but one has any the remotest application: to those, however, the gentleman from Louisiana has replied. The last mentioned one was the case of the slave from Kentucky impressed, put to labor in the mud, and died; the damages determined by the committee to be "consequential," therefore the Government not liable. This precedent ought not to be regarded; the slave was impressed; the impressment caused him to be put in the mud, the mud caused his death; what is then the conclusion? I need not draw it.

I do hope that we will act, and that we will justly and constitutionally decide this point: if thus decided, all will be right, if otherwise, the "damages will be consequential."

Mr. MITCHELL, of South Carolina, said, that he had not fully understood the case for which this bill is to provide. The gentleman from Alabama had expressed some doubt as to the main fact, which was the impressment of the slave. This Mr. M. considered as the point on which the decision must turn. If Government impressed the slave, Government must pay for his loss of time, but, if his master voluntarily took him into the ranks, he must submit to the loss. He hoped, therefore, that the bill might be recommitted to the Committee on Claims, in order that fuller testimony as to the main point might be exhibited to that committee. As matters now stood, gentlemen seemed to him to be arguing about a case which was rather imagined than proved. To argue with any effect, they must have all the necessary facts first clearly ascertained. And to this end, he moved the recommitment of the bill.

[The CHAIRMAN decided that such a motion could not be received till the Committee of the Whole had risen and reported.]

Mr. STRONG said, that he had risen for the purpose of recurring to a fact, in legislation, which seemed to have escaped the notice of gentlemen. It was a singular circumstance in relation to our slave population, that, up to the year 1814, there was no law which protected them from military service. Previous to that year, the law of enlistment permitted officers to enrol "effective able bodied men," but, in December, 1814, the law was changed, and since that time none may be enlisted, but "free effective able bodied men." Before that time slaves might be enlisted, but since that time they cannot. The inference is of deep interest to all the slave-holding States. If it be a fair inference from what he had stated, that the intendment of our previous Legislatures had been that slaves should form a peculiar species of property, which was placed without the reach of military law, so that they, like horses, oxen, and other chattels, might not be taken for military use; then the explanatory statute of 1814 would lose its effect, if the doctrine, now advanced by gentlemen, in support of this bill, was to be admitted. If such was their wish, if they did intend to put this species of property over, within the reach of the military power of the United States, so be it. It was for them to judge of. This was the great

question involved in the present discussion: Shall slave property, like horses and oxen, be placed without the reach of the arm of military government or not? If the gentleman take the former ground and agree to pay for the loss of this slave, then the whole mass of slave population is put within the reach of the Government. For himself, he did not now say that he did not agree to take either of these courses.

The analogy in the Constitution between slaves and horses, and other cattle, was, that it was property which could not be taken by the United States, and if this be settled, and a slave is illegally seized and impressed by a military officer, the owner must look for his remedy not to the United States Government, for it never sanctioned the impressment, but to the individual officer who had impressed the slave without its authority. He, and he alone, is responsible for the act. He repeated that the great question for gentlemen now to consider, was, whether slaves shall or shall not be turned over to the military power of the United States.

Mr. HAMILTON said, that he did not rise for the purpose of contributing to any excitement which the debate might have occasioned: for, if the question was really a difficult and critical one, (which he did not perceive) it ought only to be approached with a greater degree of calmness and deliberation.

Now, sir, I am not prepared to admit that Congress is about to decide (whatever may be the fate of the claim before you,) whether slaves be property or not; because, so long as this Confederacy lasts, and the Constitution that created it, Congress has no power to settle any such question, and there is an end of the argument. The question, therefore, before the House, is not whether slaves be property or not, because the mere statement of the proposition involves an absurdity in its terms; but whether there be any thing in this peculiar species of property which should deprive its owners of a just claim to indemnity, when injured or destroyed in the public service.

To sustain the negative of this question, the gentleman from Ohio had relied on several precedents, nearly all of which he (Mr. H.) considered as inapplicable. For it would be recollected, in the case he had cited, in which Congress had refused to indemnify the owners either for the loss or for injury to their slaves in the public service, was where they had been taken by their masters into the army as their servants, for which their owners received a full equivalent in pay, clothing, and subsistence, with a perfect understanding of the risk which their slaves were to encounter. But this does not touch the question of coercive impressment, made of a slave, not as a soldier, but as a laborer, precisely as any domestic animal or implements of husbandry might be taken for the public use. Claims of this description could, in his view of the subject, be paid without affirming any power of the Federal Government to enlist or to make coercive levies, by way of conscription, of the slaves of the South. On the contrary, he thought the payment of this claim sustained the converse of this proposition, and proved that the Government had no control over slaves as military persons; but took them for the mere purposes of labor, as property, and, for their use or injury, their owners were to be paid in this light alone.

The gentleman from Ohio [Mr. WHITTLESEY,] need feel no apprehension, and may reserve, for some other occasion, the sympathy he has kindly offered; because, as he supposes, the people of the South would be alarmed at any thing which looked like a recognition of the doctrine that the Federal Government had any military power over the slaves in this Union. We know well enough that no such power will ever be exercised, either by enlistment or compulsory levies; but we know that,

those cases in which we should be most willing slaves shall be used, their labor will and be coerced into the public service, and that is a fact of actual invasion. No matter what abstract you may settle here, or what may be the legis- is House, you cannot control the over-ruling of war.

An enemy was to land at the mouth of the River, at Tybee Island, for example, and the a temporary work on the bank of the river ted to save the country, and that this work o be effected in sufficient time by the labor es in its neighborhood, what commander, fit uted with the defence of a country, would coerce their labor into the public service if it oluntarily contributed? This would not be a quision for troops, but an impressment of pro- the public use, and would grow out of that ssity, which is superior to all law, and forms civilians call the eminent domain, which bel Governments, and is founded on the irresist- e and impulse of self preservation.

we maintain that you can indemnify an owner or injury of his slave in the public service, ablishing the position that you are entitled to es of the slave under all military exigencies arise. We do not say that in principle you right; but we do say that, whenever in point exercise it, by taking this property for the , we are entitled to indemnity, and we are wil- e the occurrence of these impressments to ties growing out of an invasion of the coun- e exigencies of which no human legislation e.

d from Virginia [Mr. RANDOLPH,] said, a day ce, that the honorable gentleman from Penn- r. STEWART,] had established the fallacy of proverb, that "there was nothing new under

I think we shall indeed start (after all that ed in this Confederacy,) a curious novelty on ion, if we were seriously to set about proving are not property—more especially, after the every old State in the Union, whether South ven those in which slavery is now abolished. recent as the late war, slave owners in the ew York, on the enlistment of their slaves in , considered them as property, and, as their ve claimed their pay, bounty, and lands. This be said to be pushing the argument to an ex- even we at the South are not prepared to go. it matters not how you decide this question, to the injustice you may do to the individual the case before you: for I maintain, that, let ion be what it may, it furnishes no legislative questions that are put by the Constitution be- reach. You may determine, if you please, njuries done to this species of property, it is it to afford indemnity; but by this decision r affirm the uncontrolled military power of the Government over slaves, for military purposes, te even a mere abstraction, over which you have not the slightest power.

HITTLESEY said, it was important for the to consider what was the real question before e gentlemen who supported the amendment om South Carolina, Mr. HAMILTON) persisted the committee determine whether slaves are

The Committee of Claims have not submit- uestion by their report. Its discussion and de- ferefore, is wholly unnecessary. The question e adopt the amendment, and give to the peti- an injury done to his slave, a sum of money ad in the bill? Although the gentleman from

Alabama [Mr. OWEN,] seems to think that the question whether "a slave is property or not," is not necessarily raised in this case; still he maintains that this is an auspicious period to discuss and decide it, and his inference is, that, if it is decided in the affirmative, the amendment is to be adopted, and the money contained in it is to be paid. When this case was investigated by the committee, and when the report was drawn, that honorable gentleman was himself a member of the Committee of Claims; and, (Mr. W. said,) if his recollection did not greatly mislead him, he (Mr. O.) agreed to the report. He did not then entertain the opinion, that, on the abstract question, slaves were property; this was a case where relief ought to be granted. The gentleman says, I have not, in my argument, admitted that slaves are property; for his gratification I will admit, that, for certain purposes, they are not only so considered, but that they are so in fact: but, when I make this admission, he must concede that, in a political point of view, they are considered to be something more than mere property, and are not reduced to the level of oxen and horses, where the gentleman from Louisiana has placed them, for the purpose of carrying his amendment. But, with this admission, it does not follow, as a matter of course, that the amendment ought to be adopted. The Committee of Claims have uniformly been governed by the principles established by the law of the 9th of April, 1816, and their decisions have been sustained by the House. The whole subject, when the bill was under consideration, was fully discussed. It was soon after the termination of the war, a period the most favorable to do ample justice to those who had suffered by it. Relief is granted by the principles of that law, which, it is believed, have never been extended to the sufferers in any other country. It is stated by the gentleman from Virginia [Mr. McCOR] that a distinguished member from Georgia [Mr. FOSBERT] offered an amendment during the passage of the bill, to include cases similar to the one now before the committee, which amendment was rejected. Do gentlemen reflect on the consequences which must follow from innovating on the principles heretofore established? There are a vast number of cases, involving immense sums of money, which have been rejected, by the provisions of that law. These cases will, all of them, be pressed again, if the amendment is adopted; and they are equally entitled to relief with the one now before us. There are cases where well and elegantly furnished houses were occupied by our officers and soldiers, and the furniture materially injured or destroyed; as, also, where other personal property was taken, for which no relief has been granted. Are gentlemen disposed to pay these, and similar claims?

The gentleman from Georgia [Mr. FORT] supposes he furnishes a precedent for this case, in the provision made in the treaty of Ghent; wherein, the British Government stipulated to pay for slaves taken away by her troops during the war. Mr. W. said, it seemed to him that the provision alluded to, most strongly militated against the position taken by the gentlemen who advocate the amendment; for, if slaves could have been considered, by the distinguished individuals who negotiated that treaty, as simply being personal property, why was not an indemnity insisted on for losses sustained by the destruction or capture of other personal property? The gentleman will seek in vain for an instance where the Government of an invading army has paid for the destruction, or capture, by her troops, of the personal property of the citizens of the country invaded. Mr. W. concluded by saying he hoped the amendment would not be adopted.

Mr. KREMER said, that what he had this day heard advanced was so very extraordinary that it called on him to say something. What is this case? A man has had



JAN. 7, 1828.]

*Removal of Indians.—Indian Governments.*

[H. OF R.]

his slave taken by the Government of the United States, and employed in its service, and there wounded, if not destroyed. Shall the master be paid for it or not? This was the question, which some gentlemen seemed to think so terrible. The gentlemen say we must not touch it; but they do touch it, and they say the man must not be paid because a slave is not property. This is the logic of College-learned gentlemen. Now, for my own part, I do not care when or where this question is discussed. I am willing to meet it any where. The gentleman from New York [Mr. STROGGE] has told us that the officer of Government and not the Government must be responsible. Sir, this may do very well in a certain school, but it will never do in a school of justice! I can never consent to such a doctrine as that. I'm for putting the saddle on the right horse. If the servant of the Government acts unjustly and tyrannically, the Government must pay for it? Who ever heard of such an argument? The government not responsible! Why, even in the most despotic Governments such a notion was never heard of; but, in a Republican Government, like ours, it's intolerable. If ever there was a just claim before this House, this is one. And if the question is to be argued how far a slave is the property of his owner, I, for one, am willing to declare, before the whole world, that I believe a slave is as much the property of his master as any thing else that he owns.

Mr. TAYLOR said, that he had understood a gentleman from South Carolina, [Mr. HAMILTON,] as having advanced the opinion, that the right to take and employ a slave for the public service, arises out of the imminent necessity of a state of war. There was a very striking case, illustrative of this matter, which took place in 1814. Previous to that time no person had been allowed by law to be enlisted, unless he was over 21 years of age, or the consent of his master, if he was an apprentice, had been obtained in writing. But, at that disastrous hour, while sitting amidst the ruins of this capitol, Congress felt the necessity of raising armies to defend the country, then attacked on its sea coast, on its Northern frontier, and in the extreme West. Under the pressure of such a necessity, a law was passed, authorizing minors of 18 years to be enlisted, without the consent of their masters, and the same law was afterwards repeated, to the destruction of the contract by which a servant is bound to his master. Yet, even in that law, the contract was so far acknowledged, that a part of the bounty to which the recruit had a claim was required to be paid to his master. The injustice and the oppressive effect of this act, was pressed upon the House with very great force of argument by a large portion of the members from the Northern States. It was painted in colors as glowing as any which can possibly be used on the present occasion. But what did Congress do? Were they deterred by these arguments? Not at all. They passed the bill on the principle that necessity was above law, and they directed the servant to be enrolled without his master's consent. Some of these recruits fell in battle or by other casualties of the military service. But was such a thing ever heard of as the master of such an apprentice, coming to be indemnified for the loss of his servant's time, or the expense of medical attendance? Never. Yet gentlemen cannot show any valid distinction between such a case and that in this bill. The difference depends only on the degree of loss or hardship, and not at all on the principle. But, more: a servant with a team was forcibly impressed, and in the impressment the servant was slain. His master had a right to his service. He was taken not by law, but by the exigencies of war, contrary to the common rights of mankind; yet it was never so much as even pretended that the Government must pay for his loss. The present bill rests on the same principle; and if you allow the claim

of D'Auterive, you must go back and include all such cases as those I have mentioned. Mr. T. concluded by saying that he had risen merely for the purpose of bringing these facts before the view of the committee. He should not further enter into the argument.

Mr. LITTLE, believing that gentlemen were not prepared, at this moment, to settle the question involved in this bill, moved that the Committee of the Whole now rise, report progress, and ask leave to sit again.

After an ineffectual attempt, by Mr. MITCHELL, of South Carolina, to recommit the bill to the Committee on Claims, the motion of Mr. LITTLE prevailed, the committee rose and reported, and had leave to sit again.

MONDAY, JAN. 7, 1828.

## REMOVAL OF INDIANS.

Mr. McLEAN, from the Committee on Indian Affairs, who were instructed by resolution, moved by Mr. LUMPKIN, on the 13th December, and by resolution, moved by Mr. MITCHELL, of Tennessee, on the 18th of December, to enquire into the expediency and practicability of congregating the Indian tribes, now residing East of the Mississippi river, to the West of that river, and of establishing a government over them, &c. made a detailed report upon the subject, accompanied by the following bill, which was twice read, and committed:

"A Bill making appropriation to defray the expenses of certain Indians who propose to emigrate.

"Be it enacted, &c. That, to enable a deputation of the Chickasaw and other Indians, to be joined by such persons as the President of the United States may appoint for that purpose, to examine the country West of the Mississippi, for the purpose of selecting a portion of it for a permanent home, the sum of fifteen thousand dollars be, and the same is hereby appropriated, to be paid from any money in the Treasury, not otherwise appropriated."

## INDIAN GOVERNMENTS.

On the 3d instant, the Committee on the Judiciary was instructed "to inquire if any of the Indian tribes, within the territorial jurisdiction of any of the States, have organized an independent government, with a view to a permanent location in said States; and if they find that any attempt of the kind has been made, to inquire into the expediency of reporting to this House such measures as they may deem necessary to arrest such permanent location."

Mr. BARBOUR, Chairman of the Committee on the Judiciary, observed to the House that this was a very important subject, requiring great labor, and involving many very delicate points, which should be approached with caution: that it belonged more appropriately to the Committee on Indian Affairs than to the Committee on the Judiciary: but that his opinion was that a select committee would be the best tribunal to act upon the subject: that if the Committee on the Judiciary were disposed to do so, the flood of business now upon their tables, would, of itself, prevent them from bestowing upon it that consideration which its importance merited; but that, in order to give the gentleman who introduced the inquiry [Mr. FORT, of Georgia] an opportunity of disposing of it in such a manner as he might select, he would ask that the Committee on the Judiciary be discharged from the further consideration of the subject, and that the resolution be laid on the table.

This course was assented to by the House.

Mr. HOFFMAN submitted the following:

*Resolved*, That the Committee on Revolutionary Claims inquire into the expediency of making provision for carrying into effect the resolution of the Congress of the United States, of Saturday, Oct. 4, 1777, that the Governor and Council of New-York be directed to erect a

H. OF R.]

Case of Captured Africans.—Case of Marigny D'Auterive.

[JAN. 7, 1828.]

monument, at Continental expense, of the value of five hundred dollars, to the memory of the late Brigadier Herkimer, who commanded the militia of Tryon county, in the State of New-York, and was killed gallantly fighting in defence of the liberties of the State.

In submitting this resolution, Mr. HOFFMAN said, that he had offered this resolution in obedience to a duty which he owed to his own State, as well as to the memory of the deceased. If gentlemen examined the Journals of the Congress of the Revolution, they would find several different resolutions ordering monuments in commemoration of public services performed by the soldiers and patriots of that eventful day. A part of these monuments have been erected, and many gentlemen of this House have probably seen that which was voted to General Montgomery. Others, however, though ordered by Congress, had not been erected to this day. So far as the order in relation to General Herkimer was concerned, all Mr. H. now asked for, was simply an inquiry. He had at first intended to word his resolution in such a manner as to include all the other monuments which had been resolved upon, but not built. But, on reflection, he had concluded it better that the motion should proceed, if at all, from the Representatives of those States to which the deceased parties belonged. The duty of thus commemorating great and valuable public services, was a sacred one, and ought long since to have been performed. The question respecting a monument for General Herkimer had been referred to the Legislature of the State of New-York, but the duty certainly belonged to Congress, by whom it had been ordered, and it was desirable that it should be known as soon as possible, whether any thing would be done, in order that, if not, this act of patriotism might devolve, without delay, upon the Legislature of his own State.

The resolution was then agreed to.

#### CASE OF CAPTURED AFRICANS.

The bill from the Senate to authorize the cancelling of a bond therein mentioned, was twice read.

It having been moved that the bill be referred to a Committee of the Whole,

Mr. P. P. BARBOUR (Chairman of the Committee on the Judiciary) expressed his conviction that the reference was wholly unnecessary. The Committee on the Judiciary had had the subject matter of this bill already before them, and had reported a bill to the House, of which, he believed, this was a transcript, *totidem verbis*. The circumstances of the case he would state in a few words :

A vessel, called "the Antelope," had been captured by one of our own revenue officers, and brought into the port of Savannah, with a cargo of 140 African negroes. The vessel had been libelled, and claims had been set up on the part of certain Portuguese and Spaniards, for a portion of the slaves. One hundred of the negroes had been sent to Cape Mesurado, in Africa ; but 39 of them had been decreed to the Spanish claimants. The case had been some time before the Federal Courts of Georgia, and had been removed by appeal to the Supreme Court of the United States. It had been pending, in all, about eight years. During the whole of that time, these unfortunate creatures had been detained in the custody of the Marshal, and in this interval, many of them had been married, and become heads of families—had been partially domesticated with us, and were desirous of remaining in this country. The Spanish claimants, however, (who resided in Cuba,) sent an order to have the whole number transported to that Island ; but a Southern gentleman, [Mr. WILDE, of Georgia,] a member of this House, not now in his seat, in a spirit of pure benevolence, and from no motives, whatever, of interest or selfishness, had, from mere kindness, bought out the

Spanish claim, and paid all the expenses in the Courts, which were very heavy. By a regulation, however, of the Court in Georgia, he is bound to give a bond, to transport these negroes beyond the limits of the United States, and his prayer is, that the bond may be cancelled. The effect of granting it will be to leave these negroes and their children in the United States, instead of having them transported to Cuba, and he need submit no remarks to this House, either on the difference of treatment they would here experience from what they might expect there, or on the painful severity of breaking those near and tender ties which bind the husband to his wife, and the parent to his child. If the bond referred to were not cancelled, the transportation of the whole must inevitably take place. He presumed there could be but one feeling in the bosom of the House as to such an alternative, especially as the measure would be productive of no possible evil, while it went to mitigate that load, which, under any circumstances, must press but too heavily. He had, indeed, heard a suggestion whispered, that this bill was meant to cover the infamy of evading the law which prohibited the importation of slaves. Did he believe that it had the remotest possible connexion, he would be the last to countenance it on any other occasion, which went to increase the number of that unhappy population. But where there was no possible connexion with such a design, where the slave vessel had been captured by our own officer, and these unhappy people had been detained in the country in consequence of unforeseen litigation, and where a gentleman, in the pure kindness of his heart, had stepped forward, at an actual pecuniary sacrifice, to save them from being torn from each other, he could conceive of no reason why the House should refuse the request that this bill should go at once to its third reading.

Mr. MCCOY hereupon withdrew his motion to commit the bill.

Mr. TAYLOR moved that it be referred to the Committee on the Judiciary, in order that the facts now stated in conversation might officially re-appear in the form of a report.

Mr. BARBOUR opposed the reference as unnecessary, and the question being taken, it was negatived.

Mr. WRIGHT, of Ohio, said a few words on the importance of the question involved in the bill, and was proceeding farther, when

Mr. BARBOUR, disclaiming all desire of precipitation, and with a view to allow time for full inquiry, moved to lay the bill on the table.

#### CASE OF MARIGNY D'AUTERIVE.

The House then passed to the Orders of the Day, when the bill for the relief of Marigny D'Auterive was again taken up, and the House went into Committee of the Whole, Mr. CONYER in the Chair, on that bill—the amendment of Mr. LIVINGSTON being still under consideration.

Mr. J. C. CLARK, of New York, said, being a member of the committee who reported the bill under consideration, and having assented to the report, he would claim the indulgence of the committee for a few moments, while he assigned the reasons which induced him to sanction the report. I regret, said Mr. C., that it should have been thought proper by honorable gentlemen, at this time, and on this subject, to enter into a grave discussion of the question whether slaves are properly. I regret that a sense of duty should have compelled my honorable friends from the South to start a point which I had imagined had long since been settled ; and I still more regret that this debate furnishes an opportunity of getting up, with new dresses and machinery, and for stage effect, a second edition of a serio-comico play, entitled the "Missouri Plot." Is the ghost of the Missouri Question

JAN. 7, 1828.]

Case of Marigny D'Auterive.

[H. OF R.]

again to be marched, with solemn and terrific aspect, through these halls? Is it again to "shake its gory locks at us," and, pointing with one hand to the North, and with the other to the South, and gazing its blood-shot eye on slavery, written on the escutcheon of the Constitution, to proclaim, with unearthly voice, "out damned spot?" I had imagined that this subject had received its quietus; that it had gone to the "tomb of the Capulets," and that its epitaph had been written "*Requiescat in pace.*" Sir, is there any necessity, at this time, to disturb its repose? I think not. Sufficient for the day is the evil thereof. Some restless spirit—some future Catiline—appealing to the worst passions of his countrymen, will be found ready to "sound the trumpet, and wake its resurrection."

The honorable gentleman from Louisiana seemed to think, that, to deny the right of compensation in this case, would be to sap the foundations of the Constitution, and dissolve the Union. If such is to be the result, the subject should be approached with great caution, and discussed with temperance and moderation. I apprehend the gentleman is indebted more to his fancy than his judgment for his fearful forebodings, and that this question can be settled without doing violence to the Constitution, and, at the same time, preserve the just rights of the slave-holder. The gentleman from Alabama thought now was the proper time to settle the question. Sir, the question has long since been settled. If I understood the gentleman from South Carolina, he seemed to think that this House had no right or power to settle the question, and could not, so long as the Constitution, and confederacy under it, should exist. He did not mean, I presume, that the citizens of the South—that highminded, gallant, and patriotic people—would not submit to a decision of this House. He did not mean to be understood, I presume, that if, for the purpose of making a proper disposition of this amendment, it should be decided that a slave is not property, in the absolute, unqualified sense of the term, that then it would be high time, in the language of a learned Doctor of the South, to inquire of what benefit to us is our Union? He undoubtedly meant that the question had long since been decided by the Constitution, by the slave-holding States, and by the opinions of the first men of the South, and, therefore, it was not to be doubted: and in this, sir, I entirely agree. By the national compact, slaves, for certain purposes, are considered as persons, and, for certain purposes, as property. It is a fixed principle in the Constitution, that representation is based on numbers, and not on wealth. In the apportionment of the representation in Congress, amongst the several States, under the Constitution, this principle was maintained, by adding to the free white population three-fifths of all other "persons." What persons? So anxious were the venerable framers of the Constitution to avoid offence; so studious were they to treat a subject so full of embarrassment, with the utmost delicacy, that they cautiously omitted the word "slave." So, in the 9th section of the first article, they are called "persons." Would to God, sir, that the same tenderness of the feelings of others, and the same anxiety to avoid offence, were more the characteristics of more modern politicians. Then shall we hear no more of Southern nabobs and Southern negro-drivers—names used for the purpose of party excitement, and of arraying the passions and prejudices of one portion of our country against another. That slavery is an evil, there can be no difference of opinion. But the Constitution found us in the possession of slaves; it has recognized them as an effective portion of our population, and it is enough for us to know, so far as humanity is concerned, that they are better clothed and fed, and more happy, than they would be in a state of emancipation. Liberty to them, under their present inability to appreciate, and incapacity to

relish its enjoyments, would be a curse. No one who consults their happiness, or the good of the Republic, would wish to see them emancipated, and turned adrift on the community. The Constitution, then, for certain purposes, regards slaves as "persons," and, sir, for a very important purpose. It gives to them, or to their masters in their right, a portion of our national representation. But it will be said that this was the result of mutual compromise and concession. Yes, sir, it was; but it was a compromise based on equivalents, and one of those equivalents resulting from the principle and spirit of the Constitution, is the right of Government, when threatened with destruction, to use slaves for the purpose of national defence, and that, too, without being liable to be called on for indemnification.

Sir, the Constitution views slaves in the same light as did the slave-holding States at the time of its adoption. It has given no new character to these anomalous beings. The States had always considered them *sub modo* as persons. They were considered by the laws of the States as a species of animals, neither belonging to the moral or material world, but holding a middle station between both. The Constitution having thus found them, left them to be considered by the States as property of a peculiar character—property so far as their liberty and services were subject to the uncontrolled will of their master—property so far as they were the subjects of sale; but persons so far as the lives and limbs were protected from violation—so far as the right of trial, in some cases by Justices, and in others by a Jury, was concerned; and so far as they increased the national representation of the States owning them. The laws of Virginia, I think, secured to them these rights—rights which can only belong to persons, as members of the body politic, moral beings, and the subjects of punishment. In more modern times these rights have been enlarged. In Missouri they have the right, in all cases of imputed crime, that a Grand Jury should pass upon the case, to a trial by a Petit Jury, to the benefits of counsel, and are subject in most cases to the same punishment which would be inflicted on a white man for the same offence. The same statute which declares slaves to be personal property, likewise confers on them personal and political rights.

This, sir, is no new doctrine. At the time of the adoption of the Constitution, it was well understood. In the 54th number of the Federalist, we have from the pen of Mr. Madison, whose opinions on all subjects, and especially on this, are entitled to great respect, an exposition of the views of the people of the South, so far as he understood them. He says, "the slave is no less evidently regarded by law as a member of society, not as a part of the irrational creation; as a moral person, not a mere article of property. The Federal Constitution, therefore, decides, with great propriety, on the case of our slaves, when it views them in the mixed character of persons and property. This is, in fact, their true character."

Both humanity and religion sanctions this declaration, which declares that slaves are, in some respects, "persons." It is impossible, in this age, to form any idea of the absolute, direct, and unqualified dominion, as applicable to a human being. It is impossible to reconcile this sort of property with the fact, that they are possessed of personal rights. If they are property, in the unrestrained sense of the term, why do they not mingle with the common mass of matter, and be treated like the "brutes that perish?" Has the master the same kind of property in the slave that he has in his ox? No one will answer in the affirmative. This construction of the Constitution, and of laws of the slave-holding States, secures the latter in the undisturbed possession of the slave property, except in the extraordinary case of war, when the Government, threatened with annihilation, calls to its aid, for the purpose of self-preservation, all

H. OF R.]

*Case of Marigny D'Austerlie.*

[JAN. 7, 1828.]

its moral and physical force. Then it is that the Government has a right to call upon the slave-holding States for the equivalent for an increased representation in consequence of the slaves.

The gentleman from Louisiana has said, that no property could be rightfully impressed! This, sir, is a novel doctrine. Every writer, in treating of the rights of sovereignty, from the first to the last, tells you, that, when a nation is at war, struggling for existence, it has the right to avail itself of all its means, whether the subject is willing, or whether he is not. At such a time, it does not stop to enquire whether its population be bond or free, black or white; if they can use the bayonet, or point the musket, it is their duty to rally round the standard of their country, and, if necessary, sacrifice their lives in her preservation. And here there is no discretion. If it is the right of the Government to command, the subject is under a corresponding obligation to obey.

We have been also told, that no precedent can be set up against the Constitution. This is not disputed. But, practice and precedent are resorted to, with great propriety, to ascertain the views of enlightened politicians and statesmen; and, in some measure, to learn the prevailing sentiment of the age. Shall we reject the experience of past times, the opinions of the great and good, and continue forever in a state of political infancy? If, sir, there is no precedent to be found, from the earliest period of our history, where a slave has been paid for, under circumstances like the present, it is, to me, strong presumptive proof, that, in the opinion of the patriots of the Revolution, and the statesmen of after times, no such compensation ought to be allowed. The gentleman from Ohio has informed us, and, no doubt, truly informed us, that neither the war of our first or second independence furnish any precedents.

Legislation furnishes no instance of remuneration. The act of April 9th, 1816, authorized a compensation to be made to the owner of certain enumerated articles which had been impressed into the service, and had been damaged, captured, or destroyed, but is silent as to slaves. This could not have been an unintentional omission, as it must have been known that many cases like the present existed; and, as I am informed, notwithstanding the term property, in one section of the act, is used in its widest sense, no claim was presented to the commissioners under that act for allowance.

Why was it that Government claimed of Great Britain indemnity for the slaves captured and taken away during the late war? Was it on the ground that they were "property?" If so, Government has made an odious distinction between its citizens. On this principle, it should have claimed indemnity for property of every description, captured or destroyed. But no such claim has been set up. The principle on which our Government claimed pay for the slaves, and on which it was allowed by the British Government, must have been that they were persons, human beings, having some political rights, and, as such, should have been restored to their country on the return of peace.

From these considerations, sir, I am led to the conclusion, that slaves, for certain purposes, are persons; that their masters have in them only a qualified property; that Government, in cases of high necessity, growing out of a state of war, has a right to impress them into its military service, without the liability of being justly called on for indemnification.

It is idle declamation, sir, to talk of the black population of this country, disconnected from the political disabilities under which they labor. The philanthropist may inveigh against slavery. He may urge the consideration that they are of the same flesh and blood with ourselves, descended from a common ancestry, having like passions to gratify, and faculties to improve, accountable

to one common Creator, and destined to the same immortality. This would all be fine: but the politician must view them as they are, sunk to the lowest point of mental and political degradation, and wait with patience for the developments of futurity.

Mr. RANDOLPH, of Virginia, then rose, and said: My motive for throwing myself on the attention of the House—I (was indisposed, and necessarily absent when this question was last agitated)—my motive for throwing myself on the attention of the House, is earnestly to request—I could almost say adjure—but certainly respectfully and earnestly to ask, that no member of this House south of the Ohio, and west of the Mississippi, will debate this question—will deign—will condescend, to debate the point which has arisen—I mean, whether persons can or cannot be property; or will allow that the General Government can, at any time, under any circumstances, in any manner, touch that question. I certainly am obliged to my worthy colleague [Mr. P. P. BARBOUR] for some of his remarks; but I should have been full as much so if he had omitted them.

This is a question the United States Government has nothing to do with. It never had, and it never can have; for the moment it lays their unhallowed hands upon the ark of that question, it ceases to be a Government. We have been told by the gentleman from New York, that this question has been settled forty years since. Sir, it was settled two hundred years since. It has been settled from the day on which the first cargo of Africans was landed on these shores, under the colonial Government. What new distinction is this, about persons not being property—as if there were any incompatibility between the two? Sir, there is none: there never has been any. Property is the creation of the law. What the law makes property, that is property; and what it declares to be not property, that is not property. There is no other distinction. The question has been settled during the longest term of prescription, for more than half a century. It has been settled ever since these States first threw off their allegiance to the British Government.

I hope the gentleman from New York will pardon me. I thank him for much that he said, especially for the manner in which he spoke of his Southern brethren. The gentleman is an entire stranger to me. I certainly have every species of good feeling towards him. But I must take exception to one term he employed. He spoke of "our second war of independence." I object to this language, because I never can agree, either, that we were slaves before the first war, or that we were not independent when the second war was declared. But this is aside from the subject. I say that slaves are made property by the law; and you cannot unmake them so, any more than you can alter the British debt, or the tithes, or any thing which you choose to consider as an abuse in any foreign country. When gentlemen tell me that the Constitution is to protect us in that species of property, I answer, it is like the protection of the wolf to the lamb. We scorn it. We deny it. It is created property by our law, and our own State Governments are able to carry that law into execution. We do not ask the aid of any Government whatever.

The gentleman alluded, in one part of his speech, to the Missouri question. Sir, the Missouri question never has been settled. There was a spirit mingling in that question, which, as was once said by the gentleman from New Hampshire, [Mr. BARTLETT] was endeavoring "to buy golden opinions from all sorts of men." A poison was infused into the decision of that question. I never felt it to be any triumph, nor do I now.

Sir, let me ask the House, whether, under the laws of old Rome, a man who was a slave was any the less property, because, forsooth, he was a person? His being a person it was that made him subject to becoming pro-

JAN. 7, 1828.]

Case of Marigny D'Aulverie.

[H. OF R.]

perty, because his master had need of his services. I might ask, too, what is the situation of other Governments in relation to this subject; but I will not now pursue that inquiry. We were told something, I know not very well what, about humanity and benevolence, and religion. Sir, that has nothing to do with the question. We are not to depend on individual views of humanity and religion. It is upon the compact—*Ita lex scripta est*—that is what we have to depend upon. You may cant to the end of the chapter, about whether your religion is that of the Jew or the Gentile. Your religion cannot interfere in the question. God forbid that I should say that it cannot interfere with those who are the subjects of the question.

Suppose the framers of the Constitution, instead of using the terms which they have done in relation to slavery, (and I think it was with much more delicacy than policy that they introduced such a periphrasis as they have done) had omitted the subject altogether. Supposing the clause for continuing the slave trade for a limited time, was not there: how would you have got hold of any pretext whatever to bring the subject under your rule or jurisdiction.

Sir, humanity and religion are very good things in their proper places; but we have no right to make our humanity and our religion: the rule of other men's actions within the sphere of neither. I will put a case—and I hope I shall not be misunderstood; that I shall be judged by my words, and not by any gloss which may be put upon them here or elsewhere. I will put it for the sake of putting a case, and, that I may not be accused of libelling other States, I will suppose that my own State, the State of Virginia, had made the abuse of a slave not punishable at all, and that slaves were daily and cruelly and inhumanly murdered by the masters, (a thing as much within the range of probability as many statements I have heard,) what would be the remedy? Would it be found in this House? Can you punish murder committed on the other side of the Potomac? Your jurisdiction is confined to your own territory, district, forts, and dock yards. You may cry your eyes out with humanity, but you could not touch this matter. The thing is in its proper place: it is under the jurisdiction of men of as much learning and talent, and as much humanity and religion, as can any where be found, who, knowing the disease, know the remedy, and do not chuse to suffer quacks to "step in where Angels fear to tread." Again, Sir, we have been told that the representation of this description of persons in the Constitution of 1787, was a compromise. No, Sir, it was none. There was no compromise about it, further than the whole Constitution was a compromise. We wanted a representation for our whole population; but we were weak enough to agree, that one half of that population should be represented by only three-fifths of that half. Suppose, now, that this had been a regulation for the white population, and not for the black: how would that affect the question? It would not have touched the rights of the whites. A compromise, Sir! No; there was no compromise; and why not? Because, in 1787, there existed not a man in this continent, who dared so much as breathe a whisper of a right on the part of the General Government to touch the question at all: nor can they touch it now. This Government has no more to do with it than the Khan of Tartary. We are all Representatives of respectable, and some of us, of ancient and powerful Commonwealths; and our laws will, may, and must execute themselves. There may be agitators, and I know there is some real or affected agitation (I mean without the Southern States,) on the subject of slavery; and the effect of this agitation may be to make the slaves themselves more miserable, but that will be the sum total of its effect.

One word more, Sir, and I have done. Suppose that

the reasoning of the gentleman who has just spoken in opposition to that of the learned gentleman from Louisiana—for, in reference to his professional acquirements, no man better deserved the title, were true, then we must lose three-fifths and the English pay for only two-fifths of the value of the slaves carried away during the last war, because three-fifths of each man was person and two-fifths property! This reminds one of the judgment of Solomon, which we see depicted in the Tapestry, (and in that Book of which I ever desire to speak with respect) who ordered the child, disputed for by two mothers, to be equally divided between them; but his was a more practicable rule, it was a vertical cut from top to bottom. [Some members smiling at this allusion.] I did not intend, Sir, by this remark, to excite any merriment.

Permit me again to ask, before I sit down, that no man will deign ever to discuss this question. This is not "the accepted time." If ever that time does arrive, as I sincerely hope it never will, our business, sir, will not be here, but at home. Our business will be, to make our escape if we can, for this House will then be to us the den of Cacus. Our business, I repeat, will be, not here, but at home. And let me, on the other hand, remind those gentlemen who differ from me on this question, (and differ no doubt, as conscientiously from me as I do from them,) that it was just ten years from the first stirring of the question of the right of Great Britain to tax the colonies, until the spirit was got up which ended in a separation. It took ten years of goading to bring us to that point. Sir, the relation of the States to the General Government resembles, in some respects, another sort of union, more tender and more sacred in its character; yet even that will not bear continual provocation—even that near and strong relation, may be torn asunder, though there are pledges of their loves to bind the subjects of it together. He may be a very acute man—he may be a very learned man—and he may be in a train to become a very able man, but he is not a man of observation and experience, who does not see that a temper has been excited, and is exciting now on this subject, which it is not less the duty than the interest of every member of this House, in every possible mode, to allay. I know, and I speak "the words of truth and soberness" when I say, that I know that the reflecting part of our country will unite with me in this sentiment—even among those, who have conjured up all those chimeras on the subject of slavery, which we have so often seen pourtrayed both by pen and pencil. I cannot agree with the gentleman from New York, that the slaves are an unhappy race. They, no doubt, are causes of unhappiness to their owners, sometimes, and no doubt they are unhappy sometimes themselves: for who is exempt from unhappiness?

But I believe that, as a class, I have no hesitation in saying, that to the best of my knowledge and belief, they are much happier than their proprietors are now, loaded as these are with the effects of a system, which I will not now go into a discussion of, and with the cares, and wants, and difficulties, which this very population brings upon them.

In regard to the claim to be provided for, in the present bill, I had thought that the old maxim was applicable, *inter arma leges silent*. This slave was taken precisely in the same manner as the horses and the cart. A gentleman has asked if slaves are to be considered as oxen and cattle? Sir, no man of common refinement, or any humanity, ever regarded them in the same light as oxen. Yet, gentlemen should remember that even the ox and horse, though they be but brutes, have, nevertheless, their rights. Sir, I fear I have done, what I have often done before, but very seldom of late, and what I intend rarely to do again, trespassed already too long on the patience of the House.

II. OF R.]

*Case of Marigny D'Auterive.*

[JAN. 7, 1828.]

Mr. STORRS, of New York, said, he was sorry the honorable gentleman from Louisiana had introduced a question which was so extremely liable to be misunderstood. I cannot, said Mr. S., agree with that gentleman that, on the mere question of the adoption of this amendment, we are compelled to determine what is the precise nature of that property which a master has in his slave. But as the question on the amendment is a question of compensation, we must vote on it. Though representing a State which does not, at this time, contain any slave population, it is not my fault that this question has been presented. It has been brought in, as I think, unadvisedly: I could have wished the honorable gentleman had forbore to press it, lest some misconception might lead to a doubt of our maintaining that relation which the laws of some of the States have recognized, and which they sustain between a slave and his master.

I agree with the gentleman from Virginia, (Mr. RANDOLPH) that the Constitution has nothing to do with this matter. That instrument never fixed the nature of the relation of master and slave, nor of any other of our domestic relations, nor of the persons of the different States to each other. When, therefore, gentlemen criticise on the terms "person—population—persons held to service," &c. used in that instrument, they are, in my judgment, somewhat hypercritical. Those words were used, not for the purpose of definition, but out of delicacy, and as laying down a rule to be observed in taking the census of the United States. What is this relation of the slave to his master? And what are the qualities of that relation? I hold, sir, that the right of the master in his slave is a right to his service under all circumstances whatsoever, and also to the absolute unqualified control and custody of his person, so that it cannot be taken from him for purposes of service, nor his actions regulated by any power but his own, save only when the State lays its hand on him for the punishment of crime, and the preservation of the public peace. You may debate the abstract question as long as you will, and may discuss metaphysically what is the exact nature of the right; but, after all, the question is, what do the laws of the State declare in which the master and the slave reside? I have bestowed some little reflection upon the subject, and the only conclusion to which I can bring my mind, is that I have stated. On maintaining this control of the master, rests the security of a very large and important portion of this Union, and whoever interferes with the exercise of it, is guilty of a violation of the rights of all those who inhabit the States where this species of property is held. This Government cannot do this. It is a question not to be debated. No man, I mean no man of any sense and reflection, ever thought of maintaining, that I know of, that it was competent to the General Government to touch the question of right in the slightest degree.

What, then, is the case before us? An officer of the United States, in the use of what he was pleased to consider as his discretion, seized and impressed into the military service of the United States, a slave, belonging to a gentleman of Louisiana. That is, a mere military officer undertook to do what all branches of this Government united, are not able to do. Yet, we have been told by some gentlemen, that he had a right to make this impressment. What, sir—an officer, a mere creature of this Government, whose official existence can be swept away in a moment, has a right to do what this Government, with all its powers, may not so much as attempt? And now, he having done this—having assumed what he called his right to sever the bond between master and slave, and having made himself the judge how far he might carry this right of impressing whom he pleased, what are we asked to do? To adopt his act as our own—to make it an act of this Government, and, in conse-

quence of so adopting it, to indemnify the loser. On what principle, sir, can we possibly be held bound to indemnify, when the officer clearly transcended his duty? I disagree with my colleague, as to the power of impressment in cases of danger. An officer shall never touch my person and property, whenever he chuses to determine that State necessity warrants him to do so. No, sir; whenever he does this, he is a trespasser. And if the State does not give me a remedy against him, there is no longer such a thing as freedom in my country. Liberty is gone—it exists no longer. We have, indeed, indemnified the loser in some few cases, where the public necessity was so great, so high, so undeniable as to overstep all obligations of lower duty. But, then, we have indemnified for the act of our officers, in the character of trespassers—and we took into our own hands, to inquire whether any such necessity existed. But, once admit the right of a mere military officer, whose sole power is the parchment in his pocket, and the epaulette upon his shoulder, to seize and impress, whenever he may think proper, and you give to this creature of yours, authority over every slave holder in the Southern States—he may set them all at defiance—and I am asked to say, I will assume his acts. Sir, I am not prepared to do it. Yet I must do it if this amendment passes; for the principle, and the only principle on which we can grant compensation in this case, is, that we adopt the lawless act of impressment as the act of this Government, and pay for this slave under the pretence of state necessity; and what the officer is pleased to call the salvation of the country. Sir, I cannot even attempt to run out the consequences of establishing such a monstrous principle, and so vitally fatal to a large portion of the Union. If a General may do this, a Colonel may do it; if a Colonel, then a Captain; and if a Captain may, a Sergeant, and so may every subaltern, down to the lowest cotton tassel in the camp. And if an officer from the Southern States may do it, so may an officer from the Northern States. Sir, if these doctrines are sanctioned, it shall be done without my consent. It is a dangerous doctrine. Admit it for a moment, and you strike a blow at the security of the whole slave population of the Southern States. It is the same case in principle as to allow the impressment of an infant, apprentice, or servant, in the Northern States. If there is any reason in it, then every officer of the United States may, at pleasure, (or in circumstances of which he is to be the sole judge) sever the bond which unites master and servant, which binds together parent and child. He may enter our dwelling, drag our children from the fireside, and, regardless of his father's will, or his mother's cries and tears, force him to the camp—and, when there, put him under martial law. He may do this—and when he has done it, we, forsooth, are to volunteer him an indemnity, to step in his place, and assume these deeds as acts of the Government. Sir, you never provided for such a case—yet you authorized our apprentices to be enlisted, without the consent of their masters, and our children, without the consent of their parents. You allowed this tie to be severed—(though the right of a father over the person of his child is as perfect as that of any master over his servant, and far more tender, though I grant that the ties of master and slave may sometimes be of a tender kind)—but you never thought of granting them compensation. You are asked to make it in a case by no means so strong. You are asked to do that for one section of the Union, which you never thought of doing for the other. Adopt this principle of impressment, and you sanction what may, at some future day, lead to consequences, in one part of this Union, I will not speak of, nay, which I will not permit myself even to think upon. The report of the Committee of Claims avoided meddling with this question.



JAN. 8, 1828.]

Indian Governments.

[H. OF R.]

The honorable gentleman from Louisiana was, in my opinion, rather hypercritical in his examination and construction of that report—all that the committee said, was, that slaves were never considered as that species of property, which was to be paid for by the existing laws of the Government. This was a mere statement of the fact—it touched not the abstract question at all; and, as to the warmth of discussion, which has been drawn out by the gentleman from Louisiana, I must be permitted to say, that, in my judgment, the play is not worth the candle. I think it would be far more advisable to reject a claim which is extremely doubtful in its character, to say the least of it and let the question rest till you are compelled to meet it in some other form, and under some more imperious necessity.

Mr. DRAYTON, of South Carolina, here commenced a speech on the subject, which he concluded on the 10th, in which date his remarks will be found.

On motion of Mr. DORSEY, of Md. the hour being late, Mr. D. gave way for a motion for the Committee to rise.

TUESDAY, JANUARY 8, 1828.

## INDIAN GOVERNMENTS.

On motion of Mr. FORT, of Georgia,

The House proceeded to the consideration of the following resolution, introduced by him on the 4th instant, and, from the consideration of which, the Committee on the Judiciary was discharged yesterday:

*Resolved*, That the Committee on the Judiciary be instructed to enquire if any of the Indian tribes within the territorial jurisdiction of any of the States, have organized an Independent Government, with a view to a permanent location in said States; and, if they find that any attempt of the kind has been made, to enquire into the expediency of reporting to this House such measures as they may deem necessary to arrest such permanent location."

Mr. FORT said a few words in support of the resolution, and stated that this reference of the subject had been advised by the Committee on the Judiciary.

Mr. CONDUCT said he had no other objection to the resolution's taking the course proposed, than this: that it would be taking from one of the standing committees of the House business which appropriately belonged to that committee. If the Committee on Indian Affairs was indeed so much burdened with business as not to be able to attend to the present resolution, then he should have no objection to its going to a select committee; but, as he did not know this to be the case, he would move to amend the resolution, by striking out the words "a select committee," and inserting "the Committee on Indian Affairs."

Mr. FORT was opposed to this amendment, on the ground that the Committee on Indian Affairs had already reported on a subject closely analogous to that contained in this resolution; and to require them to report on this resolution, also, would only be asking them to go over ground which they had already trodden. He was unable to say on what ground it was that the Committee on the Judiciary had advised the reference of the subject to a select committee; but, for himself, he conceived that the subject of the resolution being one of great import, and, as he conceived, entirely novel in its character, he thought that a new committee might, with propriety, be raised upon it. He felt not the slightest doubt of the ability or the good disposition of the Committee on Indian Affairs: and should the House order the resolution to take that course, he was prepared, with cheerfulness, to acquiesce; but he would prefer its going to a select committee.

Mr. McLEAN (Chairman of the Committee on Indian Affairs) stated, that that committee was greatly burdened with business already referred to it, and would be unable to bestow on this subject that degree of time and attention which its importance well deserved. He hoped, therefore, that it might be assigned to a select committee.

Mr. LUMPKIN expressed his hope that the course recommended by the Committee on the Judiciary would prevail, and that the resolution would go to a select committee. He had no doubt, that, if the House were once fully in possession of the case which had given rise to the resolution, not a gentleman on the floor would deny that it was a case which called for their most serious deliberation. It was known to many who heard him, that the Cherokee tribe of Indians, whose residence extended into several States of this Union, have recently formed for themselves a written Constitution of Government, under which, should it be carried into operation, there was the strongest probability that collisions would speedily arise with the several State Governments within whose limits that tribe is at present located. And it was his conviction, that, before any of these evil results had time to take place, the General Government ought to interfere promptly and efficiently to prevent them.

The question on the amendment for striking out "a select committee," and inserting "the Committee on Indian Affairs," being put, it was carried in the affirmative—ayes 79, noes 60: and the question recurring on the resolution as amended—

Mr. BARTLETT proposed farther to amend the resolution by striking out the words "to arrest such permanent location."

Mr. HAYNES said, that he thought that the member from New Hampshire had misapprehended the import of the clause which he desired to erase. The resolution did not, in any manner, conclude the House as expressing any opinion; that the permanent location of the Cherokees ought to be arrested. The clause, like every other part of the resolution, was submitted to the committee, as a matter of enquiry merely, and he hoped that, on this ground, it would be permitted to stand.

Mr. LUMPKIN agreed with his colleague in the view he had just expressed. The House, at an early day, had been in possession of an indirect expression of the opinion of the General Government on this subject. It would be found in the report of Mr. McKenney, the Indian Agent, which accompanied a message of the President of the United States to this House. It was the decided opinion of that officer, that the farther progress of the Cherokees towards a permanent location within the States, should be promptly put a stop to. And was the House now going to forbid even an enquiry in relation to a matter so important? He trusted not. He trusted the resolution would be permitted to stand in its present form.

Mr. WILLIAMS said, he should like to hear what the exact nature of the government was, which these Indians were desirous of establishing. When they were governed as formerly, by Chiefs and Kings, nothing was said about this Government's interfering with them—but as soon as they seem about to set up for themselves a Republican form of Government, we are asked to interfere with promptitude and effect. What right had the General Government to interfere with the arrangements of these Indians now, any more than when they were under their old form of government?

Mr. FORT spoke in reply, and said, if he had rightly heard what fell from the gentleman from North Carolina, he had enquired whether this Government had ever stated to these Indians that it had a right to interfere with and control them. The Government certainly



H. of R.]

Indian Governments.

[JAN. 8, 1828.]

ly have made this statement. The very first principle inculcated by us upon the Indian tribes within our limits, had been, that they were tributary and dependent, and under the defence and patronage of the Government of the United States. The question how far this Government has a right to interfere with these People, was, he thought, a very plain one.

Mr. F. was about to proceed, when the SPEAKER interfered, by stating, that it was not in order, on a question of amendment, to discuss the general merits of a resolution.

Mr. BARTLETT said, that the reason he had desired to have the clause stricken out, was not that he wished either to affirm or deny the right of the Government to arrest the location of these Indians, but that this House might not be understood as at present expressing any opinion on the subject.

Mr. THOMPSON, of Georgia, rose to order, and suggested, that the resolution having been referred to the Committee on Indian Affairs, was *ipso facto* in the custody of that committee.

The SPEAKER decided to the contrary. The question had been taken only on an amendment, and that amendment having been adopted, another was now proposed.

Mr. HOFFMAN, of New York, hoped that the amendment of Mr. BARTLETT would not prevail; not that he had any difficulty as to the propriety of arresting the permanent settlement of these tribes, but because he wished that the committee should be authorized to enquire, and report on that subject—especially when it was considered that a part of these Indians resided within the limits of the State of Georgia; a State to whom we are bound, by compact, that we will extinguish, as soon as practicable, all Indian titles within her limits. He hoped the resolution would go, in its present form, to the committee; that a full enquiry might be had, and a report made, both on the propriety of arresting their permanent location, and also on the best means of effecting that measure.

Mr. WOODS, of Ohio, hoped the amendment would prevail. He should not, however, have felt so much solicitude on the subject, but for the course of the remarks which had just been made by the gentleman from New York. He was apprehensive, should the last clause of the resolution not be stricken out, that, taking its language in connexion with the observations which had been made upon it, the Committee on Indian Affairs might be led to understand it as the sense of this House, that their business is merely to report a plan for the removal of these Indians, or at least for arresting their permanent location among us. Now it was well known that there exists a difference of opinion in this House, in relation to the policy to be pursued towards these People; and there were some who had the opinion that this Government, instead of arresting, was bound rather to encourage their location, and even to give them a permanent right to the soil. He wished, therefore, to have this point left open, that the committee might not be directed to one side of the question only, but might feel themselves required to examine equally the propriety or impropriety of such a measure.

Mr. GILMER said, that he should have made no remark upon the amendment, but for the language employed by the gentleman from Ohio, who had just taken his seat. He had supposed, that the object of the resolution had reference to the Cherokees alone; but he had seen, from the remarks of that gentleman, that it was held by some a matter of importance that the Government should take means to vest in the Indian tribes a permanent right in the soil.

Mr. G. said he could not permit an opinion like this to pass without remark, in as far as it referred to the State

of Georgia. He hoped this House would never set one of its committees to enquire whether the General Government has any control over the soil of one of the original States of the Union. The right of the State of Georgia, over her own soil, was not like that possessed by one of the new States. If any jurisdiction whatever belonged to an original State, it was jurisdiction over her own soil. Georgia has the full right of legislation on this subject. All that the General Government can do, in preference to the State Legislature, is, that possessing by the Constitution the right of making treaties, (and our agreements with the Indian tribes being construed to be treaties within the meaning of that instrument,) it possesses more power to remove the difficulties and obstacles to the extinguishment of the Indian title, than the State of Georgia herself has. He could not, however, admit for a moment, that she could yield in the smallest degree her right over the soil. So soon as she does this, she ceases to be a sovereign and independent State.

[The SPEAKER here interfered, and said that the observations of the gentleman from Georgia had taken too wide a scope for the question actually before the House.]

Mr. GILMER said, that his remarks had only been made in reply to those which fell from the gentleman from Ohio. For himself, he did not know that there was any great importance in retaining the clause which was now sought to be stricken out. He understood it to be the avowed object of the Committee on Indian Affairs to carry into effect a plan for the removal of all the Indians remaining within the limits of any of the States. If that were so, this clause must be unimportant. But if, on the contrary, the United States are about to adopt the policy of aiding the Indians, in making for themselves a Government, that it may the more attach them to the soil, then it was certainly important to enquire, whether the permanent location of those, at least, within the limits of Georgia, ought not to be speedily arrested.

A gentleman from North Carolina [Mr. WILLIAMS] has asked why Congress should arrest them in making a constitution for themselves, and what right we have to interfere? It might be said, in answer, that this Government claims, and has always claimed, a right to control them. If, however, the formation of a constitution is at all necessary to the happiness of the Indians, he would not arrest their proceeding. Let them, in that respect, pursue whatever course they may judge most for their good. The Government has never interfered in their manner of ruling themselves. But if it shall appear that the forming of a constitution was necessarily connected with the result of fixing them to the soil, then doubtless the enquiry in the resolution was highly expedient. In his judgment, Mr. G. said, that no such result necessarily followed. He did not believe the Indians would be any more attached to the soil after they had gotten a constitution, than they were before, and he therefore felt very indifferent whether the amendment was adopted or rejected.

Mr. LUMPKIN said, that, from what had just fallen from his colleague, he perceived that that gentleman did not attach the same importance to this subject which he did. His own chief inducement for supporting the resolution, had been, that he might, if possible, be spared the painful spectacle of seeing the State authorities take this matter into their own hands. He sought to prevent the occurrence of any thing like collision between the States and the General Government. He trusted, therefore, that the resolution would go to the committee as it now stood.

The question was then taken on Mr. BARTLETT's amendment, viz: to strike out the words "to arrest such

JAN. 8, 1828.]

Historical Paintings.

[H. or R.]

permanent location," and decided in the negative, yeas 60, noes 76.

The resolution was then adopted.

#### BATTLE OF NEW ORLEANS.

Mr. HAMILTON moved the following resolution :

*Resolved*, That the Committee on the Library be instructed to inquire into the expediency of having an historical picture of the Battle of New Orleans painted, and placed in one of the pannels of the Rotundo. And that they further inquire into the expediency of engaging Washington Allston to design and finish the work, and, if expedient in both contingencies, to ascertain whether, and on what terms, he can be so engaged.

Mr. HAMILTON said, that, in the resolution which he had just submitted, he felt himself sustained by the authority of a very judicious report of the Committee of the Library, which was made during the last session. He would take the liberty of reading an extract from the report to which he referred, an application of which he would endeavor to make to the subject comprehended in the resolution. This committee very justly remark, "that it is desirable that the pannels of the Rotundo shall be filled with the productions not merely of respectable artists, but of the very best the country has produced," and further, that, whenever, "in the opinion of Congress, the time shall have arrived to complete the decorations of the great Hall of the Capitol, the committee are of opinion, that a highly proper course would be to engage such artist or artists as Congress should deem competent to the work, to execute it for an honorable compensation, under proper directions as to the choice of subjects."

To the good sense and good taste of these reflections, Mr. H. said, he could add nothing. All that he would ask of the House, on this occasion, was, to permit those whose opinions were so just and discriminating on this topic, to inquire, "whether he had suggested a proper subject," and "not merely a respectable artist, for its execution, but the very best the country has produced."

It was not necessary, nor could it be expected at this time, that he should vindicate the policy which had dictated an embellishment of this National building with a representation of some of the most cherished events which adorn our history. The policy itself springs from a sentiment which may well be called instinctive in the human breast. Its elements are to be found even in the impulse which leads the savage to construct those rude memorials by which he attempts to tell of an age and warriors that have been. But the sentiment becomes irresistibly powerful, and of great moral efficacy, when it summons to its aid the delightful art of painting, which is the result of the highest condition of civilization, and whose lessons are inculcated by a universal language, and is understood by all the children of men, however divided by divers and conflicting tongues.

Whether the victory of the 8th of January was an event which, delineated by the hand of genius, might be applicable to some one of the purposes to which the great moral of this art is subservient, was precisely the question which he wished the intelligent committee to whom the inquiry would be referred, to decide. He trusted he might be permitted to say, that, as we had a representation of the surrender at York Town, by which our first war was closed, there would be a peculiar fitness in placing by its side a delineation of that achievement which so brilliantly closed our second contest.

Without professing to be a connoisseur in the art, would those who were, pardon him for saying, that he could scarcely conceive a finer subject for the canvass, than the objects which would animate, and the scenery which would adorn this picture?

The defence of New Orleans forms a beautiful *chef d'œuvre* in the science of war. It was characterized by circumstances which would enable the painter to place in high relief the heroic steadiness and gallant devotion of our warriors, and to exhibit, in gorgeous array, the embattled hosts of our enemy, who rushed on like a torrent, in daring and dauntless valor, regardless of their fate. Nor would the chivalry of our country be content in assigning an obscure or a disparaging spot in such a picture, to the pathetic fate of the British Commander, who poured out the willing streams of his life blood in obedience to the mandate of his Country. No; "our countrymen war not with the dead." The ashes of a man who thus falls are thrice consecrated by the blessings of the generous, the feeling, and the brave.

Let me add, that the scenery of this picture will be associated with some of our most interesting recollections. It will be placed on that Delta of Egyptian fertility and tropical magnificence, through which the Mighty Father of our Western waters is pouring the tribute of his thousand streams, in his almost finished journey to the ocean. On that Delta, which belongs to that glorious realm, the first possession of which we owe to him, who now sleeps in peace, "by all his country's wishes blest," and the last, to him "who has filled the measure of her glory."

Mr. H. said, he should have felt great delicacy in designating Mr. Allston, if, by universal consent, he was not considered one of the first, if not the very first "living artist our country has produced," by which an important requirement of the committee would be at once fulfilled. Indeed, the profound genius, and unrivalled execution of this gentleman was so well admitted, that he had heard, on the best authority, that one of the most enlightened and discriminating critics of Europe had declared, "that, if there was a man living who was capable of lighting up anew the glories of the Augustan age of painting, that man was Washington Allston." It may not be known to all who heard him, that this gentleman, after passing fifteen years of his life abroad, in studying the remains of ancient, and the acquisitions of modern art, is now engaged, under the patronage of a city (Boston) no less distinguished for its refinement and taste, than by its literature and science, in giving the last touches to an historical picture, (the labor of ten years) which is probably destined to form a new era in the arts, and to confer a renown on that country which has neglected to cultivate them.

If you want this man, you must seek him. To the pride of genius, he adds a thriftless disregard of money: for he knows, as it has been beautifully said on another subject and occasion, that the real price of the productions of his pencil, "is immortality, and that posterity will pay it."

I hope, sir, I shall be pardoned for a suggestion, somewhat selfish in its origin, but surely not deserving of a severe reprobation. Gen. Jackson and Mr. Allston are both natives of the State of South Carolina, and there would be a happy congruity in the fact, that the conduct and valor of the one should be illustrated by the genius and taste of the other.

Mr. H. said, in conclusion, that he felt entire gratification in confiding his resolution to the judgment and patriotism of his honorable friend from Massachusetts, (Mr. EVANS) who was well acquainted with the merits of the great artist to whom he had referred, and that of the gentlemen associated with him on the committee, and he would barely repeat that he was content that they should determine, as preliminary to the decision of the House, "whether the period had arrived for completing the decorations of the great Hall of the Capitol," and whether he had designated "a judicious choice of a subject, and a competent artist."

H. OF R.]

*Historical Paintings.*

[JAN. 8, 1828.]

Mr. INGERSOLL said, that he should not have risen, had not the resolution, moved by the honorable gentleman from South Carolina, designated the name of the artist to be employed. When it was recollected that Mr. Trumbull, the gentleman who had executed the paintings, now in the Rotundo, was a native of the State which he represented on that floor, he trusted his honorable friend would excuse him if he ventured to suggest, that no course ought to be pursued, in this stage of the business, which went to exclude the employment of that venerable and patriotic individual in executing any paintings which might be ordered. If the artist, to which the gentleman had alluded, was a native of the same State with the hero of our second war, the artist he himself had named, had been an actor in his own person in the war of the Revolution. He had been a prisoner, and had suffered severely in that contest; and he must be permitted to say that great injustice had been done him, from the manner in which his paintings had at first been displayed. They were placed in a small and obscure room, beneath our feet, and the artist had had the mortification to know that the most unkind and unfeeling strictures had there been passed upon them, in consequence of this, their disadvantageous location. His fame had suffered; his feelings had suffered; and all his friends who knew the circumstances, had suffered with him. It was with pride and pleasure, Mr. I. said, that he had witnessed their removal to a situation more worthy of their excellence, and he (Mr. I.) had witnessed the tears of joy glistening in his venerable eyes, under the consciousness, that, at last, justice had been done him. Mr. I. said, that he admitted, very willingly, the high merit of Mr. Allston, but, if Congress should conclude, in this matter, to depart from the class of our Revolutionary worthies, there were other native artists, besides Mr. Allston, who would desire not to be precluded from a chance of employment. He therefore moved the following amendment: to strike out the name of "Washington Allston," and to insert the words "some suitable artist."

Mr. HAMILTON said, that he had risen principally to indicate his acquiescence in the amendment proposed by the honorable gentleman from Connecticut. He desired, also, to exempt himself from all idea of the slightest disrespect towards the venerable gentleman so feelingly referred to in the remarks just submitted; and certainly, if the resolution he had had the honor to move, proposed the commemoration of any of the events of our Revolutionary war, that gentleman, both from his services and from his opportunities of observation, would have a special claim to be preferred. But the subject proposed by the resolution was, in a great measure, out of his sphere. The execution of it would require a comparatively youthful artist. As it would be necessary that the spot should be visited where that ever-memorable engagement took place, he would have to endure much personal inconvenience and fatigue. It would not, he was sure, be pretended by the honorable gentleman from Connecticut, that his friend had not participated pretty largely in the patronage of the Government, so far as the subject of our national paintings was concerned. He willingly adopted, however, the amendment which had been proposed, and he did so the more willingly, because he felt satisfied that, the more the sphere of competition was enlarged, the more beneficial it would prove to the reputation of Mr. Allston.

Mr. DWIGHT said, that, while he did not refuse to do homage to the great and acknowledged merit of Mr. Allston, he wished to suggest a further amendment of the resolution, which was, that it might be made to embrace the battles of Bunker Hill, Monmouth, Princeton, and the attack on Quebec.

Mr. KREMER said, that he entirely agreed that it was

proper such a painting should be executed, and that the illustrious glory which had been achieved in the most brilliant victory of modern times, ought to be handed down to posterity. Such deeds ought to be kept fresh in the recollection of all generations, and he thought that it could not be put in a better place than in the Rotundo of this building. But, in order that this painting may be justly judged of, (since all our judgments were founded on comparison, and what could we judge of but what we know? and how could we judge of what was unknown but from what was known?) he would move a small amendment. When this victory was achieved, which rendered our country so glorious in the eyes of all nations, it excited both pride and wonder; and he wished he could stop there. But he must say it created envy too. Now, in order that posterity might have a fair opportunity of judging of that transaction, he would suggest that another painting be placed along side of the victory of New Orleans, representing the meeting of the Hartford Convention, which was in full session at the same time. He therefore moved to amend the amendment, by adding, "and also the meeting of the Hartford Convention."

Mr. EVERETT, Chairman of the Library Committee, said that he should not have risen to speak on the resolution or amendment, had not the gentleman from South Carolina done him the honor to refer to the report which he had submitted to the House from the Library Committee, during the last session, and which recommended a course to be pursued on this subject. In every thing of commendation which that gentleman had advanced in relation to the artist proposed by him to be employed, Mr. E. said that he heartily concurred; and he had been prepared to pass the resolution, which in itself was the most distinguished compliment that could have been paid to that eminent artist and excellent man. He concurred, too, in all the commendations which had been bestowed upon the great event which was intended to form the subject of the painting; nor was the present the first time that he had attempted on this floor to add his tribute to that which had been so liberally paid by this whole people to the great man who had achieved that victory. But he thought it would be convenient if the terms of the resolution were enlarged, and this idea had in part been suggested by the remarks of the gentleman himself, who had said, that, as the victory of Yorktown, which closed the war of independence, had been made the subject of one of our National paintings, there was a peculiar fitness that the victory of New Orleans, which gave lustre to the close of our second war, should be made the subject of another. This went to show the expediency of enlarging the terms of the resolution, and he should be glad if the honorable mover would make it general, extending its provisions to filling the empty pannels of the Rotundo with appropriate paintings. [The remarks of Mr. EVERETT were imperfectly heard by the reporter, who apprehends that they have been as imperfectly reported.]

Mr. STORRS said, that he had often thought that our Naval victories were entitled to some notice, as well as the military exploits of the Army, and that Congress could not better occupy some of the vacant pannels in the Rotundo, than by filling them with commemorations of some of those chivalrous triumphs of the Navy that had conferred so much honor and glory on the country. He hoped that the Navy would not be altogether forgotten, and that the House would agree to adopt an amendment that he should offer to the proposition of his friend from Massachusetts. Mr. S. then moved to add the following words, viz: "or such of the victories achieved by the Navy of the United States, as in their opinion should be selected for such national commemoration." [Here the debate closed for this day.]

JAN. 9, 1828.]

Historical Paintings.

[H. of R.]

WEDNESDAY, JANUARY 9, 1828.

## HISTORICAL PAINTINGS.

The resolution yesterday moved by Mr. HAMILTON, together with the several amendments, having been again read, and the question being on the amendment of Mr. STORRS—

Mr. HAMILTON, of South Carolina, said, that, after the indulgent attention with which he had been honored by the House yesterday, he felt great reluctance in trespassing again upon that indulgence; but he felt satisfied that the resolution which he had submitted, which was one merely of inquiry, was, nevertheless, in danger. He certainly had not expected that gentlemen would have embarrassed its passage by amendments which were calculated to defeat it. There were two modes of legislative hostility, which might be put prominently. The first an open and undisguised opposition, by which the issue was met and combated singly; and the second, an opposition by suffocation, by which strangulation was produced by amendments, and by which a measure was not defeated on its own merits, but broken down by the weight which was ungenerously put upon its back. Now, sir, why will not the gentlemen offer their amendments as separate resolutions of inquiry? I, certainly, in such a shape, will cheerfully vote for them, as I am desirous that the committee should not only select the most competent artists, but the most appropriate subjects also; and that from the widest sphere of selection. Will they pardon me for saying that I conceive the compliments to the several subjects they propose, would be much more decisive by introducing them separately, than by merely appending them to a previous and original proposition. There is surely too much merit in the battles of Bunker's Hill, Monmouth, and Princeton, and in our naval engagements, to require that they should be assisted by the vote which this House might be disposed to give separately, on the propriety of a delineation of the battle of New Orleans.

[Here the CHAIR informed Mr. HAMILTON that the question was upon the amendment offered by the gentleman from New York, (Mr. STORRS) as to the naval victories, and to that his remarks were to be made.]

Sir, continued Mr. H., nothing could be more delightful to my feelings than to vote separately and distinctly for a representation of most of the latter events. The naval engagements of the late war, many of them, would be particularly rich in that dramatic effect which is one of the finest provinces of painting. And I hope the day is not distant, and the day shall not be distant, if my humble efforts can in any measure contribute to it, when these walls shall be decorated by a delineation, by a first-rate artist, of the battle of Lake Erie, which is as proud a subject for the canvass as it was for national exultation when it occurred. God knows, sir, there is not a man in this House would feel more delighted than myself, however mournful the associations, in seeing reflected back into life, as it were, amidst the delusions of the canvass, the manly form, and the heroic achievement which graced it, of our lamented Perry, although a sad reality tells us that death has shrouded him forever from our view.

Let me, however, request the gentlemen who have proposed these amendments, and who profess to be entirely friendly to the original proposition, and which profession I do not desire to impeach, not to embarrass it, by which even the meritorious objects they have in view are essentially endangered. It is a wise rule which dictates that we should not ask for too much at a time; for generosity, as a distinguished British satirist has pointedly said, like patience, is a very good virtue, but is apt to be tired by too much exercise.

If, however, gentlemen persist in their amendments, then I hope the friends of the original resolution will stick by it, as the man whom they desire to honor by its

passage, did to his country in the hour of her utmost need; and after we have carried it, let us, with a comity with which I hope we shall always treat our opponents, and with that justice which is due to the subjects they propose, vote for them as separate and distinct propositions.

Mr. BARNEY, of Maryland, said he was apprehensive that the train of argument adopted by the gentleman from South Carolina, was calculated to embarrass his friends, who, approving of, were disposed to sustain his proposition. The amendment offered by the honorable member from New York, [Mr. STORRS] proposed to commemorate one of the splendid achievements of our gallant Navy, in which he earnestly desired to co-operate. Surely the time has arrived, when it becomes us to express the deep-toned gratitude which the nation had long since awarded to the glorious exploits of this arm of our national defence. He felt no preference whether the action on Lake Erie should be selected, or the capture of the *Guerriere* by the Constitution, which was the first in a series of victories that snatched the trident of Neptune from the haughty mistress of the ocean, and taught her the severest lesson she had ever received in the school of humiliation. Two of the pannels in the Rotundo were appropriately assigned to paintings emblematical of our successes on land, and he was willing to sustain the proposition before the House, to devote a third to a similar purpose; but, at the same time, desired to consecrate one niche in this temple of fame to perpetuating the glory of a Navy on whose banner victory had so often perched, while the annals of history did not record a single instance wherein the fair fame of her country was tarnished by ignoble flight or inglorious surrender: for, wherever her flag had been struck, it was not until the elements of resistance were exhausted, and scarce force enough left to haul it down.

What have been the legislative honors awarded to our gallant Naval officers, for a long life of service? Hailed by a grateful nation, with one loud acclaim, as the benefactors of their country, not even the honorary stimulus of brevet rank has been assigned to them. Beyond the grade of captain they are not permitted to aspire. Mere centurions—nay, not so much, for, in former times, a centurion commanded one hundred men; whereas, the grade of captain in our army extends to scarce half that number—and this is the extent of their promotion. In an army numerically less than the existing forces employed on the ocean, we find major generals, brigadier generals, commissary generals, quartermaster generals, adjutant generals, and inspector generals; all of which Mr. B. approved of in its organization, as having contributed to give it its present efficient character, and to promote economy in its disbursements. But, in his judgment, correspondent rank ought to be extended to the other branch of our national protection and defence, now employing six thousand men, and requiring more than twenty thousand whenever the whole naval force should be called into service. He must confess his sensibilities were excited by the flagrant injustice under which a gallant corps had so long suffered, and he fondly hoped that his friend from South Carolina would be willing that the compliment designed to be paid to the hero of Orleans, should be rendered more illustrious by associating with it some one of our naval triumphs, and that this tribute of admiration and applause would proceed *pari passu* with each other, and be handed down to posterity together.

Mr. STORRS said that he should not refuse, at a proper time, and on what he deemed to be a fit occasion, to express by resolution, or otherwise, the high sense he entertained of the honor acquired by the country, by the event of the battle of New Orleans, as a military exploit. He would always, he trusted, be so far just to himself as an American, and one of the representatives of the country here, as to admit that it was entitled to a distinguish-

H. OF R.]

*Historical Paintings.*

[JAN. 9, 1828.]

ed place among the subjects which we propose to commemorate in the embellishments of the Rotundo. He had no wish to embarrass any proposition that he thought contributed solely to that purpose. But, while he admitted this, he felt bound, in justice to others, to say that he had never thought, that, among all the chivalrous exploits which had advanced the glory of the American character, and with reference to its consequences especially, the battle of New Orleans was entitled to the exclusive honors that we proposed to confer upon it. He thought that the resolution, as it was introduced by the honorable gentleman from South Carolina, might lead to great misconception. The naval victories of Lake Erie and Lake Champlain, he believed to be deserving, in every respect in which they could be considered, of as distinguished honor from Congress, as the victory achieved at New Orleans by Major General Jackson, and our brave and patriotic countrymen under his command. While the one saved New Orleans, and protected the Southwestern portion of the Union, the others gave security to the Northwestern States, the Western and Northern frontiers of New York and Vermont. Mr. S. said that he had no wish to draw any invidious comparisons between the battle of New Orleans and these triumphs of the Navy, or many of our Revolutionary battles that equally deserved the national commemoration; and it was for this reason, too, that he wished to divest the resolution of a feature that rendered it objectionable in that respect, and which would easily lead to great misconception. He should most cheerfully unite with the gentleman in giving to the battle of Orleans a prominent place in the Rotundo, but he thought it would lead to injurious criticism if we refused, at the same time, to confer the honors of the country on the splendid achievements of the Navy. We were the more liable to be misunderstood, from the existence of other circumstances, which it was unnecessary to bring into the question, but which were sufficiently obvious without any very particular reference to them. These were adventitious mercy, and the subject should be treated as purely national. The moral value, too, of any vote that we might pass, would derive all its real worth from the spirit of nationality with which we treated the question. It is not a thing, said Mr. S., of the present hour, only, that we are about to pass upon, and he thought that, since the subject had been introduced before the House, a very fit opportunity was presented of expressing our sense of the gratitude that the nation owes to the Navy. We have, heretofore, been anxious to perpetuate the remembrance of the triumphs of our armies only, and our seamen seem to have been, in some measure, overlooked. Equal justice to all, requires of us that we now remember our moral obligations to the Navy also. I shall vote for the resolution if the amendment is agreed to; but I owe it to myself, at the same time, candidly to say, that, if it is rejected, I consider the real worth of the original proposition so much impaired, and so extremely liable to invidious misconception, or real misunderstanding, that I cannot give it my vote.

Mr. DRAYTON said, that he honored our Navy as much, he believed, as the gentleman from New York could do, and was ready to go as far as any gentleman on this floor in assigning to its achievements the meed of honor and renown, so far at least as the efforts of so humble an individual were of any avail. And it was precisely because he did honor the Navy, that he was strongly averse to the adoption of the amendment; and he was persuaded that the officers of the Navy themselves would not esteem themselves very highly honored if the commemoration of their deeds should be brought in under such an amendment. When the object in view is to commemorate with honor, heroic actions, performed in the public service, whether on land or wave, let it not

appear, said Mr. D., to have been an accidental thought, a measure dragged in at the tail of a resolution, when it had never before been thought of. The Navy does not merit this treatment at our hands. Those who are embarked in it had never shrunk from their duty, and although none had a higher opinion of the achievements of our Army, in the late war, than he had, yet, he must nevertheless adhere to his conviction, that there existed no higher renown than that which had been won by the Navy of the United States. Indeed, he was not prepared to say, whether the Nation did not owe even a greater debt to the gallant tar, than to the veteran soldier. This, however, was, in some measure, owing to an accidental cause. When the first battle was fought between an American and a British frigate, the action might be said to have been big with the fate, if not of Empires, at least of Sovereign States. The whole world were the spectators of that combat. Its issue decided the question, whether Great Britain was to continue the undisputed Empress of the Sea, or whether the trident was to be ravished from her hands, and those laurels which had so long bloomed upon her brow, were to be transferred to the possession of a new Power. The issue was, to us, great, and truly glorious. By it, we became the conquerors of the conquerors of the World, and this, too, on that very element which they had hitherto considered as peculiarly the element of their glory. Not only did they consider themselves as our acknowledged superiors, but they remarked with taunt and ridicule, on the rashness of an American frigate presuming to engage a British vessel, having any thing like an equality of force. The consequences of this battle none could forget. It was followed by a long stream of glory, as bright as ever illumined the annals of a nation. He earnestly wished, therefore, that nothing should be done in this House—that no feeling should be expressed, nor act promulgated, which might induce so much as a supposition that this House held the merits of the Navy as at all inferior to those of the Army. If, after thirteen or fourteen years had been suffered to elapse, after amendments on amendments had been prepared, at the foot of all these, there should appear, in a single line, the proposal to make some commemoration of their deeds, that gallant body of men would feel themselves not honored, but dishonored. He agreed in the sentiment, expressed by his colleague, that, if amendments were in this manner to be heaped upon amendments, there was every presumption that the resolution, itself, would fall, and its object be defeated; yet that object was a mere expression of the respect, felt by this Congress, for those who had achieved the great victory which is proposed to be the subject of the painting.

As to that victory, it was not his intention to offer any remark. It had been already commented upon with so much eloquence by his colleague, [Mr. HAMILTON] that he would not impair, by any thing he could say, the effect which that gentleman's speech was so well calculated to produce, and which it did produce, in this House. His only object, in rising to oppose the amendment of the honorable gentleman from New York, [Mr. STORRS] was, that the object of the original resolution might not be prevented from going into effect, and that the reputation of the Navy might be rescued from an indignity. The gentleman from New York professed himself the Navy's friend, and he had no doubt he was so; but, he must be allowed to say, that the gentleman's friendship had not, on this occasion, been very judiciously exhibited; and, should the amendment prevail, he feared that the gallant spirit of those who had never sought to avoid an enemy, might be constrained to cry out, "save me from my friends."

Mr. MINER desired farther to amend the resolution by adding "the battle of Stony Point," to the subjects

JAN. 9, 1828.]

*Historical Paintings.*

[H. OF R.]

already proposed for paintings. But any farther amendments were pronounced by the CHAIR to be out of order, until those now under consideration should have been disposed of.

Mr. BASSETT said, that it was very obvious that the members of this House were all disposed to commemorate achievements in the public service; but he rose because he felt the force of what had fallen from the gentleman from South Carolina, who had just taken his seat. As an old friend to the Navy, he might be permitted to say, that this was not the moment in which the House had forgotten the sentiments expressed by the gentleman from New York. His principal objection to the gentleman's amendment was the consequences that must follow it. He thought it would bring the House into a difficulty. If they voted for the amendment to the amendment, they were, in some sort, pledged to vote for the amendment itself. Now, if he could show that the amendment to the amendment went to destroy that which it was intended to amend, he thought he should satisfy gentlemen that they ought not to vote for it; yet such was undoubtedly the fact. This accompaniment to the amendment went to destroy the whole. Why? Because it proposed more paintings than there were panels in the Rotundo to receive them. Should this be adopted, it requires a farther extension of the plan which has hitherto been agreed upon for decorating that apartment. As to the amendment of the gentleman from Massachusetts, [Mr. DWIGHT] the subjects proposed by him were certainly great and noble in themselves, but they were not so comparatively; that is, they did not excel other actions of the Revolutionary war so far as to deserve to stand above, or to be preferred over them. They did not, for example, excel the battles of Germantown, of Eutaw Springs, or of the Cowpens, so much that the one ought to be celebrated, and the other not.

[Mr. B. was here reminded by the CHAIR that the amendment of Mr. DWIGHT was not now under consideration, but only the amendment proposed to be added to it by Mr. STORRS.]

Mr. BASSETT resumed. At the time when the four paintings now in the Rotundo were resolved upon by the House, the principle was distinctly decided, that those four panels were all that ought to be assigned to the commemoration of events in the Revolutionary war, and the four remaining panels were purposely reserved for subsequent events that might arise in our history. Mr. B. saw no good reason for departing from the principle then established. He thanked the gentleman from New York for his kind intention towards our Naval heroes. He only wished the gentleman had thought of his plan a little sooner. Did not the gentleman see that his proposition was liable to the very objection he himself had urged. If there was, as he said, any thing invidious in preferring the Army before the Navy in our proposals for commemoration, would not that very feeling be excited by bringing forward his proposition now? Why not wait till the resolution of the gentleman from South Carolina was passed upon by the House? Let that first be done, and then his motion in favor of the Navy would stand upon its own ground. Then, said Mr. B., that gentleman shall see whether this House is not fully prepared to express its feelings of gratitude for our naval achievements. He regretted that the subject had slept so long. Not, indeed, so far as himself was concerned, because he had never voted for any of the pictures. This mode of expenditure was objectionable, according to his view of the principle it involved. But he had no doubt that the gentleman who had introduced the resolution, [Mr. HAMILTON] if it were suffered to pass, would immediately convince the House that he felt as warmly on the subject of our naval victories as the gentleman from New York. At present, he left it for

the House to say which of these two courses would be most for the honor of the Navy.

Mr. BURGESS said he had risen because one of those, whose acts it had been proposed to commemorate, by the amendment now under consideration, was a native of that State, which he had, in part, the honor to represent. He was opposed to the amendment, and, if for no other reason, in consequence of what had been said by the mover of the original resolution, that the multiplying of amendments was well known, as one of the modes of legislative hostility, by which a measure, which it was not wished openly to oppose, might often be fully as effectually destroyed. In commemorating deeds like those contained in the amendment, he was unwilling that the vote should be taken under any possible suspicion of mere party hostility. For his own part, he was against the whole, both resolution and amendment, because he could not believe that the fame of any man could be secured by legislative enactment. Did he think for a moment, that the future fame of such a man as Oliver H. Perry depended on any vote which this House could pass, humble as he was, he would not accept of it. No, sir, his fame is already secured. It is beyond your reach or mine. But if his actions were of so little value that no artist would consider them worthy of a voluntary and unbought commemoration, then let them go down to oblivion. But, sir, I say that the victory on Lake Erie presents a spectacle, which no artist need be persuaded to select. Artists will be found who will gladly embark their fame in the same barge which conferred immortality on that gallant man. But, for his part, Mr. B. said, he felt unfeigned surprise when he observed the solicitude of gentlemen to secure the glory of the Hero of the Battle of New Orleans by any vote of this House. That battle is not one of those achievements which needs any resolution of this kind. A vote of this House (much as we are inclined to think of it) is but a humble thing, when placed alongside of those achievements which have been produced by our wars. The gentleman from South Carolina [Mr. DUNSTON] had contended that a resolution for commemorating our Naval victories ought not to come in at the tail of a resolution intended for any other purpose. He fully agreed in this sentiment, and he agreed with it, because he held those victories, whether we consider their nature, or the consequences which flowed from them, as infinitely superior to that which had been achieved at New Orleans. The victory of Lake Erie was so especially; because it brought us into competition and advantageous comparison with Great Britain in that kind of warfare which was her peculiar glory. We had already often met and combated her troops on the land and on the ocean: we had again and again met and conquered her in battle, ship to ship, but we had never till that moment had an opportunity of grappling with her, fleet to fleet. The occasion was a great one, and the victory commensurate to the occasion. A more decided, a more complete, or a more triumphant victory, was never won by land or sea. And, sir, said Mr. B., I, for one, am not willing that that act shall follow in the train of any military comet which has shone, and glittered and glared across this land. No, sir, let the victory of Erie stand by itself. I will not agree that a vote for the commemoration of an event like that shall be tacked to a resolution, the only object of which is to commemorate the victory of the Hero of Orleans. It is not my intention to deny or to disparage the merits of that achievement. But I ask if there is any man here, who feels his bosom swell and his heart glow at the recollection of the victory at Orleans, who does not at the same time feel his exultation checked by a pang, at the thought that such a battle, with all its attendant carnage and woe, was fought by two nations who were at that moment at peace: that the contest, glorious as it might be, was a



H. or R.]

Historical Paintings.

[JAN. 9, 1828.]

mere mistake : that it happened solely from the tardy pace at which intelligence had unavoidably to pass from the point of pacification to the extremity of this Republic. The Treaty of Ghent was signed on the 22d of December. If the Angel which brought the news of peace across the ocean could have hastened his flight but seventeen days, this bloodshed, on the 8th of January might have been spared. And who is there that does not regret that all this glory had not been won while the nations were yet in the career of full and open hostility? Who is there that does not regret that the drama should have been closed with such a scene of blood, after all the events of the tragedy itself were finished and over? Not so with the battle of Erie. That immortal victory happened when it was most needed. It stood out in bold relief in the midst of the scenes of our national difficulty and danger ; and its effect was felt in the renovated courage, raised hopes, and excited feeling, of all who were engaged in the contest. I ask, then, if, when the consequences of these two victories are taken into view, there can be a moment's comparison between them?

Sir, I am against this measure on another ground. It may illustrate our pride as a nation to put the warriors who have served us in an attitude of glory upon canvass, but methinks it would better illustrate the national humanity, were we to put those warriors themselves at least in comfortable circumstances. Here have we more than an hundred petitions on our table from those who once breasted the battle for us, and are now in circumstances of actual want and mendicacy. It would better become us, before we reward our heroes by the pencil, to send some scanty pittance to those who are begging at our doors. And besides, sir, we have hanging on us, by a slight, I grant you, and a fragile tie, a remnant still surviving of the soldiers of our first war. They, too, have prayed us for relief, but to this hour we have made no provision in their behalf. The plea urged by some in behalf of these aged veterans, was met by the alleged poverty of the public Treasury ; yet, now we are asked to put our hand into that Treasury, and cover our walls with more than they can contain, while these men are left to beg their way through the States. Sir, what have we done for the Hero of our first war? We begged his bones, and we have left them to moulder, to this hour, under a covering of deal boards and sand. Would to God we could do something to redeem our pledges of respect to his memory, before we put our respect for so many others upon the canvass.

Mr. B. observed, in conclusion, that he was unwilling the House should take any measure which might lead men to suppose that there was not an artist in the world who would attempt, without a bribe, to paint the victory of New Orleans.

Mr. EVERETT was opposed to the amendment, because, in his apprehension, it did not go far enough. He had no hostility, whatever, to the original resolution, but thought the inquiry ought to take a more extended form, and, at a proper moment, it was his intention to submit an amendment, intended to effect that object. He did not wish that the House should pass any resolution which might leave it to be inferred that all public merit was divided between Military and Naval achievements. No, sir, said Mr. E., I think the principle was a very wise and patriotic one, which was pursued in the selection of the subjects already executed. Two of these were of a military kind ; two others were, both in their conception, and in the lesson which they taught, of a civil character ; and I think that, in filling up the remaining pannels, the same principle ought still to govern us. It is, in my judgment, very important that, in all the details of this great National Monument, we keep constantly in view, our obligation to teach a valuable lesson to posterity. We may find enough memorable

events, in the civil history of this country, to call for all the aid of all the arts. I need not, I trust, repeat the declaration which I made yesterday that I have no design, whatever, to break down the original resolution. I am perfectly free to say, that, in any series of military exploits, which it may be thought necessary or proper to commemorate, the victory of New Orleans ought not to be omitted. The gentleman from South Carolina [Mr. HAMILTON] said of that victory, that it formed the *finale* of a series of great achievements. Well, sir, on the gentleman's own principle, if this is the termination of a series, is it not, at least natural to take, also, some of the actions which composed that series? The gentleman also declared, and, I doubt not, with great truth, that, in offering this resolution, he meant nothing invidious. But, will it not be considered as invidious, when he himself confesses there has been a series of great actions, to fix upon one, alone, for commemoration? It is, in part, on this account, that I wish to give to the resolution the whole extent which, in my judgment, it ought to embrace.

Mr. BARTLETT expressed his agreement with the gentleman from Rhode Island, Mr. [BURNES] that it was an unfortunate time to propose this declaration, in compliment to some of those who have fought for us, while there are others, equally deserving, who remain unprovided for. Before we flatter the vanity of our heroes, would it not be well to provide for their wants? Mr. B. said, that he had arisen for the purpose of stating, that he had prepared, and held in his hand, a resolution which would cover the whole ground, both of the amendment and the original resolution. The amendment of the gentleman from Massachusetts, [Mr. DWIGHT] extends the inquiry, which was at first confined to the victory at New Orleans, to events of the Revolution not yet the subject of our commemoration, while that of the gentleman from New York, [Mr. STORRS] proposed to include the naval victories of both our wars. There was an important part of the history of our country, which was not touched by either of these amendments. The resolution which he had drafted would be in order by way of amendment, if the gentleman from New York would consent that the gentleman from Massachusetts [Mr. DWIGHT] should withdraw the amendment he had offered.

Mr. DWIGHT said nothing would give him more pleasure than to oblige the gentleman from New Hampshire, [Mr. BARTLETT] by accepting his amendment as a substitute for his own, could he do so without abandoning the principles upon which he had originally offered his own amendment to the resolution of the gentleman from South Carolina. He was persuaded that the gentleman himself would be satisfied of the propriety of the refusal, when he heard the grounds upon which it was made. He had, he said, long since, understood, from authority which could not be doubted, that, when the artist selected the four subjects embraced by his amendment, as the conclusion of a series of historical paintings, that selection received the sanction of Washington and Jefferson. When he saw the Rotundo decorated on one side by such scenes as the Siege of Yorktown, the Surrender of Burgoyne, the Declaration of Independence, and the Surrender of General Washington's Commission, it was painful to behold the other side of that splendid room a blank. He lamented it the more, when he saw how appropriately it might be covered by the Battle of Bunker's Hill, the Attack on Quebec, and the Battles of Monmouth and Princeton. While up, he would take occasion to reply to some remarks of the gentleman from South Carolina [Mr. HAMILTON.] He had, in depicting the various modes of legislative hostility which might be adopted, let fall expressions susceptible of a construction which his own feelings towards that honorable gentleman



JAN. 9, 1828.]

Historical Paintings.

[H. OF R.]

forbid him to suppose could have been intended. He had intimated that his own original resolution was to be smothered by the weight of the amendments ungenerously thrown upon it. Whatever was intended by the remark, he could not, in justice to himself, suffer it to pass unnoticed. If there was a member upon the floor who did not feel his heart swell with a prouder and more ardent love of country, when he contemplated the achievements of the general and the army of New Orleans, he was not that man. But the heart which was alive to these emotions could never be closed to such as were calculated to be excited by the Battle of Bunker's Hill, and the others to which his amendment applied. And he could never consent to commemorate by paintings a scene in the late war, to the exclusion of those of equal splendor in our Revolutionary struggle. If his amendment were adopted, it would embrace them all. The gentleman from South Carolina certainly knew him too well to suppose that his feelings were of such a contracted character as to induce him to refuse to call upon American genius to illustrate American valor. To the genius of Allston, as an historical painter, he would do all homage, and he had the satisfaction of believing that the adoption of his amendment would give full scope to that of both the artists who had been alluded to.

The question was now taken on the amendment proposed by Mr. STORRS, viz: "or such of the victories achieved by the Navy of the United States, as in their opinion should be selected for such national commemoration," and decided in the negative—Ayes 80, Noes 99.

The question was then taken on the amendment of Mr. DWIGHT, viz: "to embrace the Battles of Bunker's Hill, Monmouth, Princeton, and the Attack on Quebec."

On this question Mr. STRONG asked for the Yeas and Nays. They were ordered by the House, and stood as follows: Yeas 83, Nays 107.

The SPEAKER now announced that the hour allotted to the consideration of reports and resolutions had expired.

Mr. HAMILTON said, that as the discussion was now ended, and as a postponement might lead to a renewal of it, with a view to the economy of public time, he would now move that the consideration of the bills and messages on the Speaker's table, and also the orders of the day, be postponed, for the purpose of further considering the resolution.

On this question, Mr. TAYLOR demanded the Yeas and Nays. They were taken accordingly, as follows:

For the postponement,	113
Against it,	80

So the discussion proceeded.

The question being on the resolution as moved by Mr. HAMILTON, at the request of Mr. RANDOLPH, it was again read.

Mr. EVERETT then moved to amend the resolution so as to read as follows:

"That the Committee of the House of Representatives on the Library be instructed to inquire into the expediency of taking suitable measures, at this time, to procure a series of historical paintings for the empty pannels of the Rotundo."

Mr. RANDOLPH said, that he should vote against the amendment, and he should state, in the fewest possible words, why he should do so. Many years ago, said he, when Congress sat in the brick building to the left of this room, a proposition not dissimilar to this was brought forward, and referred to a Committee, of which Committee I was one. The result of that proposition is seen now in the Rotundo—it ended in that. I should have contented myself with saying nothing on this subject, if I had not seen my name in one of the Annuaries of this country—I think it was called the American Annual Register—printed at Philadelphia, I believe—it is some time since I saw it—represented as having expressed a very high opinion,

whether of these paintings themselves, or of the original sketches of these paintings, I am unable to say which. That book, with this representation in it, will go down, not to posterity, perhaps, but to the next generation—it will go no farther—with ten thousand thousands of other books, and other misrepresentations, not quite of so harmless a character. Now, as in that representation, an opinion has been expressed for me, in justice to myself, as possessing the slightest possible pretension to the character of a man of taste, I protest against the whole of these paintings. If this proposition for amendment is to have a similar effect, it will not redound either to the honor of this body, or that of the parties to be represented, on such canvass, and in such a manner. Mr. R. here disclaimed a disposition to say any thing to wound the feeling of any one—of an artist particularly, because artists are, probably, *genus irritabile*, because genius is easily excited—but he said, he hardly ever passed through that avenue (the Rotundo) to this Hall, (which was almost every day, the other avenues to it being nearly impassable) without feeling ashamed of the state of the Arts in this country: and, as the pieces of the great masters of the art have, among the *cognoscenti*, acquired a sort of *nom de guerre*, so ought, in his opinion, the picture of the Declaration of Independence to be called the *Shin-piece*, for, surely, never was there, before, such a collection of legs submitted to the eyes of man.

Mr. BARTLETT said, that the reasons urged by the gentleman from Virginia, [Mr. RANDOLPH] should be applied with the same force against the resolution, as the amendment. It was not his purpose to attempt to resist such application of them. He had before observed that he thought it most improper, that we should be postponing the applications of the sufferers of the Revolution, to spend our time in discussing the project of complimenting the officers of the late war. With the gentleman from Rhode Island, [Mr. BRIGGS] he believed all their deeds, worthy of remembrance, had a better security of being transmitted to posterity, than any paintings could give them. But the resolution was one of inquiry merely, and as such, he wished to give the Committee the widest field. The resolution proposes an inquiry into the expediency of causing a painting to be executed of a single battle in the late war. He preferred the amendment, because it offered to the Committee a selection from many subjects and of different character. Among his reasons for this preference was this, that it gave them the right to look among the important events connected with our civil history, for subjects for the pencil. He did not hesitate to say that he believed it important to our future prosperity and safety, that we should not give a fictitious importance to the military character of the country. This was the fatal error into which all Governments resembling, in any degree, our own, had fallen, and it would become us to take warning from their fate. He would not go into a comparison of the merits of men, whose lives were devoted to their country in the civil departments, and those, whose fame resulted from a single successful exploit; but he could not but approve the wisdom of the former resolution, and the judgment of the artist, who in execution of it, had selected two of his subjects from those connected with the civil history of the country—the Declaration of Independence and the Resignation of Washington. Of the other subjects of this character contemplated by him to complete the series, one was "The Treaty with France," and another, "The Treaty of Peace." If we were to confine ourselves to topics of this character, our history would not soon fail us in presenting scenes of sufficient interest. If we choose to go beyond those of the Revolution, the landing of our pilgrim fathers has already called forth the efforts, the successful efforts, of a distinguished Artist. The Treaty of Penn with the Indians, we

H. OF R.]

*Historical Paintings.*

[JAN. 9, 1828.]

have pretended to commemorate by an attempt at sculpture, which does no justice to so interesting a subject. Could the painter find nothing worthy of his powers in the character of the individuals, and the circumstances under which they assembled, of the first Congress of the Colonies; in the Convention that framed the Constitution; the first Congress that was organized under its provisions? And are these matters of no interest to the present and future ages? If the subject must be a local one, and additional interest is attach to it from its connexion with South Carolina, surely the mover of the resolution could not object to see represented upon canvass the immortal Laurens, though in chains at the feet of a sovereign disdaining and rejecting all that power could proffer to tempt him from the cause of his country, or a testimonial that should do justice to his gallant and chivalrous son, who fell in the cause his father so ably and fearlessly sustained.

Another reason for which he preferred the amendment was, that it permitted the committee to select also from the brilliant scenes in our naval history. He would not attempt to recapitulate or to commend them. They needed it not. But he would say, that his judgment of their importance, as illustrating the history of the country, and the spirit of the people, and the times, depended not on the greatness or splendor of the results. Few events could better illustrate the true spirit and real power of freemen, than the achievement of the bold O'Brien, after the outrage at Lexington, in the same year. With his neighbors, five of whom were his brothers, the project was suggested, of capturing a British ship of war of twenty six guns, then upon the coast. His exclamation was, "My boys we can do it." 'Twas done. The pencil, that dare attempt it, will never find the subject unworthy of its efforts, in the meeting of Jones in the *Bon Homme Richard*, with the *Serapis* and Countess of Scarborough. The American flag in the Bay of Tripoli presents scenes and scenery, which the most skillful artist may be proud to copy. Somers and Israel, and Wadsworth and Decatur, have executed designs, which need no decorations of imagination or fancy. It is not necessary to advert to the brilliant achievements of the late war, upon the Atlantic and upon the lakes.

Another reason for preferring the amendment is, that, if we are confined even to military events, this permits the committee to select from among them. They may go back to the early scenes of our history. Personal valor and heroism are not of modern growth. The early Indian wars exhibited efforts of bold and successful daring, that have since never been surpassed. The achievement at Louisburgh loses nothing in comparison with later events. If we go to the time of the Revolution, as the mover of the resolution observed, that it was fit that we should have exhibited the closing scene of the late war, it cannot be less fit, that we should exhibit the first scene of that, which secured to us our present happy form of Government. Among the subjects suggested by the artist employed under the former resolution of Congress, and yet unexecuted, is that of the "Evacuation of New York," the "Death of Mercer at Princeton," the "Battle of Eutaw Springs;" the last of which, surely has the advantage of local associations, to recommend itself to the consideration of the mover of this resolution. The gentleman found a fitness in his proposing the subject, and an artist too for the present work, in their being natives of the State he represents. So far as that may influence our wishes, he might feel as deep an interest in embracing, with other gallant achievements, the battle of Monmouth. It was there his brave countryman, (Col. Cilley) standing upon the battery, from which he had driven the enemy, being inquired of by Washington, "what brave troops are these?" answered, "full-blooded Yankees, Sir, from New Hampshire." A title higher

than it is in the power of any prince or potentate to bestow. It is too exalted a distinction, to be claimed exclusively by any section of the country. It was given, by the enemy, originally, in derision of all those, who dared assert and defend the rights of freemen, against the oppressions of tyranny. A name and principles, of which, from their associations, they should ever be proud.

The Battle of Bennington may not have been attended with all the "pomp and circumstance" of speeches and proclamations, that have accompanied some other occasions: for the only proclamation of the fearless Stark was, "There is the enemy," his only speech, "we will beat them, or, this night, Mary Stark is a widow;" but in the heroism of its leader, or that of the hardy yeomanry who fought by his side, it has no where been surpassed. Will the House prohibit the Committee from considering whether "the battle of Bunker Hill" is worthy of the notice contemplated by the resolution? The fitness on his part of urging it, rested not on the local origin of a commanding officer, but the citizenship of many, very many, of the brave men who there fought and fell. The original resolution proposed to us the subject of the battle of New Orleans, and commended to us an artist, who was a native of the same State of which the commanding General had been a citizen. The battle of Bunker Hill need not be excluded from the inquiry of the Committee. It is not intended to detract from the just praise due to the Artist who was named by the gentleman, by saying, that he has a worthy and successful competitor, in the school of their common master and distinguished countryman, West, who literally was raised upon the soil, which had drank the blood of the brave men who fell in the unequal fight—it was Morse.

But if we were to confine ourselves to the events of the late war, the subject proposed was not the only one worthy of notice. He had no desire to exclude that from the consideration of the Committee. He had no unwillingness to give honor to whom honor is due. Yet, splendid as was that achievement, he could not assent to the declaration of a gentleman that he was "the hero of the late war," to the exclusion of all others; or that "he was the man who achieved the victory of New Orleans." There were other men there, and boys too, who did not "ingloriously flee." Is it our duty, by such an exclusive resolution, to degrade those who fought at Fort Erie, Chippewa, and Bridgewater? In the bloody scene of that battle, a citizen of New Hampshire had earned, whether it should ever be awarded him or not, a higher reputation for personal bravery, cool deliberation, and successful enterprise, than belonged to any other individual of that war. When asked by the commanding General if he could drive the enemy from the battery, his answer was, "I'll try, Sir." It was done.

He had adverted to these subjects for no other purpose than to bring to recollection scenes worthy, at least, of some attention, in connexion with the one proposed. The mover of the resolution had expressed, and most deservedly, great confidence in the Committee to whom he had directed his resolution. If he has equal confidence in the merit of his proposition, he ought not to hesitate to submit it to their decision on the broadest principle of inquiry.

Mr. HAMILTON said, that he did not rise for the purpose of protracting the debate: for he was conscious however great the interest he felt in the resolution, that the discussion had been already prolonged much beyond the period which the intrinsic merits of the subject might seem to deserve. He would, therefore, not emulate the example of the gentleman from New Hampshire, [Mr. BARTLETT] by travelling over the historical detail with which he had been pleased to entertain the House

JAN. 9, 1828.]

*Historical Paintings.*

[H. OF R.]

—a detail which had satisfied him, from its prolixity, that many of the events were much more happily disposed of where they were placed in the records of our history, than they would be, if transferred to the canvass. He was inclined to indulge in this criticism if he took for the grouping of the picture the events in the order in which they had been narrated by the gentleman himself.

Nor would he emulate that gentleman in another example, who has certainly not exempted the old adage, that "comparisons are odious," from its usual penalty. He may retain all the fruits of this example; I will not follow it. I have not been guilty of the invidiousness of challenging a single comparison, or running a single parallel. I would not purchase, if I could, the success of my resolution by underrating even the humblest achievement which has contributed to the sum of our national glory. Nothing shall provoke me into this species of war.

But, sir, I rose merely for the single purpose of repelling an insinuation of the gentleman, that there was something of a sectional selfishness in the motive which had dictated my resolution. The gentleman intimates that I am mistaken; sir, he may not have so intended—but he rung the changes so repeatedly on "South Carolina," and so often appealed to what he seemed to regard as my selfish feelings, by asking why I would not select such and such event from the Revolutionary history of South Carolina, as a fit subject for the painter, that it surely was a mistake into which, not I alone, but others, might very naturally have fallen.

Sir, I desire my own words should be my own interpreters. I did not say that I had offered the resolution because General Jackson and Mr. Allston were natives of South Carolina, but only indicated that an accidental conjuncture of circumstances had led to what might prove a happy congruity, that the valor and conduct of the one might be illustrated by the genius and taste of the other. If there be any thing censurable in cherishing this emotion of State pride, I must bear it. I would rather suffer the penalty than be destitute of the sentiment.

But, sir, I will not contribute to any further or unnecessary consumption of time. All I desire, now, is, that the question may no longer be postponed.

The question being now put, on the amendment moved by Mr. EVERETT, Mr. STORRS asked that it be taken by Yeas and Nays. It was taken accordingly, and decided by Yeas and Nays, as follows: Yeas 87, Nays 105.

So the amendment of Mr. EVERETT was rejected.

Mr. STEWART now moved the following amendment to Mr. HAMILTON's resolution, to come in after the word "New-Orleans," viz: "battle on Lake Erie, and such other subjects as they may select, to fill the four vacant pannels in the Rotundo."

Mr. STEWART said, that he had no intention to protract the debate. The victory mentioned in the resolution would fill one panel only, but he was decidedly of opinion that the House should provide for filling all the four. He was in favor of having the battle of New-Orleans to occupy one of the pannels, and he had worded his resolution so as to embrace it.

Mr. MCCOY said he was opposed to this amendment, as he had been to all the others, and not more opposed to the amendments than he was to the original motion. I (said Mr. McC.) am against laying out the money of this nation for pictures. It is my opinion that, in this age of civilization, any such mode of commemoration, as intended to carry down the memory of the heroes and wise men of a nation to posterity, is wholly unnecessary. The art of Printing, I think a much better and much surer mode of perpetuating great actions, whether military, naval or civil. I think we have had a sample of the fine arts,

and it is now in the Rotundo, and, in my opinion, it has brought us more plague than profit. And if the fine arts cannot thrive in this country without getting up Government jobs, why, I say, let them fail. I should be as much in favor of commemorating the victory at New-Orleans as any other on the face of the earth, but I am opposed to the whole business, and I move you, that both the resolution and the amendment be laid upon the table, with the understanding that they shall lie there during the rest of the Session.

On this question, Mr. BARTLETT asked the Yeas and Nays. They were ordered by the House, and taken accordingly, as follows: Yeas 88, Nays 109.

So the motion to lay on the table was rejected.

Mr. WOODCOCK said, that he did not rise to discuss the question, after so much time had been spent upon it. He would ask his friend from Pennsylvania, [Mr. STEWART] to accept a modification of his amendment. The House had been asked to couple the commemoration of the glorious victory of New-Orleans (and there was no man who thought more highly of that achievement than he did,) with some events of the Revolutionary War. The House had refused this request. He would now submit the propriety of filling some of the vacant pannels with some of the victories of the late war. He then moved to amend Mr. STEWART's proposed amendment, by inserting, after the word "Erie," the following words: "The battle of Bridgewater, and the victory on Lake Champlain."

Mr. STEWART accepted this as a modification of his amendment, from which he also struck out the words "and such other subjects as they may select to fill the four vacant pannels in the Rotundo." So that the amendment, as modified, would read, "To insert, after the word "New-Orleans," the words "the battle on Lake Erie, the battle of Bridgewater, and the victory on Lake Champlain."

On this question, the Yeas and Nays were demanded by Mr. STORRS, and they were ordered by the House.

Mr. OAKLEY said, that as the Yeas and Nays had been ordered, he wished to state the reasons why he should vote against this amendment, although he had voted in favor of that offered by the gentleman from Massachusetts, [Mr. EVERETT.] It had been his wish that all the pannels of the Rotundo should be occupied by subjects taken from the war of the Revolution alone, but gathering from the result of the votes taken, that it was the sense of the House that a decision should be had on the original resolution, taken separately, and this amendment having no relation to the events of the Revolution, he had no inducement left for voting in its favor.

Mr. WOODCOCK said, that he should not have asked the modification, had not the amendment of the gentleman from Massachusetts, [Mr. DWIGHT] proposing to fill the remaining pannels with events from the Revolution, been decided in the negative. He inferred, from that vote, that it was the will of the House not to have any more paintings of the scenes in the Revolution. Seeing that this could not be obtained, his next wish was, to fill the pannels with events of our second war. He thought it would be no disparagement, either to the victory of New-Orleans, or to the commander who won it, to be placed alongside of the Heroes of the Revolution, and he had endeavored to select, in addition to that victory, such events as he thought would meet the wishes of the House.

Mr. MARVIN, of New-York, said, that he would take the liberty of reminding the House that the original resolution proposed an inquiry only, and not any order; and, that they might have the whole subject fully before them, he thought it would be preferable that all the subjects which the House thought of peculiar interest, should be laid before them at the same time. He was, therefore, in favor of the amendment.

H. OF R.]

Historical Paintings.

[JAN. 9, 1828.]

Mr. JENNINGS said, that he had already given his vote against some of the amendments which had been offered, and he should vote against that now proposed. He was desirous to vote on the proposition as it was originally presented, and leave himself at liberty to follow such a course as he might think most proper, on other propositions which might be subsequently offered. He regretted that gentlemen seemed to persist in urging the original measure, as a matter of such vast importance. For himself, he was disposed to think, that the victory of New-Orleans had already been celebrated, as well by public as by private acts, more than any victory achieved during the late war. The Legislature of Massachusetts had made it the subject of one of their public acts, and he well remembered to have seen every door and window of the City of Washington illuminated upon that occasion. Subsequently to this, he had witnessed, in the House of the late Secretary of State, (now President of the United States,) what he thought was due to him and to the event. If any thing like party spirit was thought to mingle in the present discussion, for himself he disclaimed it entirely, and should vote against the present amendment on the grounds he had already stated.

Mr. RANDOLPH now enquired of the CHAIR whether, should this amendment be adopted, it would then be susceptible of further amendment? \*

The SPEAKER replied to the query of Mr. R. in the affirmative.

Mr. RANDOLPH then said, that, before the Yeas and Nays were taken, he should read, as his reason for voting against the amendment, the following resolution. Mr. R. then read, from the acts of Congress, the following:

*"Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the thanks of Congress be, and they are hereby, given to Major-General Jackson, and, through him, to the officers and soldiers of the regular army, of the militia, and of the volunteers under his command, the greater proportion of which troops consisted of militia and volunteers, suddenly collected together, for their uniform gallantry and good conduct, conspicuously displayed against the enemy, from the time of his landing before New-Orleans, until his final expulsion therefrom; and particularly for their valor, skill, and good conduct, on the 8th of January last, in repulsing, with great slaughter, a numerous British army, of chosen veteran troops, when attempting, by a bold and daring attack, to carry by storm the works hastily thrown up for the protection of New-Orleans; and, thereby, obtaining a most signal victory over the enemy, with a disparity of loss, on his part, unexampled in military annals.*

*"Resolved, That the President of the United States be requested to cause to be struck a gold medal, with devices emblematical of this splendid achievement, and presented to Major-General Jackson, as a testimony of the high sense entertained by Congress of his judicious and distinguished conduct on that memorable occasion.*

*"Resolved, That the President of the United States be requested to cause the foregoing resolutions to be communicated to Major-General Jackson, in such terms as he may deem best calculated to give effect to the objects thereof."*

Mr. WHITTLESEY said that he would give his reason, also, for voting in favor of the amendment; and he would do so after the example just set him by the gentleman from Virginia. Mr. W. then read, from the acts of Congress, the following:

*"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the thanks of Congress be, and the same are hereby, presented to Captain Oliver Hazard Perry, and through him, to the officers, petty officers, seamen, ma-*

*rines, and infantry, serving as such, attached to the squadron under his command, for the decisive and glorious victory gained on Lake Erie, on the tenth of September, in the year one thousand eight hundred and thirteen, over a British squadron of superior force.*

*"Resolved, That the President of the United States be requested to cause gold medals to be struck, emblematical of the action between the two squadrons, and to present them to Captain Perry and Captain Jesse D. Elliot, in such manner as will be most honorable to them; and that the President be further requested to present a silver medal, with suitable emblems and devices, to each of the commissioned officers, whether of the army or navy, serving on board, and a sword to each of the midshipmen and sailing-masters, who so nobly distinguished themselves on that memorable day.*

*"Resolved, That the President of the United States be requested to present a silver medal, with like emblems and devices, to the nearest male relative of Lieutenant John Brooks, of the marines, and a sword to the nearest male relative of Midshipmen Henry Laub, and Thomas Claxton, Jr. and to communicate to them the deep regret which Congress feel for the loss of those gallant men whose names ought to live in the recollection and affection of a grateful country, and whose conduct ought to be regarded as an example to future generations.*

*"Resolved, That three months' pay be allowed, exclusively of the common allowance, to all the petty officers, seamen, marines, and infantry, serving as such, who so gloriously supported the honor of the American flag, under the orders of their gallant commander, on that signal occasion."*

The question was then taken on the amendment of Mr. STEWART, with Mr. WOODCOCK's modification, and decided by Yeas and Nays, as follows: Yeas 85, Nays 108.

So the amendment was rejected.

Mr. RANDOLPH now moved to amend the original resolution, by striking out the words "Committee on the Library," and inserting, in lieu thereof, "a Select Committee."

Mr. RANDOLPH said, he had made this motion out of no disrespect to the Library Committee; and, after some other observations (not distinctly heard) he said that he was not himself, and had not for many years, been a member of that Committee. He had incurred the disgrace of being cashiered from that committee some twenty years ago. [He had at the same time been a member of another Committee, (Ways and Means,) upon which the Speaker had recently done him the honor to place him, after an interval of twenty years.] Now, said Mr. R. I take it that the members of the Library Committee are selected for their learning, and their knowledge of books—I should suppose so, *a priori*, certainly; which is a subject very distinct from the fine arts, although an acquaintance with both may be (because they have been) united in the same person, and, for any thing I know, may be so in the person of every individual composing the committee. But I wish to give to the Speaker an opportunity of selecting, to compose this committee, in case the resolution should pass, such individuals in the House, as may happen to be best acquainted, not merely with fine arts, but with painting particularly—for, among the professors of the fine arts many excel in one department, who do not in another; and, although the arts were said to be sisters, Mr. R. said he should prefer the judgment of a Canova or a Chantry in Sculpture, as he would of a Weber on a piece of music, and as he would unquestionably prefer that of Lord Byron as a poet, &c. He added that he had not made the motion until he was satisfied that his friend from South Carolina would accept it as a part of his motion.

Mr. HAMILTON said, that his acceptance of the amendment, which his honorable friend from Virginia

JAN. 9, 1828.]

*Historical Paintings.*

[H. or R.]

(Mr. RANDOLPH) had offered, might subject him to the imputation of inconsistency, unaccompanied by an explanation.

He had said, yesterday, that he felt entire gratification in confiding his resolution to the Committee on the Library. What he was going to say, to-day, might prove that candor was not the most profitable commodity a man can bring to market, although, under all circumstances, it is invariably the most creditable. He would out with it, and declare that he had changed his mind; and, as the members of the Committee of the Library, according to his humble view of the subject, had voted for every proposition calculated to defeat this resolution, they were, therefore, unfit depositaries for the subject-matter. He would profit by the fable. He would not put the lamb to nurse to the wolf.

Mr. EVERETT now said, that he felt much indebted to the gentleman from Virginia, (Mr. RANDOLPH) and the gentleman from South Carolina, (Mr. HAMILTON,) for the amendment which went to strike out "the Committee on the Library," and insert "a select committee." It would free him from what he considered as a heavy burden: for, without undertaking to speak for the other members of the Library Committee, he was conscious, for himself, of not being in the least degree qualified for the task imposed on him; and he felt greatly relieved by the adoption, by the gentleman from South Carolina, of the amendment of the gentleman from Virginia.

Mr. S. WOOD, of New York, (a member of the Library Committee) said, that the gentleman from South Carolina, (Mr. HAMILTON) was mistaken in the inference he had drawn from his (Mr. WOOD's) vote, formerly given. I am for this picture, but I am for others also, and one reason is, that I believe the contract with Mr. Allston can be made on much better terms if we engage him for the whole series of paintings, than if he were to paint one only. I was in favor of the amendment before proposed, because, if it had been adopted, we should have had the whole field of the national history before us, from which to select the proper subjects. Our report would have been submitted to the House, and they could have passed upon it in such a manner as they thought proper. We have four pannels only, and not a picture gallery, and when four subjects have been selected, there our cognizance of the subject ends. In my judgment it would be better to fill all the pannels now. Should this be determined on, it is probable Mr. Allston might be more easily prevailed on to break his connexions where he now is, and come at the National call. Such a course I should deem more prudent than to contract with him for a single picture only.

Mr. WOODCOCK then moved to amend the modified motion so as to refer the subject to the Library Committee, instead of a select committee; which motion was decided in the negative.

Mr. OAKLEY rose to propose an amendment, which he did not doubt would be acceptable to the mover of the resolution. Its object was not to add any new paintings, but merely to provide for the preservation of those already in the Rotundo. He had been told that those pictures were already sustaining injury from the dampness of the walls, and it was important that some mode should be adopted of arresting what must otherwise very soon destroy them entirely. He then offered the following amendment:

"And that the same Committee also be instructed to inquire what measures are necessary to preserve the paintings already placed in the Rotundo."

Mr. HAMILTON signified his acceptance of this amendment as a modification of his resolution.

Mr. P. P. BARBOUR, of Virginia, said, that as he should vote against the resolution, he would ask the indulgence of the House, while, as an act of justice to him-

self, he stated the reasons which would actuate him upon this occasion. None, said Mr. B., can hold in higher estimation that great military achievement which it is now proposed to hand down to posterity by the aid of one of the fine arts; nor can any hold in more exalted estimation the distinguished individual who planned and executed it. It is a deed which has cast around him a halo of glory, and has added largely to the stock of the national reputation. My sentiments in regard to that individual I had an opportunity, about eight years ago, of expressing publicly in this House, and when occasion shall require, I am prepared to give yet stronger evidence of the high estimation which I think his character justly merits. It is not, therefore, from any objection to the individual, one of whose actions it is now proposed to commemorate, that I object to the adoption of this resolution. If I voted for any subject for this painting, I should undoubtedly place this first in order, as I deem it to be the first in importance.

I was a member of the House when the former resolution passed ordering the paintings which are now in the Rotundo. I voted against that, and on the same principles must vote against this also. My reasons for both is, that I do not hold it to be a proper disbursement of the public money to devote it to purposes of ornament. I call this a purpose of ornament, because, in my decided opinion, there is a better mode of handing down great actions to posterity than either painting or statuary. The House has this day heard read two resolutions of thanks passed by the assembled Representatives of the whole American People. The individuals named in these resolutions may be truly said to have their "names enrolled in the Capitol," there to live as long as the archives of this Government shall survive the stroke of time. My opinion is, that, so far as regards the present generation, the individual who achieved the defence of New Orleans has his monument in the hearts of all his countrymen; and as it respects the generations to come, the page of impartial history will better carry down his actions than any perishable monument which the arts could raise. And as to the moral effect attributed to such monuments, so long as the high spirit of liberty which now animates this nation shall prevail, it wants nothing to preserve it; and when it shall once have passed away, nothing that the arts can do will ever restore it. What says the experience of mankind? Those periods of the world when painting and sculpture were at their highest point of perfection, were not the periods of its proudest character.

In Rome, so long as the Republic lasted, painting and sculpture were comparatively little known, and even the Greeks, who excelled them most in both, after they had carried these arts to perfection, were conquered by the Romans, and the Romans, when they had learned them, were conquered in their turn. Nor did the spirit which has been recently awakened in modern Greece, derive its source from any relics of the paintings of their ancestors, but rather from reading their exploits on the page of history.

Mr. RANDOLPH then rose. It might appear strange, he said, that he too should vote against the resolution, after the votes which he had given upon the amendments proposed to it. But he held it to be perfectly parliamentary to make a proposition as perfect as possible, and, having done so, to vote against it altogether upon principle. He would state his reasons for doing so on the present occasion, even more succinctly than his worthy colleague had done before him. If the House acted upon the subject of this resolution at all, Mr. R. said, he was satisfied that they ought to act upon it singly: and the resolution of Congress, which had been read by the gentleman behind him, as a sort of set-off against that which he had himself read, had only confirmed him in

H. or R.]

Historical Paintings.

[JAN. 5, 1828.]

that opinion: for, he said, it would be found, upon examining the resolution in regard to the victory at New Orleans that General Jackson, and General Jackson alone, was named in it; whilst, in the other resolution, the glory was shared by others besides Commodore Perry, who, though not so distinguished as he, yet partook largely of the merit of the achievement.

Mr. R. said, he concurred entirely in what had been said by his worthy and respectable colleague, on this subject; and, if he would give him leave, he could tell him that he had heard similar sentiments expressed in this House by one (Mr. MACON) who might be called the Fabricius of this country. It was at the last Session of the Presidency of the elder Mr. Adams, that he said, in relation to the proposition for the erection of a monument or a pyramid to the memory of Washington, that the sure way to commemorate his virtues, was to put his Life into the hands of every school-boy in the country. In ancient days, Mr. R. said, monuments were resorted to, to commemorate public events or individual fame. What had become of them? It was the vote, and not the work of the artist, which conferred honor. And here he would speak in the words of another man, who as justly might be called the Dentatus of America, as the one to whom he had before alluded might be called the Fabricius, and who had scarcely his superior in sagacity. I speak, said Mr. R. of Roger Sherman, and of what I heard with my own ears. When a number of propositions for the erection of monuments were made, some of which the whole means of the Treasury would have been inadequate to carry into effect, he said that the monument was the vote to erect one; that posterity would never inquire where the monument was. It is the vote, that is the monument. Sir, what has become of the monuments of Egypt? They stand, to be sure, in the sands of the desert; but we do not know who built them. Where is the memory of Homer? Where his monument? His memory lives, at the end of three thousand years, as green and as great as ever.

Sir, said Mr. R., no man who has ever walked through Westminster Abbey, will, in my opinion, be in favor of erecting monuments to commemorate public services. We hear of Westminster Abbey: it is an imposing name, and an imposing thing. But it is the vote—the vote, and the Speech in the House of Commons which accompanies it, to bury an individual there at the public expense, that gives its value to the distinction. But go there, and, as in many other cases of real life, the dear delusion is torn away. Like the tombs of Hamilton and Washington, Mr. R. said, the monuments are disfigured by the hands of mischievous school-boys; and miserable things sticking against the wall commemorate the talents of such men as Gray, Shakespeare, Ben Jonson, &c. The amendment of the gentleman from New York put the nail in the coffin of the resolution. You are going, said Mr. R., to put paintings into a room not furnished, uninhabited, and uninhabitable. If, in the fine climate of Italy, and under the immediate care of skilful persons, the pictures of the old masters are so damaged as almost to have lost their value, what would become of pictures, in a climate like this, where for forty days we have scarcely seen the sun, incurred in a spacious vapor-bath—in a room not only not furnished, but not inhabited. Mr. R. made some further observations upon the structure of the Rotundo, in the course of which he intimated that he might be disposed to support a proposition of the gentleman from South Carolina, for the further decoration of the Rotundo, if it would not make the room more of a nuisance than the utmost efforts of architecture had already been able to make it.

To conclude, Mr. R. said, if he had voted for any further appropriation for pictures for the apartment he had been speaking of, it would have been for this, and this

only, now before the House. God forbid that he should disparage the merits of Perry—but he would say thus much: that as General Washington stood on the canvases of the Revolution alone and prominent, so stands General Jackson in the history of the late war. We hear of other things, of that period, it is true, but they remind us of the radiancy of the moon and stars after the sun has risen, or, rather, of the stars after the moon appears—

*Julium sidus, velut inter ignes*

*Luna minores.*

The question now recurring on the resolution of Mr. HAMILTON, as modified by Mr. RANDOLPH, it was decided by yeas and nays, as follows:

YEAS—William Addams, Willis Alston, John Anderson, William S. Archer, John S. Barbour, Stephen Barlow, John Barney, Daniel L. Barringer, Burwell Bassett, Edward Bates, George O. Belden, John Bell, John Blair, William L. Brent, John H. Bryan, James Buchanan, Rudolph Bunner, C. C. Cambreleng, Samuel P. Carson, John Carter, John C. Clark, Richard Coulter, David Crockett, Henry Daniel, John Davis, Warren R. Davis, Robert Desha, William Drayton, Joseph Duncan, Jonas Earll, jr. James Findlay, Tomlinson Fort, Chauncey Forward, Levin Gale, Nathaniel Garrow, Innis Green, Henry H. Gurley, William Haile, John Haddock, jr. James Hamilton, jr. Jonathan Harvey, Charles E. Haynes, Michael Hoffman, Gabriel Holmes, Ralph J. Ingersoll, Samuel D. Ingham, Jacob C. Isaacks, Jonathan Jennings, Jeromus Johnson, Richard Keese, George Kremer, Joseph Lawrence, Joseph Lecompte, Prior Lea, Edward Livingston, Wilson Lumpkin, Chittenden Lyon, John H. Marable, William D. Martin, Dudley Marvin, Robert McHatt, Samuel McKean, John McKee, William McLean, Charles P. Mercer, Daniel H. Miller, John Mitchell, Thos. R. Mitchell, James C. Mitchell, Thomas P. Moore, Gabriel Moore, Thomas Newton, William T. Nuckolls, Thomas J. Oakley, Elisha Phelps, David Plant, James K. Polk, William Ramsay, James W. Ripley, William C. Rives, Lemuel Sawyer, A. H. Shepperd, Alexander Smyth, Michael C. Sprigg, William Stanberry, James S. Stevenson, Andrew Stewart, John G. Stower, Esq. Van Horn, G. C. Verplanck, Aaron Ward, John C. Weems, C. A. Wickliffe, Ephraim K. Wilson, John J. Wood, Silas Wood, George Wolf, Joel Yancey.—98.

NAYS—Mark Alexander, Samuel C. Allen, Robert Allen, Samuel Anderson, William Armstrong, John Bailey, John Baldwin, Noyes Barber, P. P. Barbour, David Barker, jr. Ichabod Bartlett, Mordecai Bartley, Isaac C. Bates, Philemon Beecher, Thomas H. Blake, Titus Brown, R. A. Buckner, Daniel A. A. Buck, Tristram Burges, Samuel Butman, Samuel Chase, N. H. Claiborne, James Clark, Lewis Condict, Henry W. Conner, William Creighton, jr. B. W. Crowninshield, John Culpeper, Thomas Davenport, John Davenport, J. J. De Graff, J. D. Dickerson, Clement Dorsey, H. W. Dwight, Edward Everett, John Floyd, of Geo. Joseph Fry, George R. Gilmer, Benjamin Gorham, Thomas H. Hall, Joseph Healy, Selah R. Hobbie, James L. Hodges, Jonathan Hunt, Kensey Johns, jr. John Leeds Kerr, Adam King, Isaac Leffler, Robert P. Letcher, Peter Little, John Locke, John Long, John Magee, Rollin C. Mallery, Henry Markell, Henry C. Martindale, Lewis Maxwell, John Maynard, Wm. McCoy, Rufus McIntire, Orange Merwin, Thos. Metcalfe, Chas. Miner, Jeremiah O'Brien, Dutee J. Pearce, Isaac Pierson, John Randolph, John Reed, Joseph Richardson, John Roane, William Russell, John Sergeant, John Sloane, O. H. Smith, Peleg Sprague, John B. Sterigere, Henry R. Storrs, James Strong, Samuel Swann, Benjamin Swift, John Taliaferro, John W. Taylor, Hedge Thompson, Wiley Thompson, Phineas M. Tracy, James Trezvant, Ebenezer Tucker, Starling Tucker, Daniel Turner, Joseph Vance, John Varnum, Samuel F. Vinton, George E. Wales, G. C. Wash-



JAN. 01, 1828.]

*Survey Coast of the United States.*

[H. OF R.]

ington, T. Whipple, jr. Elisha Whittlesey, Lewis Williams, James Wilson, Joseph F. Wingate, John Woods, David Woodcock, Silas Wright, jr. John C. Wright.—103. So the resolution was rejected; and, thereupon, The House adjourned.

THURSDAY, JAN. 10, 1828.

Mr. VERPLANCK submitted the following:

*Resolved*, That the Committee on Naval Affairs be instructed to inquire and report on the expediency of making such legislative provision as may be necessary, for reviving, extending, and carrying into effect the act of February 10th, 1807, providing for surveying the coast of the United States.

Mr. VERPLANCK begged leave to call the attention of the House to a brief statement of the objects of this resolution, and of the facts connected with the act it referred to. The law of February 10th, 1807, was passed in the last Congress of Mr. Jefferson's Administration, I believe upon the recommendation of Mr. Jefferson himself. It certainly was a favorite measure of his. It authorized and requested the President to cause a survey to be taken of the Coast of the United States, designating the islands, shoals, roads, and places of anchorage, within twenty leagues of any point of the coast; also, the respective courses and distances between the principal capes and headlands: in short, every thing necessary for completing a minutely accurate chart of our whole coast, for every naval, military, and commercial purpose. Another section provided for such examinations relative to St. George's Bank and other banks and shoals, and the sounding and currents beyond the limits of twenty leagues, to the Gulf Stream, as might be subservient to the uses of navigation. [The immediate object of this act was unquestionably, to procure a thorough knowledge of our coast, for naval purposes and for fortifications, which the prospect of a collision with the great maritime Power of the world then pressed upon the attention of Congress.] These, however, were combined with farther views—with the general interest of our own commerce and navigation, as well as with the generous wish to contribute to the useful science and geographical knowledge—of the whole civilized world. The sum of fifty thousand dollars was appropriated to carry the act into effect—and the principles upon which it should be executed were settled by the President. They are stated by Mr. Gallatin, with that luminous precision which marks all the writings of that statesman, in an official letter to a distinguished man of science, who was to be employed in the execution of the act. It is, I presume, to be found in the official files of the Department. I have myself read it in a valuable paper on the survey of the coast, printed in the *American Philosophical Transactions*. The plan he resolved into three distinct parts. 1st. The ascertainment, by a series of accurate astronomical observations, of the true position of a few prominent and remarkable points on the coast, such as are or would probably be the sites of forts, or light houses, &c. 2d. A trigonometrical survey, by a chain of triangles, of the line of coast between these points, the position of which had been thus astronomically determined, marking therein the position of every prominent object distinguishable at a distance. 3d. A nautical survey of the shoals and soundings, of which the trigonometrical land survey should be the base—to depend as little as might be on astronomical observations made on board ship.

Soon after this, Mr. Hasler, well known as a scientific, as well as an experienced and practical mathematician, was sent to Europe for the purchase of instruments. He there procured an admirable collection, selected by himself with great care, the workmanship of the first artists of the age, Troughton and Dolland, in London,

and Le Noir, in Paris, well known scientific mechanics, whose labors and improvements have conferred higher benefits on the world than many men of more splendid fame, as well as loftier pretensions in the ranks of science.

With these instruments the survey was commenced, in 1817, and a portion of the work done with minute accuracy. After a time—I know not why—it is a part of the country I am not acquainted with—the work was suspended, and nautical surveys were substituted. These, too, were finally abandoned, as a system. A vast body of maps and charts were thus collected, at a vast expense—many times the cost which would have attended a perfect execution—I have been told, half a million of dollars, but have no precise authority for this; but, at whatever cost, they were exceedingly dear, for they are comparatively of very little value, and are acknowledged to be so. The private navigation has been left to guide itself by such lights as may be furnished by private enterprise, or by the science of Europe. Whenever any local interest or object, such as the building of a Port, or the location of a Navy Yard, required it, special surveys were, of necessity, ordered either by the Navy Department, or by resolutions of Congress. These were generally executed by the officers of our Navy, always with very incompetent means, and often limited in time. In the words of the Secretary of the Navy's last report, "they are unavoidably incomplete. The times within which it was desirable to make them (says he, speaking of the surveys made last year, of Baltimore, Savannah, Brunswick, and Beaufort,) and the means granted, did not permit them to be made so as to furnish perfect surveys and charts of these harbors."

Indeed, so imperfect are the surveys in the possession of the Navy Department, that I have been assured, on very good authority, that none of them have been found sufficiently accurate to determine the site of fortifications. I ought however, in justice, to except that of the harbor of Baltimore, made by Lieut. Sherburne.

These partial surveys, by separate expeditions, are also necessarily of enormous expense. Officers, men, vessels, &c. must be detailed anew for each object, with great loss of time, and new expenses of preparation, at each occasion. Without going further into detail, I refer to the Navy Report of 1825, in support of this assertion. With all this experience before us, it is now evident that we must recur to the principles of the act of 1807. I perceive that that law is printed in our statute book as an obsolete one. I do not see why; but if so, it is on all accounts expedient to revive it. I would go farther: I would embody in a new law, with the necessary appropriations, all the principles laid down by Mr. Gallatin, in 1811. The President should be empowered to appoint a scientific Commissioner, with a decent salary. The excellent instruments, purchased ten years ago, are still in possession of the Government, a little worse for neglect, and, I fear, too, a little the worse for having sometimes been in ignorant hands. The other expenses would be very trifling, compared to the magnitude of the object. A tithe of the annual gain or saving it would yield to the commerce of the nation, would pay the whole. To the Navy, in case of war, this is an all important object. It is a disgrace and a scandal to our country, that the British navy is probably, at this moment, in possession of far better details of the chart of our coast than we are.

I have only to add that this is an application of science to useful purposes, not only strictly within the power of the General Government, but directly incumbent upon it as a guardian of foreign commerce, and the director of peace and war. This Government alone can execute the work; and I trust that this House will not suffer it any longer to be neglected.

The resolution was then agreed to.



H. OF R.]

Protection to Manufactures.—Captured Africans.

[JAN. 10, 1850.]

## THE MANUFACTURES' QUESTION.

Mr. MALLARY, Chairman of the Committee on Manufactures, asked leave, on behalf of that Committee, that it might sit during the sitting of the House.

Mr. STORRS said, that he should not object to granting this power to the Committee on Manufactures, but he wished to ask of the Chairman whether the Committee proposed to sit at any particular hours, and at what times? He intended to take the opportunity to attend that Committee, for the purpose of making some inquiries of the manufacturers, and his colleague (Mr. CAMBLEDEN,) had expressed the same intention. He had no doubt that other members, also, would attend for the same purpose, and it would be useful to all, to be informed of the hours when the Committee would engage in those examinations, that members might arrange their business in the House, so as to enable them to attend without inconvenience.

Mr. MALLARY replied, that a large number of witnesses had been summoned, many of whom are now in attendance, and the Committee were desirous of pressing the examination without delay. If they were confined to the ordinary hours assigned to Committee business, they would not be able to make such rapid progress, nor to arrive at as early a result as would otherwise be in their power. As to the private convenience of gentlemen, in attending upon these examinations, it was a matter with which the Committee were not concerned—of which he was not prepared to speak.

The question was then taken on granting leave, and carried in the affirmative.

## MR. WILDE'S CASE—(CAPTURED AFRICANS.)

The bill from the Senate for the cancelling of a bond given by Mr. WILDE, of Georgia, to transport certain Africans beyond the limits of the United States, was called up by Mr. P. P. BARBOUR.

Mr. B. moved that it be engrossed for a third reading.

Mr. TAYLOR objected to this course, as he had not had time to examine the papers in the case, and the bill was unaccompanied by any report.

After some conversation between Messrs. WRIGHT, of Ohio, and P. P. BARBOUR, the question was taken on the consideration of the bill at this time, and determined in the affirmative—Ayes 75, Noes 54.

Mr. BARTLETT moved that the bill be recommitted to the Committee on the Judiciary, with instructions to report the facts of the case.

Mr. P. P. BARBOUR (Chairman of the Judiciary Committee) said, that a similar motion to this had been made the other day, when the bill from the Senate on this subject was reported to the House, and, if such were the pleasure of the House, he should cheerfully acquiesce. He would state, however, that the committee, if ordered to report, could furnish no other information than that which was contained in the petition of Mr. WILDE, and the papers accompanying it, which now lay upon the Clerk's table; the substance of which he had, on the former occasion, stated to the House. If the resolution, therefore, for recommitment should prevail, the House would send back to a committee of men, to be by them reported, precisely those facts, and no more, which they had already in their possession.

Mr. WRIGHT, of Ohio, said, he hoped the motion to recommit the bill would prevail. I have, sir, said Mr. W., taken some pains to examine the papers which were submitted to the House, and the result is, the perfect conviction of my mind, that the bill ought not to pass. If I understand the object of the bill, it is to cancel a bond, filed in the office of the Clerk of the Circuit Court of Georgia, pending a litigation concerning a number of Africans, and for their removal beyond the limits of the United States. On a careful examination of the papers,

I find no evidence of the amount of that bond, to whom it was given, or the precise terms of the condition. It seems to me there are two bonds, one given by the Spanish claimants of these Africans in Court, and the other by the petitioner. The petitioner asked to have his bond cancelled, and the bill provides for cancelling the one in the Clerk's office; and that, too, without ascertaining its date, amount, or the parties. If it were the object to cancel the bond of the petitioner, the bill did not reach it, but provided for cancelling another. But, sir, we are inhibited by the Constitution from impairing the obligations of contracts. Can I be expected to give my vote to cancel an obligation, a contract, without knowing the date, the amount, or purport of the obligation, affecting the rights of parties of whom I am wholly ignorant, as well as the extent my act may injure them? Can I be expected to vote to cancel a bond, of which I am so ignorant as not to be able to describe it? The bill contains no description. I have heard none, and can give none. What is its condition? Who are the parties? What its obligation? These questions I think material. Who was the obligee of the bond, and interested in it? Had we any control over it? I fear, sir, this bill exceeds our constitutional limits, and affects the rights of others, having no knowledge of our proceedings or voice in them. I do not know that these difficulties exist, but I throw them out that the Chairman of the committee might, if in his power, satisfy the House as to them.

Mr. BARBOUR said, in reply, that he could not conceive from whence the gentleman from Ohio had got the idea of two different bonds! There was but one bond, viz: that required by a rule of the Court of Georgia, and that one bond contained but one condition, viz: that the party should export the slaves therein mentioned without the limits of the United States. It there was any difficulty in the mind of the gentleman, as to what bond was meant, it might easily be obviated by introducing into the bill a description of the bond intended to be cancelled. Mr. B. said, that he knew of no party who could possibly have any interest in the provisions of it, but the United States. Its penalty had respect to the single fact of the exportation of these slaves; and should the House, from motives of humanity, permit the slaves in question to remain within the limits of the United States, and for that purpose should cancel this bond, Mr. B. said, he could see no possible difficulty which could arise from so doing. A purchaser had offered these slaves to the Colonization Society, with a view of having them exported to Liberia, in Africa. (This was an important fact which, Mr. B. said, he had unintentionally omitted when he had before stated the circumstances of this case. The proof of it, he believed, would be found in one of the documents accompanying the petition.) The Colonization Society were unable to make the purchase, in consequence of which, the slaves remained in this country. They had intermarried, some of them had become the heads of families, and they were desirous of remaining here.—Should the bill not pass they must be exported—but, if it should pass, and the bond be cancelled, they would have liberty to remain. These were the only facts with which he was acquainted in relation to the case.

At the request of Mr. DWIGHT, a document from the Colonization Society, stating the offer which had been made them by Mr. WILDE, and expressing their regret that their funds were insufficient to make the purchase, was read.

Mr. TAYLOR said, that, when he had requested, a few days since, that the bill from the Senate on this subject might go to the Committee on the Judiciary, it was that they might spread before the House, in the form of a report, the history of the facts connected with that

JAN. 10, 1828.]

Captured Africans.

[H. or R.]

bill. He considered those facts as of such moment as to deserve an official report. The question might be one which involved the liberty of thirty-seven human beings. And, however it might be determined by the House, he had desired a report as a justification of the vote which might be given. He understood that no report had accompanied the bill in the other branch of the Legislature, nor had any report accompanied a similar bill which had been prepared by the Committee on the Judiciary. The House is called upon to cancel a bond for the exportation of 39 African persons brought into the United States contrary to law. The original number had been 139. One hundred of these had been adjudged to be a lawful capture, (of the exact nature of the proceeding which had been had, he possessed no knowledge,) but that number had been sent to our colony in Africa. Of the remaining 39, 37 were declared not to be a lawful capture, and were consequently ordered to be restored to the Spanish claimant. These persons are now in the custody of law. Technically speaking, they have not been imported. It was a subject of discussion, whether their bringing into the country had been lawful or unlawful. So soon as it was determined that they were unlawfully captured and brought in, it became the duty of their owner to give a bond to export them out of the country within a given time. As there was no report to refer to, he did not know how long it was since the judgment of the court had been given, and he consequently could not know whether a sufficient time had elapsed to enable it to be determined whether the persons giving the bond intended to violate its condition or not. A very delicate, and what might prove a very difficult question, arose as to the right which these persons themselves may have to these Africans. As early as the year '98, Congress prohibited the introduction of slaves into the United States, and declared that all slaves imported in violation of that law, should be *ipso facto* free. Now, if the persons laying claim to these Africans have done acts, which, under the law, are equivalent to importation, it may turn out that all these Africans have a right to their freedom. Mr. T. said, that he did not know this, for the House had denied him the opportunity of knowing the facts of this case, from any official report containing them. In an act passed in 1808, said Mr. T., it is expressly provided, that no person in the light of an importer, (and for aught I know, the proceedings in this case may have been such as to place these persons in that light,) is capable of holding any right of ownership over a negro slave, and if he shall attempt to sell such slave, he incurs a forfeiture of \$1,000 for each offence. Mr. T. repeated, that he did not know that the facts of the case would bring the parties within the provision of this law, and it was because he did not know this that he had desired to have all the facts spread out before the House, by the report of one of its own committees. At present he understood that the petitioner, Mr. WILDE, had purchased the right of the Spanish owners, whatever that right really was, who had been bound to export these Africans. And now an application is made to the humanity of this House, on the ground that the Africans have formed connexions with each other, and are anxious to remain in this country; and a resolution is presented to us from the Colonization Society, expressing it as their wish, that Congress will either indemnify Mr. WILDE, and allow these people to be exported to Africa, or will cancel the bond under which he lies to re-export them. Mr. T. said, he could form no opinion with respect to this resolution, for the reason he had already stated, that he was uninformed as to the facts. He had all respect for the Colonization Society, but still he might be permitted to say, that he wanted better evidence to go upon than their communication supplied.

His great objection, however, was to the very unusual course of passing a bill of so much importance as this without any accompanying report of the case, in either branch of the Legislature. Before we act, we ought to have a particular and minute statement of the circumstances. We ought to know the present actual condition of these Africans; how many of them have formed connexions; and, particularly, the manner of their being brought into the country. We ought to be enabled to decide with certainty, whether, in cancelling this bond, we may not be violating our own law for the suppression of the slave trade. The appeal is made to our humanity. It is a very easy thing to make such an appeal. Even the slave trade itself has, by some persons, been attempted to be justified on the ground of humanity. But, for himself, Mr. T. said, he wanted something more than the simple allegation of a petitioner before this House.

Mr. DWIGHT said, that he should not oppose the motion for recommitment; but he would take the liberty to state that there were some facts in the case which stood out in bold relief, and were, of themselves, sufficient, in his judgment, to recommend this bill to the universal favor of the House. What, asked Mr. D., was the policy of the act which requires a bond for the re-exportation of Africans introduced into this country? It was to prevent collusive captures. It was to prevent the success of what would otherwise have been a very easy mode of evading the law, viz: the bringing of African slaves upon this coast, and their consequent introduction by a pretended capture. In this case, one hundred and thirty-nine African persons had been captured by a South American privateer: one hundred of these had been decreed not to be slaves; but thirty-nine of them had been adjudged to be the *bona fide* property of the Spanish claimant. The decree of the court, however, omitted to designate which persons belong to the hundred, and which to the thirty-nine. By this omission, a new delay was created, and eight years, in all, had intervened before the question was finally settled. The humanity, however, of the Southern gentlemen, had not left them all this while imprisoned. They had been put out on healthy plantations, where many of them had acquired the relation of husband and wife, parent and child, and had formed attachments to the country. In the mean while, the Spanish owner appears and demands that they should be sent to Cuba, where they would be consigned to a bondage tenfold worse than any which exists in the United States. The petitioner in this case (with whom Mr. D. was personally acquainted, and for whom he entertained the highest respect and regard) had been employed as counsel in the case, and, in his course of official duties, had become acquainted with these slaves. They came to him as to their only friend, and implored, with tears, that they might not be sent away. To the honor of that gentleman, he stated, that he had interfered in their behalf, and had sacrificed, or at least put in jeopardy, a part of his own private fortune, with the benevolent purpose of relieving them from their distress. He did this from no selfish views. He was not a planter. He owned no plantation. His only motive had been pure humanity; and Mr. D. concluded with expressing his earnest hope that the House would, in some manner, interpose, to relieve him from the unwelcome necessity under which he now labored, of re-exporting those whom he had thus nobly saved.

Mr. MERCER expressed his hope that the House might receive a brief report of the facts in this case. The Colonization Society, said Mr. M., have stated to us that they were unable to comply with the proposal made to them on the part of Mr. Wilde, and this would not appear surprising when he stated the fact that, when

H. or R.]

Captured Africans.

[JAN. 10, 1828.]

that society, in September last, had advertised that a vessel would shortly sail for Liberia, they had received, within the course of thirty days, nine hundred applications for a passage, and there were, at this time, eighteen hundred persons who had expressed a desire to remove to Africa. It was proper he should state that these applicants consisted entirely of free negroes. Mr. M., however, said, that this inability on the part of the society to pay the sum required, ought not to be suffered to interpose an insuperable bar to the benevolent purpose for which they had been offered to the society by Mr. Wilde. He hoped the report of the committee would state the precise sum which had been advanced by that gentleman, in his purchase of those people from their Spanish owners.

Another fact he was desirous of having reported, was, whether these thirty-nine negroes had been selected out of the whole number of one hundred and forty, by lot; because, if that was the case, he was persuaded that the whole proceeding had been in contravention, if not of the express opinion of the court, yet certainly against the sentiment of all the members of the court. If there was no other separation between them than the lot had made, these persons are entitled to the privilege of being transported to Africa, as much as those were who have been sent at the expense of the Government. There was no authority of law for this mode of selection, and if it had taken place, the whole transaction was in direct violation of all law and justice. He desired to know, from a report of the committee, what were the facts on both these points; he wanted to ascertain what expense must previously be incurred by the Government before it can provide the means of transportation of these Africans, to their native land. It was evident that Mr. Wilde, when he purchased these slaves, preferred this as their destiny, and, Mr. M. said, that, from the knowledge of that gentleman, he was fully persuaded that he would never have proposed the sending of these persons to Liberia, if he had not thought that that would be a humane and proper mode of providing for them.

Mr. WICKLIFFE, professing some knowledge of this case, said that he did not despair of the vote of the gentleman from New York, [Mr. TAYLOR,] and the gentleman from Ohio, [Mr. WRIGHT,] when the facts of the case should not be misconceived. There was one idea which he considered, of itself, sufficient to ensure their support. Allowing the gentleman from New York to be correct in the supposition, that the conduct of the Spanish claimants should be proved to have been such as gave these Africans a right to their liberty, what remedy would be given by this House, unless the bond should be cancelled? Shall we leave these free persons here, in a land of freedom, or shall we compel the petitioner to re-export them to the irons of the West Indies, and send them into perpetual bondage? Mr. W. declared, that if he could believe these persons rightly entitled to their freedom, he should be prepared to say, not only that they might remain, but that they should not be sent away.

Mr. BARBOUR now expressed his entire willingness that the bill should be recommitted, such seeming to be the disposition of the House; and the question was about to be put, when

Mr. GILMER said, he had risen for the purpose of stating some of the facts which gentlemen had enquired for. He then read from a schedule, which he held in his hand, some items, from which it appeared that the total of law expenses and salvage, paid by the Spanish claimant, had been \$11,668. The probable value of the slaves, at a fair estimate of the market price, was \$11,700, differing but a few dollars from the expense incurred, but Mr. Wilde, the petitioner before the House,

had paid to the Spanish claimant \$15,000, to relinquish his claims. This he had done, as was most evident, from no motives of interest, for he bought the slaves at a loss, but because their case pressed deeply upon his own sense of humanity. He hoped that it would be some satisfaction to the gentleman from Virginia, [Mr. MANNING,] to receive this statement, as it satisfied a part of his enquiry.

Mr. WRIGHT, of Ohio, said, before the question was taken on the motion to re-commit, he, perhaps, owed it to himself, and to the House, after what had been said, to explain more fully than he had done, his views of the case, as it appeared to him. He said, as he understood it, in the year 1819, a Venezuelan privateer, clandestinely armed in Baltimore, manned mostly by citizens of the United States, and commanded by a citizen, sailed on a cruise from that port. Off the coast of Africa, she captured a vessel from the United States, from which 25 Africans were taken. She also captured several Portuguese and Spanish vessels, from all which Africans were taken, and, among others, the Antelope, owned by persons in the Island of Cuba. She proceeded, in company with her prize, the Antelope, until she was wrecked, and her captain, and part of her crew, were made prisoners. The armament, and the residue of the crew, were shifted to the Antelope, which was afterwards captured by a revenue cutter of the United States, hovering on the coast of Florida, and brought into Savannah for adjudication, with 280 Africans. The vessel and cargo were libelled in the Circuit Court of Georgia—claims were filed by the captain of the cutter, for bounty, or salvage—by the Consuls of Portugal and Spain, for, and on account of whatsoever citizens of either country were interested—and by the United States, claiming them as forfeit for a violation of the laws of the Union, and those, also, taken from the American vessel, because of her piratical character. The Court in Georgia decreed those free that were captured from the American vessel, and others not claimed by the Portuguese and Spanish Consuls, and decreed the rest to the proper owners of the Spanish and Portuguese vessels, on their giving bond to remove them beyond the limits of the United States. These Africans had been thrown into the common mass, many of them had died, and, having no satisfactory method of identifying those taken from each vessel, they were designated by lot. It so appeared, in the decree, and he believed the whole were so designated. From this decree, so far as it regarded the persons claimed by the Portuguese and Spanish Consuls, an appeal was taken to the Supreme Court of the United States. On hearing, the Supreme Court reversed the decree of the Circuit Court of Georgia, so far as it regarded the claims by the Portuguese Consul, and affirmed the decree so far as it regarded the claim of the Spanish Consul. The Court, however, did not affirm the decree, even to that extent, by the direct action of a majority of its members, but because they were equally divided in opinion on the question.

I have been asked where I got the idea, that there were two bonds in the case? I will show where I got it. The portion of Africans now in dispute, were decreed to the Spanish claimants, on bond being given to export them beyond the limits of the United States—this was several years since. It no where appears, in any of the documents I have seen, that these persons were ever placed in the custody of the Marshal, or otherwise disposed of. It appears in the petition that, in November, 1827, if I mistake not the date, an agent of the claimants under the decree, arrived at Savannah, from Cuba, accredited to a respectable mercantile house there, and was about to take these persons out of the country, when the petitioner, from motives of humanity,

JAN. 10, 1828.]

*Captured Africans.*

[H. or R.]

interfered, purchased up the interests of the Spanish claimants, paid the expenses, and gave his bond to transport them beyond the limits of the United States. I had supposed the bond given by the claimants at the time of the rendition of the decree, and that the bond given by the petitioner, was, to those of whom he purchased, as an indemnity. In this I may have been mistaken; the evidence, and the petition, are neither very explicit.

If the Chairman of the Committee on the Judiciary says there was but one bond, I am bound to believe him: he, doubtless, has evidence of the fact—yet no evidence has come under my observation. It was competent for the Court to have ordered a bond to be given to the claimants, or the United States, in trust for the parties interested. How this bond was ordered, or how given—for, as it regards the petitioner, it was voluntary—no where appears. To me, sir, this is material: we should know who are the contracting parties to the bond, its condition, and the rights acquired under it, before we undertake to cancel it, and to impair those rights. If the bond was wholly to the United States, we might cancel it, but if we held as trustees, we should become responsible for all the rights affected injuriously by our act. We are not prepared to legislate upon this question until we are better informed, and I hope the bill will be re-committed, and we shall be furnished with the facts.

But, sir, if it shall be found, on a full investigation, that the facts of this case leave us free to act upon it as a subject within our control, then there will arise a grave and important question, which I will take this occasion to suggest to the committee, and to the House, and that is, whether the Congress of the United States will, under any pretext whatever, pass a law authorizing the importation into the United States, to be held in slavery, any number of Africans, in relaxation of the law of 1807? These persons are now in custody of the law; they are not legally imported into the United States, and the effect of cancelling a bond given for their removal, will be simply to allow, or legalize their importation. When that question comes up, sir, I shall be ready to meet it.

Mr. SPRAGUE said, that this bill provided for one of the alternatives in the report of the Colonization Society, but there was another alternative in that report, which he also wished the Committee on the Judiciary to consider. The argument of the gentleman from New York [Mr. TAYLOR] had raised an inquiry of great importance, and which might prove of some difficulty; at all events, it could not be decided without a full knowledge of facts. The observations, too, of the gentleman from Virginia, [Mr. MAXWELL] had raised an inquiry which was not only highly important, but one which had excited in him utter astonishment. It suggested the possibility that the liberty of thirty-nine persons had in this case been decided by lot. If that had been the fact, then a solemn inquiry devolved on this House, whether, by the laws of the land, the liberty of any human being could be taken away by the casting of lots. As all these difficulties would press upon the House, if they adopted one alternative, the Judiciary Committee might possibly find it best to devise and report the means of embracing the other alternative, viz: the repaying of the sum advanced for these Africans, and permitting them to be sent, by the Society, back to Africa. He hoped that the committee (should the bill be re-committed) would pay special attention to that part of the recommendation of the Society.

Mr. GILMER said, that he rose to present some additional information on this subject. The facts of this case were not such as some gentleman who had spoken, seemed to suppose. The District Court of Georgia had declared, in their decree, that the identity of these thirty-nine slaves has been sufficiently ascertained. Mr. G.

said, that he knew of no such thing as a lot having taken place in the matter. He then quoted the decision of the Court.

The question on recommitment was once more about to be put, when,

Mr. MINER moved to amend the instructions to the committee, by adding,

"And that the said committee inquire whether it would not comport with the interests of humanity, the principles of justice, and the honor of the Government, to adopt efficient measures to restore the Africans to the country and home from which they have been cruelly and illegally separated."

Mr. M., in offering this amendment, observed, that, if he understood the matter correctly, the Africans whose case was involved in the bill, had been captured on board a slave ship; they were subjects of the Slave Trade; they, at home, were as free, and, perhaps, as happy, as we are, and had as much right to freedom, Mr. Speaker, as you or I have. By the ruthless hand of slave traders, they had been torn from their home and country, and chance had thrown them upon our shores. Sir, I am unwilling to sanction the principle, in any form, that consigns them and their posterity to everlasting bondage; and therefore offer an amendment proposing an inquiry into the propriety of having them returned to Africa.

Mr. BARTLETT accepted the amendment of Mr. MINER as a modification of his motion.

Mr. GILMER said he should not stop to argue the question as to the right of Government to expend the money of the People of this country in aiding the Colonization Society. But he would ask on what authority the gentleman from Pennsylvania [Mr. MINN] had assumed the fact that these thirty-nine Africans had been cruelly and illegally taken from their own country? He would ask, further, on what ground it was assumed that this Government has a right over the private property of one of its citizens? And, also, how this House was going to alter a solemn decision of the Supreme Court of the United States? That Court has decided that these slaves belong to a foreign claimant. By what mode can Government control, or in any way affect, that decision? He knew of none. If the Court of last resort has fixed the right of property, the Government has no control or jurisdiction in the case. These two difficulties were open and glaring. He could not but think that the amendment had been accepted by the gentleman from New Hampshire, without due consideration. These persons, for aught that appeared, might have been slaves in their own land. There were many slaves in Africa, held in bondage by the laws of that country. The property of the Spanish claimant, if any, was transferable, and might be as well held by a citizen of the United States as a citizen of Spain. There was but one condition attached to the tenure, viz: the re-exportation of the slaves. Gentlemen were greatly mistaken, if they supposed that it was not as valuable an object to the South, as it could be to the North, that African slaves should not be imported into this country.

The people of Georgia had a deep and peculiar interest that no such importation should take place; and he could say with great truth, that there were no persons in the world who held the slave trade in deeper detestation, or would do more to resist it in every possible way. It was the people of Georgia, and they alone, who were to say whether they consented that these Africans should remain within their Territory. They, said Mr. G., are the only sufferers, and if Georgia says they may remain, then the right of the Spanish claimant, (now purchased by Mr. WILKIN) is perfectly unassailable: and it is equally so, if he performs the condition of this bond, and exports them within the specified period. Out of motives of mere humanity, this gentleman has expended

H. or R.]

Captured Africans.

[JAN. 10, 1828.]

more than \$11,000, but he has not divested himself of his right to hold these slaves; he cannot divest himself of it, nor will he yield it to any arbitrary power attempted to be exercised on the part of this Government. It is true he offered these slaves to the Colonization Society, so that, if they would pay the expense he had incurred, the slaves should be placed at their disposal. This was his own free act, and it was in accordance with the feelings of every one—but, owing to the want of funds, their removal could not, in this manner, be effected, and there the matter ended. Mr. Wilde has never offered these slaves to the United States, on the same terms, or on any terms; and, if he had, the United States Government has no authority to expend \$11,000 belonging to the People of the United States for any such object. Mr. G. concluded by reading the decree of the Court in the case.

Mr. BARTLETT said, that he had not adopted the amendment under any idea that the Government of the United States could exercise any power over the private property of an individual. He had adopted it as referring to the offer made to the Colonization Society, and as directing an inquiry whether Government might not do what the Society would gladly have done, but were not able. He had given no opinion in the case, but merely agreed that the inquiry should be submitted to the Judiciary Committee. Mr. B. said, that he entirely disapproved of the concluding sentence of the amendment, (of Mr. MINER) and should not have consented to adopt this part of it, had he adverted to the import of it. He wished the gentleman from Pennsylvania [Mr. MINER] would modify his amendment, by striking out this clause; and if the gentleman should not do this, he would himself move to strike it out. Mr. B. concluded by moving to strike out the words "who have been cruelly and illegally torn from their country," and the question being on thus amending the resolution,

Mr. MINER said he was not willing that the amendment proposed should prevail. Were not these Africans found in a slave ship? And is it not almost certain, if found on board a slave vessel, that they were taken both cruelly and illegally? Is there a reasonable ground of presumption to the contrary? Were you to go through this House, step by step, and ask of members, one by one, their opinion whether Africans found in slave vessels were purchased there of masters who owned them, or violently or fraudulently taken, can there exist a doubt what the decision would be? Sir, it is an accursed traffic—all illegal—full of cruelty. I have no doubt on the subject, and I would not express a doubt. I am aware that this subject is one liable to create excitement. To discuss the subject of slavery in any shape here is a delicate matter. So far as it becomes necessary for us to decide on subjects connected with slavery, or the slave trade, it is not only our right, but our duty, to discuss them freely, being careful not to give cause of offence. With regard to slavery, as it exists in the several States, there is no purpose to interfere. Passingly I may say, that, within this District, we alone have the power to regulate that matter. Here, we only can legislate upon the subject, and it is our duty to meet the question. But, whatever legal claim the gentleman who is in possession of these Africans may have; or whatever right the Government of Georgia may possess, I would not encroach upon—it is not my purpose or wish to interfere with. But I pray you to look to the true state of this matter. Here are thirty-eight Africans found on board a slave vessel, ruthlessly torn from their country and their freedom, as I suppose—they are cast upon our shores, and thrown into our power; the question is, shall we consign them and their children, and their children's children, into everlasting and hopeless bondage; or shall we restore them to liberty and their country?

To me it appears it would be magnanimous to say to these persons—you have been violently torn from your homes—we will exercise the national power to purchase the claim existing against you, and return you to your country and freedom. How much more nobly would this sound here and throughout Europe, than to say to them, "you fell into our power, and we will hold you in perpetual bondage." I would not violate the rights of Mr. Wilde; I understand he is willing to take what he gave the Spanish claimants, that he is willing to sell. I hope the words may not be stricken out.

Mr. RANDOLPH now made some inquiry, which was not distinctly heard; when

Mr. P. P. BARBOUR said he could not better answer the inquiry of the honorable gentleman from Virginia, than by asking for the reading of the first part of the petition of Mr. Wilde: and it was read accordingly.

Mr. RANDOLPH. I now say, sir, without intending the least disrespect, that the amendment of the gentleman from Pennsylvania, [Mr. MINER] and which has been adopted by the gentleman from New Hampshire, [Mr. BARTLETT] affirms as a fact, what the petition, and the decree of the Court of Georgia, do positively deny. And it is certainly unbecoming of this House to say to one of its committees, as a fact, that which all the evidence before the House proves not to be a fact, that these People had been taken illegally. The resolution in its present form affirms that these slaves have been "inhumanly and illegally" taken from Africa. They may have been taken "inhumanly," but of this we have no proof—but as to their having been taken illegally, we have the most positive evidence to the contrary, because they were claimed (and the claim was established by the tribunal in the last resort) by the Spanish and Portuguese owners, the Government of both of whose countries legalize the traffic. They could not, therefore, have been taken contrary to law. They were taken according to the laws, usages, and customs, of Africa, and of the nations to which the claimants belong. They were as lawfully taken, probably, as any slaves who were brought into South Carolina and Georgia since the adoption of the Constitution, under that clause of the Constitution which permitted the traffic in slaves for a limited time. The taking and bringing of these was legal, according to the laws of America, and by the customs of Africa. We are, therefore, asked to affirm that the slaves mentioned in this petition were taken "illegally," when all the proof is to the contrary.

Sir, I am not going to enter into the question of the slave trade and slavery in the abstract. That man has a hard heart, or at least a narrow understanding—yes, and a narrow heart, too, who would justify slavery in the abstract. But that man, although he may have a heart as capacious as the Atlantic Ocean itself, has a narrow and confined intellect, who undertakes to make himself and his country the judge and the standard for other men and other countries. Sir, this very principle of interference with the conduct of other nations was one of the greatest objections to the Revolutionists of France, and it was one of the greatest objections taken to the conduct of the high contracting parties at Pilnitz. We have no right to prescribe laws for other countries. God forbid, Mr. R. said, that he should ever defend slavery, or ever should, in any case, raise his voice against the cause of liberty. Though, said he, I might remind the House that slavery existed a long time ago. The mother of the Ishmaelites was a bond-woman; the Greeks and Romans about whom we hear so much, were slave-owners. Sir Thomas More, one of the wisest, and one of the most benevolent of men, could not complete his *Eutopian Commonwealth* without the aid of slavery. That it has existed, does exist; that it is an evil, no one will deny. But we have no right,

JAN. 10, 1828.]

Captured Africans.

[H. OF R.]

on that account, to make laws for other nations, and in this case, the decision of the Supreme Court; to whom the case was submitted, is positive evidence that these persons were not illegally taken, and consequently were not illegally brought into the United States. I am now bottoming myself upon law—upon sheer law.

Sir, said Mr. R., there has a spirit gone abroad—both in England and here—it is now raging in England, perhaps, as much as ever fanaticism raged there in the time of the Covenant of the Round Heads—it is raging here, and I wish I could say that it does not exist even in Virginia. It is the spirit of neglecting our own affairs for the purpose of regulating the affairs of our neighbors. Sir, this spirit takes the plodder—yes, the plodder from the field—to become a plodder in the pulpit. It has taken the shoe-maker from his last—and, what is worse than all, it takes the mother from the fireside and from her children, into a sort of religious dissipation, in which the Church is made as much a Theatre as the Grand Opera at Paris, or as Drury Lane or Covent Garden in London. This spirit renders home too dull a place, and renders it (if I dare to use a French word in this House, or a Latin one, without the certainty of being misrepresented) the very seat of *ennui*.

Sometimes our humanity is up for the Greeks—it has not yet, so far as I know, been asked for the Trojans—it may, very possibly, be some day up for the Trojans—and we are called to rejoice in a victory of the three first Powers of Europe over a handful of semi-barbarians, in the harbor of the ancient Pylos. Sir, instead of any triumph, in my opinion, that victory was a stigma—a stain—upon the naval glory of all those nations concerned in it—I mean of those who had any glory to lose. With immense odds in their favor, they attacked, and killed, and murdered, hand to hand, as brave a set of men as the Sun ever shone upon. And what are we to assist the Greeks for? To build up a nest of pirates in the *Ægean*? They were so of old—yes, sir, of old—long before the time of Ajax and Agamemnon—pirates they are—pirates they ever have been—and pirates they ever will be. Why, sir, our force will not be able, even in that small, placid—that halcyon sea, I might call it—to protect our own commerce from their row boats and their corsairs.

In saying this, Mr. R. said, he knew that he was running against the prejudices of the country, and that philanthropy which was so much in vogue. But, said he, what was I sent here for but to oppose those prejudices whenever it is practicable?

[Here the CHAIR interposed, and reminded Mr. R. that the discussion ought to be confined to the amendment of Mr. BARTLETT, which was to strike out the last words of Mr. MINER's amendment to his resolution.]

Mr. R. resumed. If I am out of order, I submit to the decision of the Chair—what I said was only intended as illustration, in reference to the part of the amendment; which goes to assume that the slaves were illegally taken, when we have the evidence of the decision of the Court in the last resort to the contrary. Sir, said he, I will put a case, which will further illustrate this controversy. Suppose that the British Government, instead of being anxious, as they are, to vomit forth the *Lazzaroni* of Ireland—that wretched population who are reduced to the *minimum*, and the *pessimum* too, of human existence—to the potato, the whole potato, and nothing but the potato—was desirous of detaining them in Ireland—would it be “inhuman” in the Captain of an American vessel—it certainly would be “illegal,” according to the laws of England—but would it be “inhuman” to bring a number of that wretched peasantry, ground down to the last turn of the screw of despotism, so that one turn more must rescue them entirely from it—the human family could not multiply under a feather more of weight—to bring a

number of these miserable beings to this country! Sir, I will not say how much humanity and religion I have—I will say, in the words of a very great man, on another occasion, “none to speak of;” but it would be humanity to bring them all here. Yet, as regards the interests of my country—of the State of Virginia—I would hang any man who brings one of them into it. Yes, Sir—I would make it death; for it would be inflicting a serious evil.

I was sent here to promote the true interests of this People. I think, in regard to this matter, many of my friends are radically wrong, and I think many measures we have adopted here are wrong; and though I would not abolish that sort of humanity and religion, I would certainly let it enjoy a pretty long abeyance.

Sir, if this amendment be adopted, it goes to touch not only the legal right now under consideration, but the legal right to every slave in the country previously imported: for, if these thirty-nine slaves were inhumanly and illegally taken, then, according to the reasoning of the gentleman, all the rest which were brought into this country from Africa, whilst the Constitution admitted their introduction, were inhumanly and illegally taken.

I will not trespass farther on the patience and indulgence of the House, but, as a Southern man, I will not suffer this matter to go any further, without making a solemn protest against any such preference as this, on the part of any branch of this Government, going to touch this question, or affect that right in any manner whatever. I protest against it as one of the humblest and lowest of the Virginia Delegation—and, Sir, I never will sit silent here as long as any thing is brought before the House, which touches it in the slightest or the remotest degree.

Mr. MINER begged gentlemen to remember that he had no hand in bringing this subject before the House. The case of these persons was brought here by others. In speaking of the slave trade as illegal, I did not intend to speak in the precise terms of the lawyer, nor to embarrass the question with legal technicalities. The honorable gentleman must pardon me, but, because Spain and Portugal may legalize this traffic, I cannot regard it as legal, nor consent to speak of it as legal. This point is not to be settled for us by Spain or Portugal. We should regard and speak of it as statesmen, and the question of its legality should be determined by the higher laws of God and humanity. Those are the laws to which I referred.

Mr. WEEMS rose; when the SPEAKER observed, that the debate had taken already too wide a range: that the motion before the House, of the gentleman from Pennsylvania, was to amend the amendment proposed by the gentleman from New Hampshire.

Mr. WEEMS said, he asked no further indulgence than had been extended to other gentlemen who had taken part in this debate; that he certainly was not out of order in obtaining the floor, and he should endeavor not to become so in any remarks which he had to offer, and most assuredly not more so than others who had spoken, and then inquired of the Speaker whether he was to consider himself as having the floor?

[The SPEAKER requested the gentleman from Maryland to proceed.] Mr. WEEMS said he heartily accorded with the honorable gentleman from Virginia, (Mr. RANDOLPH) in most of his remarks; and, although like that gentleman, he felt unwilling, for the purpose of increasing temptation, or extending slavery, to go into the defence of it as an abstract principle, consequently he had hoped not to have felt himself called upon to say one word on the present occasion. But when gentlemen considered themselves at liberty to rise on this floor, and, by a formal proposition, uncharitably to denounce all others, who happen to think differently from themselves on the



H. or R.]

*Case of Marigny D'Auterive.*

[JAN. 10, 1828.]

subject of slavery, pronouncing it not only contrary to law and humanity; but in the open violation of the precepts and commandments of God, he felt himself no longer at liberty to be silent, being himself a slave-holder, and bound at all times, when properly called on, to offer reasons in justification of his actions.

[Mr. MINER rose to explain. The honorable member must have misapprehended him, as he certainly did not mean to make any attack upon those who held slave property. His remarks were strictly confined to the case of the Africans whom he could not regard as slaves, and he did not think our laws should so regard them.]

Mr. WEEMS said he had no disposition to doubt the honorable gentleman, or to reject his explanation. But he wished to be understood, in accepting it, to receive it precisely as he would an apology from a man who had first attempted to knock him down, and then declared he had no intention of injuring him. Sir, said Mr. WEEMS, the gentleman from Virginia, [Mr. R.] and the gentleman from Georgia, [Mr. G.] must have satisfied, if not all, certainly the most who have listened to them, that this particular act, now under discussion of enslaving men, was not contrary to law, however it might be according to the notions entertained by the honorable gentleman from Pennsylvania on that subject, contrary to humanity. My object, sir, said Mr. W. will now be, to shew, that the gentleman is equally mistaken as to another law, and the Gospel, which he has thought proper to introduce to his aid; and he would here state, without fear of contradiction, so far as proof be required to meet proof, that slavery, the right of property in the human family, by purchase with your money, to be held and transferred in perpetuity to posterity, had been recognized by the Almighty himself to the fullest extent, under every dispensation which he has condescended in mercy to extend to man; after advancing this unfashionable proposition, said Mr. WEEMS, I hope to be indulged, whilst I offer in as a brief a manner as possible, a few of the leading proofs that at present occur to my mind, out of the many passages, which are to be adduced from both the Old and New Testaments. Mr. W. said he would not go back to the origin of slavery. The sin of ingratitude committed by the ungrateful Ham towards his aged father, after that father had, as the favored instrument of God, saved him and his family from that universal ruin into which all animated nature had been thrown, with the exception of what, under God's directions, he had received into his ark of safety, further than by a reference to satisfy those who will examine for themselves, that slavery was the decree of Heaven; "Cursed should be Canaan, a servant of servants shall he be unto his brethren;" and that "Shem should be blessed," and "Canaan shall be a servant," and that "God would enlarge Japheth and Canaan should be his servant;" so said the good old Noah, and the sequel, so far as sacred and profane history are to be received in evidence, has proved that he knew and said it prophetically, as he knew and spoke of the approaching deluge before it came—and who can unsay it?

Mr. W. said he would invite the attention of the House immediately to him, who, of all others, it pleased God to style his friend—the faithful Abraham—with whom God established a covenant, that which Christians believe and acknowledge to be the prototype of Baptism; wherein he was commanded to circumcise, at eight days old, "all born in the house, or bought with money of any stranger, which is not of thy seed;" thereby recognizing the right of property by purchase, not only for the moment, but forever, "and my covenant shall be in your flesh an everlasting covenant;" and this very same Abraham must have been a vile old sinner, (agreeable to the notions of the present day) for we read that, on one occasion, he armed 318 of his servants, and wicked as he was to hold

servants, God blessed him, and gave success to his arms. Again, sir, said Mr. W. we find under the Mosaic dispensation, slavery to be recognized to the fullest possible extent; nay, sir, it is commanded by him who was believed by all to be a law-giver from God; through him we received the commandments of "thou shalt do no murder," &c.; and if we respect those, we are equally to respect other commands delivered through him, the very same law-giver. Now, what was Moses' command on the subject of slavery? It was this: "If a Hebrew brother became poor, and was sold for his debts, he should not be held as a slave, but as an hired servant, and, after a limited time, and at a fixed period, should be allowed to go free. But not so of others, not Hebrews. No, sir, his words are: "Both thy bondmen and thy bondmaids which thou shalt have, shall be of the heathen that are round about you; of them shall ye buy bondmen and bondmaids; moreover, of the children of the strangers that do sojourn among you, of them shall ye buy and of their families that are with you, which they begat in your land, and they shall be your possession; and ye shall take them for an inheritance for your children after you, to inherit them for a possession; they shall be your bondmen forever. But over your brethren, the children of Israel, ye shall not rule one over another with rigor." Yet, sir, the pretended philanthropy of our day can admit of no difference; all are entitled to equal rights, God's command even to the contrary notwithstanding. Now, sir, though last, not least, let me draw the attention of this House and the world as far at least as what I may humbly offer shall extend, to the Gospel of our Saviour. His self-taught followers have called upon masters to render to their servants that which is reasonable and just; and upon the servants to obey and to serve their masters in the flesh, faithfully as serving God. St. Paul, when applied to by a runaway, so successfully instructs him in this his duty, that he is found to alter his design, and to return voluntarily, to his master Philemon, with a letter from Paul: wherein Philemon is enjoined to receive him, and treat him to be sure as a brother, as he was, with his, Paul's, promise to make up or pay him what Onesimus might owe him for absenting himself, assuring his master how gladly he would have Onesimus to administer unto himself, but, without his master's consent, he would do nothing. What more, sir, need I offer to convince gentlemen of the advantage that would arise from an examination of a subject, and of authorities in proof of the truth, previous to an officious intermeddling with what they know or seem to know but little indeed about. I hope, sir, the amendment now before the House will be rejected.

Mr. MINER now withdrew his amendment.

And the question being put on Mr. BARTLETT's original resolution, viz. to have the bill recommitted, with instructions to report to the House the facts of the case, it was adopted without a division.

#### CASE OF MARIGNY D'AUTERIVE.

The remainder of the day was occupied in the consideration of the bill for the relief of Marigny D'Auterive: when Mr. DRAYTON took the floor and concluded the arguments commenced by him on a previous day, in reply to those gentlemen who had opposed the amendment moved by Mr. LIVINGSTON.\*

Mr. DRAYTON, of South Carolina, rose, and said he concurred with the gentleman from New York, [Mr. CLARK] who last addressed the Committee, in the wish he expressed, that the necessity should never occur of discussing the question now before the Committee. But the necessity has occurred, said Mr. D. and the gentleman from New York has contributed at least as much

\* This Speech was commenced on the 7th January, and the remarks of two days are here connected.



JAN. 10, 1828.]

Case of *Marigny D'Aulverie*.

[H. OF R.]

towards it as any one who has engaged in the debate. The Gentleman from Virginia [Mr. RANDOLPH] requested that no member from certain parts of the Union would condescend to discuss the main question which had been raised. With the most unfeigned personal respect for that gentleman, I shall rather imitate his precept than his example: for after the course which he had recommended, in a manner the most solemn and impressive, he afterwards entered into an argument which, perhaps, exhausted the subject. I undertake to say, that, if it should ever here be seriously discussed, whether the master has a right of property in his slave, that no members would remain in this Hall, who represent the People of the States in which slaves are possessed. Rights which are secured by the Constitution must endure as long as that Constitution exists. Is it not an article of the Constitution that private property shall not be taken for public use, without compensation? Is it not another, that the citizens of each State are entitled to all the privileges and immunities of citizens of the several States? Are these articles respected, if his property is ravished from the Southern owner, and applied to the public use, without remuneration? Is he alone to be deprived of that which is enjoyed by every other citizen? Are these infractions of legal, and moral, and constitutional rights to be even justified by resorting to abstract subtleties and sophistical refinements? Let me entreat the Committee to look at the real question which is before it. It is simply whether an individual, whose property has been impressed into the public service, is to be paid for the damages he has sustained by that act. Would the Committee, apprehending clearly this question, ponder for a moment as to the answer to be given? If it pauses, upon the ground that slaves are not property—if it pauses to investigate and decide what Congress has no power to sit in judgment upon—the pause would resemble that which precedes the whirlwind and the tempest: it would be followed by the rocking of the fabric of our Constitution to its base, and its prostration in the dust. Sir, when I listened to the sentiments which were expressed by some who have addressed the Committee, particularly by the gentleman from New York, [Mr. CLARK] when I heard them utter opinions pregnant with such baleful consequences, I shuddered. When I heard doctrines advanced, the recognition of which would dissolve the bonds of our Confederacy, I trembled for my country. It has been openly avowed, that the United States, in virtue of the compromise in the Constitution, by which slaves were represented, are entitled, in every military emergency, to take these slaves into the public service, without the consent or remuneration of their owners. Do the inhabitants of the South hold their property at the will of the United States? Are their slaves at the mercy of the Government? Can their proprietors, when it shall please this Government, be reduced to destitution and beggary? When such principles are promulgated, will our citizens calculate upon the value of the Union? If I know my countrymen, they would sooner perish; but they would perish with arms in their hands, dyed in the blood of those who would attempt to rivet upon them so degrading a vassalage. Did they submit to such degradation, they would deserve it: they would be fitter for slavery than freedom. And yet, sir, whilst professing doctrines leading to the direst issues, to the subversion of the Confederacy, to bloodshed and civil war, the gentleman [Mr. CLARK] talked, in impassioned terms, of justice, and benevolence, and religion. Sacred majesty of justice! are these thy dictates? Pure fountain of benevolence! do these precepts flow from thy source? Is this, O God of Mercy! is this the religion thou enjoimest? Though somewhat drawn from the even tenor of the discussion, by giving utterance to feelings which could not be suppressed, I will, nevertheless,

now endeavor to argue the question before us calmly, or rather those parts of it which admit of argument. As several gentlemen have spoken, to whom I wish to reply, in order to save the time of the Committee I will compress the substance of what they have said in a few propositions, and trust that I shall demonstrate that they rest upon foundations which are utterly untenable.

It has been contended, that slaves, not being mentioned in the act of 1816, which provided for the payment of property injured or destroyed by the enemy, whilst in the military service of the United States, therefore, admitting them to be property, compensation cannot, legally, be made to their owners for any damages they might suffer from their slaves being injured or destroyed, when pressed into the military service of the Government.

That the Government has no power, under any circumstances, to impress a slave, therefore, that compensation for his labor, deterioration, or loss, ought not to be granted, should he be pressed into the national service.

That no peculiar hardship is endured by the owner, in consequence of a refusal to remunerate him for the labor, deterioration, or destruction of his slave, pressed into the service of the public, inasmuch as no compensation is granted to the master for the damages he sustains from the enlistment of his apprentice, or to the parent for his minor son, when impressed into the Army.

That, although slaves, under one view of their condition, are property, yet, when considered in another aspect, as giving a right of representation, they then cease to be property, and must be regarded as persons.

From the commencement of the observations of the gentleman from Ohio, [Mr. WHITTLESER] I had hoped that the amendment offered by the gentleman from Louisiana [Mr. LIVINGSTON] might have been disposed of, without any irritation or excitement. The gentleman from Ohio, after unqualifiedly conceding that slaves were property, accompanied by some remarks, which were kind and liberal, contended, that the petitioner was not entitled to compensation for the damages he had sustained in consequence of his slave having been pressed into the military service of the United States, because slaves were not enumerated among the particular description of property contained in the act of 1816. Although I should have thought that the gentleman's construction of the act was erroneous, yet it would have afforded me great satisfaction that this should be the ground upon which he offered the amendment. Had the debate been limited to the construction of the law, and had no other exceptions to the amendment been relied upon, no irritation would have been created; and I am confident that neither my colleagues nor myself would have exhibited any other feelings than such as are called forth by the ordinary topics of legislation, and this Committee would not have heard an angry tone of discussion, which must have been painful to it to listen to.

In the 3d section of the act of 1816, it is enacted, that if damage has been sustained by the loss, capture, or destruction, by an enemy, of any horse, mule, ox, wagon, cart, boat, sleigh, or harness, whilst in the military service of the United States, either by impressment or contract, the owners of such property shall be indemnified. In this enumeration slaves are not named, from which the gentleman from Ohio, [Mr. WHITTLESER], from Virginia, [Mr. MCCOY], and from New York, [Mr. STROONG], infer, that they were not intended to be comprehended in it. But the 5th section of the same act declares, that where any property impressed or taken by public authority, for the use or subsistence of the Army, during the late war, has been destroyed, lost, or consumed, the owner of such property shall be paid the value thereof. This section is general and embraces every species of property. Had it not been inserted, the 3d section

II. OF R.]

*Case of Marigny D'Autorice.*

[JAN. 10, 1828.]

would have been imperfect : for, if a slave would not be within its meaning because not named, neither would any other species of property, which had not been named ; the effect of which would have been, that no compensation could be made for the use, loss, or destruction of any animal excepting a horse, mule, or ox : of any kind of carriage, excepting a wagon or cart : of any floating vessel excepting a boat ; or of any property which might have been lost or destroyed in a wagon, cart, or boat : nor could compensation have been made for working tools, provisions, timber, iron, &c. or any of the infinite varieties of articles, which the exigencies of the occasion might require. The mere statement of these effects, resulting from limiting the construction of the act to the specific subjects enumerated in its 3d section, is sufficient to shew the incorrectness of the inference which has been drawn from it. It is well known to the members of this Committee, to be the ordinary practice, in framing laws, in which certain objects are intended to be provided for, first, to detail these objects, and then to introduce a general provision, in order to guard against omissions, frequently unavoidable, where specifications are attempted. With this view the 5th section was inserted : under it every species of property is included ; a slave, therefore being property, which in this part of their argument was conceded by the gentleman opposed to the amendment, it follows, necessarily, that his owner is as much entitled to compensation, under the circumstances stated in the act, as the owner of any other property, in the same situation.

But we are told that the Government has no power, under any circumstances, to press slaves into its service ; therefore, that compensation ought not to be allowed for their use, deterioration, or loss, where the Government does exercise this power. Sir, I can scarcely reply to this position with seriousness. A more utter abandonment of sense to abstraction ; a more perfect invasion of all the rules of logic and reasoning : a more untenable, indefensible paradox, I have never heard uttered upon this floor. What is the substance, if substance it have any ? That the commission of a wrong absolves the party committing it from responsibility. That the usurpation of power exempts the usurper from moral or legal accountability. That the wrong of seizing property, tyrannically, justifies the wrong of refusing to make compensation for its use or destruction. What, do laws protect the violators of right ? I had always thought that they were framed to protect the citizen from wrong. Does the Constitution forbid our Government from doing justice, only in cases in which our Government has been unjust ? If my dwelling has been reduced to ashes by the incendiary—if my purse has been forced from me by the robber—if my life has been taken by the murderer—shall these criminals be permitted to elude the vengeance of the law, upon the plea, that they had no right to commit the felonies which they have perpetrated ? And yet, upon no better foundation rests the argument of the gentleman, that the Government, in the case before us, is not bound to remunerate the petitioner. As has been properly said by the gentleman from Louisiana, though his meaning has been grossly misconceived, the Government has no right by the Constitution or by law, to press any kind of property, Extraordinary cases, nevertheless, happen, when imperious necessity, and the preservation of the body politic, justify such an act. Where such high necessity exists, every kind of property is equally subject to be put in requisition. Though unwilling to make any admission authorizing the United States, or any of their military agents, to interfere with the Southern slave, I yet agree with my colleague, [Mr. HAMILTON,] (though I very much qualify the application of the eminent domain and transcendental propriety, in a Republic like ours) when the enemy is menacing our Territory,

and his progress cannot be impeded, without calling forth all the physical force of the adjacent country, to erect fortifications, throw up entrenchments, or to perform any other kind of military service, that the labor of the slave would be no more exempt than the use of any other species of property which could be rendered available for the national protection. There are times and occasions when the laws are violated to preserve the laws ; when the Constitution is infringed to save the Constitution ; and I hesitate not to declare, that the officer commanding the forces of the Union, who, in a perilous crisis, when the country could not be defended against an invading enemy, unless he forced to its aid all the physical force he could collect, unless he took upon himself the responsibility of an authority beyond the strictness of the law, would be a traitor to his trust and a traitor to his reputation if he shrunk from encountering that responsibility. But it is idle to reason upon the conduct to be pursued in such extraordinary conjunctures : when they occur, the enlightened soldier will take counsel from his patriotism and his valor : he will appeal to his God, his country, and his sword, and not entangle himself in the mazes of legal subtlety or metaphysical abstraction. The nation would not merely justify, but applaud such conduct ; whilst, according to the spirit of the Constitution, it would take care to provide compensation to the individuals whose property had been sacrificed to the general weal. And the very law upon which we have been commenting, was enacted for this especial purpose.

The gentleman from New York, (Mr. STOWES,) broadly denying that either the Government, or any of its agents, military or civil, can upon any principle of State necessity, or upon any other principle, press into its service, either a slave, or any other kind of property, asserts, that, whenever any property has, by a Military officer, been pressed into the public use, and compensation has been allowed to the individual injured, that he has been compensated upon the ground, that the officer was a trespasser. I will thank the gentleman to point out a single instance of such a case. Our statute book abounds with acts giving compensation to citizens, whose property was impressed, during the late war ; not one of them gives relief upon the ground which that gentleman has stated ; if he will read the act of 1816, he will not discover in it a single expression, from which the remotest implication could be drawn, that the relief therein provided for, is granted because the military officer was a trespasser. Upon that ground, precisely, would it be, that compensation would be refused. For the tortious illegal act of the officer he would be personally responsible to the party aggrieved, in a Court of Justice, by which, vindictive damages would be awarded against him. There can be no doubt that the clause in the Constitution, which declares that private property shall not be taken for the public use without just compensation, was inserted, in order to meet extraordinary exigencies, which could not be anticipated ; which under the pressure of war, peculiarly of invasive war, could not be avoided ; and without which, the country could not be defended.

It has been urged, that where a slave is injured or destroyed, who has been pressed into the public service, his owner suffers no peculiar hardship by not being remunerated for his loss, as no compensation is allowed to the master, for the damages he sustains by the enlistment of his apprentice. A single observation is sufficient to shew the fallacy of this argument. Congress passes a law authorizing the enlistment of apprentices, and this law has been solemnly decided to be constitutional ; but the United States are expressly interdicted, by the Constitution, from taking any private property to the public use, without compensation. The apprentice is as much a citizen as his master ; he may be as deeply interested in the nation's welfare : he is as much bound to defend

JAN. 10, 1828.]

Case of Marigny D'Aulivier.

[H. OF R.]

it; and the contract between the master and the apprentice is merged in the higher obligation which is imposed upon every citizen to protect his country. Where is the analogy between such a case and the one now under consideration? Admitting it to be a case of hardship, that the master, without any remuneration, should be deprived of the services of his apprentice, the obvious answer to the complaint which he might make, would be, that neither the Constitution nor the law affords him any redress; but the Constitution requires for property of every description, taken for the public use, that compensation shall be made; and neither the Constitution, nor the law passed in conformity to it, makes any distinction between the different species of property for which compensation shall be made. The gentleman from New-York, [Mr. STORRS] asks, why should remuneration be made to the owner of a slave for the loss of his services, and not to the parent of a minor? Because the slave is property. The minor owes the same duties to his country, as his parent does; when he enlists, he does so voluntarily and legally, and is paid for his services. The gentleman [Mr. STORRS] has drawn a pathetic picture of the minor dragged by the arm of military power from the embraces of his parents, forced into a camp, and subjected to the harshness of martial law. But this is a mere creation of his fancy. No law of the United States ever existed authorizing the impressment of a minor or of any other citizen into the Federal Army.

The observations which I have hitherto submitted, are all founded upon the ground that slaves are property, which was unqualifiedly conceded by the gentleman from Ohio [Mr. WHITTLER] in the beginning of his argument; although, afterwards, he distinctly stated that slaves, when viewed politically, as giving a right of representation, (in which the gentleman from New York, Mr. CLARK, agreed with him,) ceased to be property, and were to be regarded as persons; and both these gentlemen relied not only on the Constitution, but upon the language of the treaty of Ghent, to sustain their position, asserting that that treaty did not make indemnification for losses of property generally, but only for slaves; and, as indemnification was as justly due for one kind of property as another, carried away by the enemy, therefore, they drew the conclusion, that, according to the treaty, slaves were not considered to be property. The gentlemen either never read the treaty upon which they have commented, or they have forgotten what they read. Its language in the first article is, "All places, &c. shall be restored, &c. without carrying away any of the artillery, or other public property, &c. or any slaves, or other private property." The recognition, therefore, that slaves are private property, is expressly made in the treaty; and 'tis notorious, that, under it, indemnification has been obtained for losses, both of slaves and of other kinds of property. 'Tis true, that, by the Constitution, slaves give a right to representation, according to a certain rule; but does property change its nature because it is represented? In all the Governments in Europe, professing the least portion of freedom, property is represented. In many, (I am not prepared to say how many,) of the State Constitutions, property is represented in their Legislatures. There would be as much force in the argument, that persons cease to be persons, because they are represented, as, that property ceases to be property, because it is represented. The gentleman from Virginia [Mr. RANDOLPH] has correctly said, that that is property which the laws declare to be so. What constitutes property varies, in some respects, in different countries; but, in every nation, ancient or modern, in which slavery existed, slaves have been regarded as property, *ex utermini*, slaves must be property. By all laws, by the laws of nations, the civil law, the municipal law, they are so regarded. In England, the atmosphere of which, it has

been said, by some of their writers, is too pure for a slave to breathe, he is, nevertheless, considered to be property; and this view of his condition has been recognized by a decision of Lord Stowell, within a few months, even in a case in which a slave had breathed the pure air of England. In the time of Lord Mansfield, slaves were openly bought and sold in the city of London. By the laws of the United States, levying a direct tax, slaves are specified as property, and assessed as being so. By the laws of every State in the Confederacy, in which there are slaves, they are exclusively property. I make these observations incidentally, and merely as observations. I never will enter into a formal discussion, in this House, whether slaves are property. I will not even plead to its jurisdiction. I will not, in the most indirect manner, suffer an inference to be drawn from any word, or deed of mine, which, by the most strained construction, could be tortured into the semblance of an admission that the Congress of the United States has the shadow of a right to sit in judgment upon this question. If it were to assume this right, the Union would be no more. I would not use such language as this, but upon the most grave and solemn occasions—without the deepest reflection, and the most settled resolution. No one values our Constitution more than I do. I would speak of its dissolution with fear and trembling. In its prostration, I should mourn the ruins of the fairest Temple which Liberty had ever erected. I would cling to the Constitution as long as it exists; but, when its fundamental principles are violated, when, in its name, the most sacred rights are assailed, 'tis no longer the Constitution which we have sworn to support.

Upon the topic of slavery, as connected with its existence in the Southern States, I hoped never to have uttered a syllable in this House; but, as it has been forced upon me, and as, in its discussion, much feeling is necessarily mingled, in order that sentiments may not be ascribed to me which I do not entertain, I will make some few remarks upon the subject. What I have hitherto said, has been founded upon right, upon strict and unalienable right—a right which belongs to my constituents and to myself, which it is both my duty and my inclination to defend and preserve to the utmost of my ability. Slavery, in the abstract, I condemn and abhor. I know no terms too strong to express my reprobation of those who would introduce it into a nation. I know no language of crimination too unqualified to be applied to those who are engaged in the African slave trade. An African slave ship is a spectacle from which all men would recoil with horror, unless the vilest lust of lucre had steeled their hearts against every feeling of humanity. But, when we live in States in which slavery existed before we did, where it has grown with our growth, and strengthened with our strength, it has become so inseparable from, and interwoven with, our condition, as to be irremediable—or, if remediable, can only be so by the slow process of time. Our consolation is, that we did not originate it; when a colony, we struggled against it; we found it at our births; it was a part of our inheritance—from which we can no more deliver ourselves, than we can from the miasma of our swamps, or the rays of our burning sun. However ameliorated by compassion—however corrected by religion—still slavery is a bitter draught, and the chalice which contains the nauseous potion, is, perhaps, more frequently pressed by the lips of the master than of the slave. All we can do, is, for our safety, to retain the slaves in a due state of subordination, and, for their sakes, and for the sake of humanity, to treat them with all the consideration and mildness which their condition permits. But, whatever we do, must be the work of ourselves. To understand how slaves ought to be treated, we must be among them—must be acquainted

H. or R.]

*Mobile Court Martial.—Case of Marigny D'Auterive.*

[Jan. 11, 1828.]

with their minds, temperaments, and habits. One not living among them, would be as unfit to establish rules for their government, as could be an ignorant empiric to prescribe a remedy for a disease which he knew only by name. We not only are alone capable of devising the best practicable mode to be observed towards our slaves, but we will suffer none others to meddle with them. Slavery is a municipal institution, as unconnected with any control of the United States, as our corporations, our colleges, or our public charities. We would as soon permit others to invade the sanctuary of our dwellings, as to touch it. We would as soon permit Congress to dictate to us in our domestic concerns,—in our social intercourse—to prescribe to us a system of religion, or a code of morals. We should receive any extrinsic interposition as an injury, and resent it as an insult. Much as we value this Union, we would rather see it dissolved than yield to such a violation of our rights. Much as we love our country, we would rather see our cities in flames, our plains drenched in blood—rather endure all the calamities of civil war, than parley for an instant upon the right of any power than our own to interfere with the regulation of our slaves.

Whatever violence may have been exhibited in this debate, has been occasioned by the remarks of others. I shall make no particular reply to the position of the gentleman from New York, [Mr. CLARK] that, under the compromise in the Constitution, slaves, in time of war, are at the mercy of the Government. From the general tenor of his observations, indicating kindness and good feeling towards his fellow citizens of the South, I am under the impression that, in the heat of argument, he conveyed a meaning beyond what he intended; and I am strongly inclined to think that the gentleman himself will not, upon reflection, entertain the opinion he has expressed, which I do not believe to be the opinion of a single gentleman in this House.

It has been asked by the gentleman from Ohio, [Mr. WHITLSEY] whether the blood of blacks was purer than that of whites? Whether, should masters remain at home, and send their slaves to battle, this Government ought to pay for them, should they be killed? These are not arguments. If the object of the member was to excite our angry passions—to array the North against the South—to convert this hall into a bloody arena, they might be powerful arguments. Have they any reference to the question under debate? Have the citizens at the South, by any part of their conduct, in war or peace, justified such taunting interrogatories—such bitter, and, but from respect for this committee, I should say, such malignant insinuations? Sir, I envy not the feelings of any one capable of uttering them. They have been volunteered upon an occasion when we merely ask that justice should be done to a citizen, who seeks for that which has been denied to no other in his situation, and which he is entitled to demand by the Constitution and laws of his country.

[Here the debate closed for to-day.]

FRIDAY, JANUARY 11, 1828.

#### MOBILE COURT MARTIAL.

Mr. SLOANE moved the following resolution:

*Resolved*, That the Secretary of War be directed to furnish this House with a copy of the proceedings of a Court Martial, which commenced its sittings at or near Mobile, on the 5th day of December, 1814, for the trial of certain Tennessee militiamen; together with a copy of all the orders for the organization of said Court, as well as those subsequently issued in relation to its decisions; and to inform this House whether there is in the War Department any evidence that those militiamen were called into service by virtue of any special order of the

President of the United States, or whether, in pursuance of the powers vested in him by the law of the 18th of April, 1814, the President did make any general regulation as to the period of time the militia called into service under the provisions of that act, and the act to which it is a supplement, should, be held to service; and, if so, the time at which that regulation was made. And whether the President did give, through the War Department, any order directing the length of time that the detachment of Tennessee militia, of which the men tried by the aforesaid Court Martial at Mobile form a part, should continue in service. And, also, to state under what law these men were drafted, and what laws of the United States were in force at the time they entered the service. And, also, to furnish copies of any correspondence in the War Department, between the President or Secretary of War and the Governor of Tennessee, during the late war, on the subject of the time which the drafted militia of said State should be required to serve in the armies of the United States."

This resolution was laid upon the table for one day.

#### CASE OF MARIGNY D'AUTERIVE.

The House being again in Committee of the Whole on the bill for the relief of Marigny D'Auterive, and the question still being on the amendment moved by Mr. LIVINGSTON, providing for the lost time of the petitioner's slave, and the expences of his medical treatment—

Mr. BUNNER, of New York, rose and said, I have listened to the progress of this debate, with a great and constantly increasing interest. At first, however, this struck me as a dry question, relating merely to an individual claim, in which we had only to inquire into the fact, and then determine the compensation. But the debate which has subsequently arisen; the manner of the discussion; the language which has been used; the high tone of defiance on the one side, the bold and reckless spirit with which the subject has been approached on the other, have forced me to contemplate it in a very different aspect. It is impossible for any individual, coming from my part of the country, to hear, dispassionately and coolly, the language which has been used by the gentlemen of the South. We have, all of us, certain habits of thought, certain feelings and associations, inseparable from our nature, which education renders indelible, and which should be mutually respected. We ought to remember, that, so fallible is human reason, and so much under the dominion of the circumstances, which surround it, and impart to it their own character, that the same exact quantum of reason, as it exists, North or South of the Potomac, exercised upon certain subjects, may perform precisely converse operations; and it therefore becomes us, when discussing any topic which thus alters the character of our rational nature, to practice a lesson of mutual toleration, of mutual forbearance. When our Southern brethren, therefore, giving utterance to the unbiassed dictates of their own judgment, on this irritating question, forbid us to touch or approach it—when, in their language of strong and indignant feeling, they warn us against the hazard of incurring the last and worst of political evils—they forget this peculiarity of our relative position. They do more, Mr. Chairman: for, arriving at the conclusion, that this House has no power to decide whether a slave be property by virtue of their own natural reason, and inhibiting us from even an approach to that question, they claim the uncontrolled exercise of reason, and the expression of opinion, which they refuse to us.

If the conclusion of the gentlemen be correct, why may they not safely submit to us the consideration of the premises? If it be incorrect, the language of menace is as impolitic as it is dangerous. I have said, that I originally considered this a dry question; I will now say, that my mind was made up to vote for the amendment of the gentleman

JAN. 11, 1828.]

Case of Marigny D'Aulverie.

[H. OF R.]

from Louisiana, involving the principle of the master's right to compensation for his slave. Subsequent reflection, however, if it have not completely changed my opinion on this point, has certainly induced me to view it as a matter of the slightest comparative importance. The amendment to the report is to allow to the master a compensation for the loss occasioned by the impressment of his slave, under that article of the Constitution which provides that private property shall not be used for public service, unless upon just compensation to the owner. And it is advocated upon the principle, that its rejection will express the decided opinion of this House, that a slave is not property. Such a consequence, sir, in my opinion, is neither natural nor necessary. And I shall briefly state, for the reflection of the gentlemen from the South; why I think it is not. The question, considered in this uninteresting view of it, is, in my opinion, simply, whether the constitutional provision was intended to embrace this precise species of property? And, I confess, though with some hesitation, that I think it was not.

Mr. BURMAN then proceeded to explain, and insist upon the logical and legal distinction between the absolute right of property to material things, and that which consists in a legal title to the services, or interest in the labor of another person. He illustrated this distinction by several analogies and examples, drawn both from the Civil and the Common Law, in the course of which he observed—

There are two great divisions of property, in respect to their natures, that are separated from each other by a line as clear, and marked, as light and darkness. They are—that property which has no rational will, and that which has. Both have been the subjects of ownership from the earliest ages and the right of exclusive ownership over both, is of an origin coeval with the history of the world. The nature, however, of this exclusive right is different, vastly different in each; and the difference arises from the nature of the subject. No man who has the slightest glimmering of reason can confound them. No Legislative body ever has confounded them. The confusion, whenever it arises, has its root in passion, prejudice, or ignorance. Our natural feeling in this, as in many other matters, overmatches all the sophistries of reason. For what man can view the death of his ox and his slave, with equal indifference? If such a man there be, that man is not to be found North or South of the Potomac. We exercise over the one subject, (however uncontrollable our political right and power may be) an accountable, a responsible, a moral agency; if not responsible here, at least hereafter. Now, sir, let me ask, if the framers of our Constitution intended to blend these two subjects together in this their provision? Let me ask, if both had been intended, would not each have been as distinctly pointed out by words, as they are different in their natures? Let me ask again, what is this right of property which the master has over his slave? What but a right to his services, the right to his bodily and intellectual labor, either for life or for years, accompanied by the duties of protection and sustenance? If for either life or years, what difference can the gentleman from Louisiana, the first civilian of his country, among the first jurists of any, point out between the servitude of the slave, and that of a minor by the civil law, or an apprentice by our common law system? For the purposes of this argument, the legal duties of protection are the same in each, and the legal right to the services is the same. I know well, that there is an important difference in their respective conditions; but this is not within the scope of the present discussion.

Did it then ever enter into the imagination of a Northern man to claim a compensation for the services of his impressed son, or his apprentice? Was there ever an

attempt from the South, before the one now under consideration, to claim compensation for the loss of services of a slave, or from the North, when the North had slaves, and they were employed in the service of the old Continental Congress? And if not, is it not a strong implication in favor of that construction for which I now contend? That fifty years have passed away without the agitation or decision of this question, is certainly some proof that the framers of the Constitution never intended to embrace the subject-matter. The determination of the House, therefore, on this subject, does not necessarily or naturally involve the question which has excited the warm feelings of the South. We are not even called upon to touch it, much less to decide it. [Mr. B. here briefly stated and summed up the arguments, and cited the language of the gentleman from South Carolina, Mr. DRAWTON and of his friend from Louisiana Mr. LIVINGSTON.] And here let me pause; I have now briefly stated the train of thought, which has satisfied me that it is my duty to vote against the amendment. I may be wrong, but I leave that to the reflection of the House, and must now call its attention to the more important and imposing considerations, which the course of this debate, the matter, and the manner of it, have suggested—no, have forced upon me. I have said that this view of the subject is comparatively insignificant. These words, any words, are poor and feeble, to mark the difference which I perceive and feel. The claim for compensation, considered by itself, is truly unworthy of the feeling and talent which it has enlisted and excited—*Non dignus vindice nodus*. It neither calls for, or justifies, the asperity, the irritation, the deep feeling, of the one side, or the pertinacity of the other. The unnecessary turn that has been given to this discussion may account for the former, as the question it involves should teach the lesson of moderation to both. It is useless to deny it, we cannot deceive ourselves or others. Upon that question depends the existence of this Union.

I, for one, at least, am free to acknowledge, what I religiously believe, that, guarantied as the claimants and possessors of these rights, are, by prescriptive right, and by constitutional compact, they can expect nothing—they can hope nothing—they must lose every thing, if we attempt, by direction or indirection to make or meddle with this subject of their exclusive jurisdiction. This is a topic upon which we of the one side, may speculate coolly; because one common consequence of evil to North and South is remote; the other, peculiar to the South, is present, pressing, and fearful. It is an evil of which the Constitution has made them the only judges, as by its nature they ought to be—the only persons empowered and competent to alter, to soften, or to eradicate. They well know that any experimental tampering on our part, must be made at their sole risk, cost, and suffering. Is it strange, then, that, with the pledged faith of the nation, and the prescriptive right of ages, for the guarantees of their title, they should be jealous of our interference? This, however, is a partial consideration. There is the other common danger to us both, arising out of it, and its necessary consequence, to which I have distinctly alluded. The dissolution of this Union is an event which no American citizen can contemplate without the most intense feelings for the national interest and national glory. I need only allude to it. Other causes may hereafter endanger or destroy this family of free republics, but this is the present danger, imminent and fearful. Mr. B. then insisted warmly, and at length, upon the injurious effect produced on public sentiment, and the patriotic sympathies of the whole nation, by those ill-judged and ill-timed appeals to certain feelings, and those menaces of direful consequences; in their proper time and place susceptible of producing powerful impressions and probably salutary effects; but, if used on any other occasion

H. of R.]

*Case of Marigny D'Auterive.*

[JAN. 11, 1823.]

only wearing out and frittering their own power and weight. He then proceeded. Let me, then, entreat the gentlemen from the South to forbear pressing the discussion of this question upon every idle occasion. Let not the brain-sick theories of speculative men, in this House, or out of it, provoke them to it. Let them not start up, on every inconsiderate resolution which may appear to involve it, to protest against its being considered, thought of, approached, or touched. Let them rest upon their title to the subject as property. It is founded upon the same prescriptive right, upon the same pledge of national faith, with our own. Do the gentlemen of the South suppose that we can sanction an attack upon their rights, which must, in its principle, endanger our own? If we respect not the rights of property, as secured to them, do we not know that the time will come when others will cease to regard or respect our parchments and muniments? But they have a stronger hold upon us than even this. We cannot forget the blood that was prodigally shed by the gallantry of the South in securing that independence which the united wisdom of all has established upon its present basis. We remember who it was from the South that led us to conquest and to glory. Let them trust something to our generous feelings—something to the tie that binds us together. Let them wait until the evil is real, and not distant, contingent, imaginary. When some bold bad man, for mean and selfish purposes, shall attempt to make this contest the ladder of his ambition, whether upon unsound notions of political expediency, or the pretences of impracticable benevolence, they will then find that the North will be true (I speak the language of experience) to them, true to itself, true to the Union. The gallant spirits from South Carolina may then pour forth, in the strong language of passionate eloquence, those truths, the force of which the coolest men will acknowledge, and the dullest will feel. Let the gentleman from Virginia then raise his clear, distinct, and thrilling voice, let him put forth his great energies upon a subject worthy of them—he will find a respondent feeling in the North. He will then discover, when the danger is real, that the sympathy is common. Men of all classes and all descriptions will answer to his call. The danger of this Union will then become a natural object of religious dread and reverence to both North and South. Embracing, as it does, recollections and events, which have both instructed, astonished, and appalled the European world, we will stamp with infamy the man, or combination of men, who attempts to hazard it by an attack upon this, one of its vital principles.

Mr. DORSEY said that, in the extensive range which this debate had assumed, principles had been presented to the committee, in resistance to the amendment of the gentleman from Louisiana, deeply interesting to the Southern section of this Confederacy—to none of it more interesting than the district from whence he came. Experience has demonstrated, said Mr. D., that that peninsula, watered on the east by the Chesapeake, and on the south by the Potomac, from numerous bays and creeks, presents to an invading foe great facilities for carrying on its military operations. Immediately in advance of this city—it is fair to anticipate that, in any future war, the enemy will seek again to add to the lustre of their arms the sacking of the capital of this Union, and, thus it again will become the theatre of war; that, in resistance to the approaches of the enemy, the national Government will be called on to put into active requisition the physical strength of that district; that, from its sparse population and extensive water courses, slaves will be impressed into the public service to do the labor, the drudgery of the camp. Hence, the principles on which the resistance to this claim reposes, are of essential interest to those who have charged me with the vindication and protection of

their rights. I cannot consent, therefore, to be a listener only in this debate; and, however reluctant to participate in the discussions of this hall, I must become an actor, and contribute as far as I can to resist a recognition, by this committee, of principles pregnant with so much danger to the future interest of my constituents. I shall not add to the excitement which has already been produced, which has increased as the discussion has progressed; neither shall I attempt to decide who were the first to produce it. In all discussions producing mutual excitement, most generally there are faults on both sides.

The amendment offered by the gentleman from Louisiana goes to indemnify the master of a slave impressed into the public service, by the order of General Jackson, and wounded by the enemy while thus in the public service, for the deterioration in his value caused by the wound thus received.

This amendment is resisted by the gentlemen who have argued in opposition to its adoption, upon various grounds. It is resisted by the gentleman from Ohio, [Mr. WHITLSEY] upon the practice of the Government, as illustrated by various precedents recognizing the principle that slaves are not put on the footing of property, and paid for when lost to the owner, in the public service. By the gentleman from New York, a member of the Committee of Claims, on the ground that it is the right of the Government, when threatened with destruction, to use slaves for the purpose of national defence, and that, too, without being liable to be called on for indemnification. By another gentleman from New York [Mr. STORRS] upon the ground, that the right of the master in his slave, is a right to his services under all circumstances whatsoever, and also to the absolute, unqualified control and custody of his person; so that it cannot be taken from him for purposes of service, nor his actions regulated by any power but his own, save when the State lays its hand upon him for the punishment of crime, and the preservation of public peace. By all these gentlemen, upon the analogy between master and servant, and master and apprentice. The claim is farther resisted upon the ground of political inexpediency.

The gentleman from Ohio has, for a long time, been a distinguished and laborious member of the Committee of Claims. He knows full well the great weight which the decisions of preceding committees, and the opinions of enlightened statesmen, have on the judgment of those called to act upon analogous questions. He has, therefore, with great industry, culled from the Journals of this House, reports of various committees on questions of the like character with the one under discussion—establishing, as he argues, the correctness of the position which he has assumed in opposition to the amendment; and from which he argues that the practice of the Government has been to withhold indemnity for slaves injured when called into the public service, as D'Auterive's slave was. With great deference to the judgment of that gentleman, the reports referred to recognize no such principle. The principle recognized in these cases presented to the committee, is, that, when a slave is voluntarily carried into the military service of the country, by his master, being an officer, and substituted, by the assent of the officer commanding, for the servant which the Government was bound to provide the master with, that then the Government is not bound to indemnify the master for an injury sustained by the servant while thus employed. The cases referred to, are cases of substitution by agreement. The first case is the report of Montgomery, who was a lieutenant, who carried with him his servant as a waiter, who was killed. The committee in that report, say, if the Government should be compelled to pay for the negro, they would stand as the warrantor of the value, instead of making a reasonable allowance for him as waiter—placing the resistance to his applica-



JAN. 11, 1838.]

*Case of Marigny D'Auterive.*

[H. or R.]

tion for relief upon the spirit of the implied agreement, which was not one of warranty, but of compensation.

In accordance with this principle, recognized in this first application to the Government for relief for slaves injured in the public service, the claims of Lawrence, Evans, and Shaw, were rejected, inasmuch as all of those claims were for indemnity for the loss of their slaves, who were substituted in the place of the waiters which the Government, by its army regulations, had itself promised to these officers, to be taken from the ranks. The application now made for compensation comes not within the rule of substitution, for it is a case of impressment, where the Government, bound with the obligation of the general defense, omitted to provide the means essential to protect the country against the invasion of the enemy, impresses or takes, without the consent of the citizen, his slave, and employs him for the general welfare.

The next report referred to by the chairman, is the case of Purkill, who was impressed by the order of General Jackson, and, when the men were called to man the lines on the 8th of January, was sent to throw up entrenchments, in the doing of which he contracted a consumption, of which he died. The committee that reported on this case, were of opinion that, as it was a case of consequential injury, the Government was not bound to indemnify the owner; and when the committee report adverse to this claim, because the injury was consequential, it does appear to me, Mr. Chairman, that, if the injury had been direct and immediate, in consequence of a wound received in battle, they would have reported in favor of Purkill's claim. Indeed, it does appear, from the distinction taken by the committee, that they admit the liability of the Government for indemnity for immediate and direct injury, but not for remote or consequential injury. If, in their opinion, the Government was exempt from the obligation of indemnity for injuries done to slaves while impressed in the public service, I can see no reason for the distinction assumed by the committee between direct and consequential injury, upon which this report reposes. Thus, sir, it does appear that this is the first case in which this House has been called on to decide if there be any claim on the justice of this nation to indemnify a master for an immediate and direct injury, resulting from a wound received from the enemy by his slave, while impressed into the public service. The whole power of precedent is thus removed. There is no practice of this House; no principle recognized by the treaty-making power; no act of the General Government, which rejects this claim.

Let us then see how it stands on principle. The gentleman from New York says, that the Constitution, for certain purposes, regards slaves as persons, and for a very important purpose. It gives to their masters, in their right, a portion of our national representation, and the equivalent yielded for this increase on this floor, is the right of this Nation to call those slaves to the general defence, in times of great national emergency, and that, too, without incurring any responsibility on the part of the Government, to indemnify their masters, for their loss in battle. It is a subject of congratulation, sir, that no other gentleman, in debate, has relied upon this constitutional doctrine, in resistance to the proposed amendment. Whenever this House shall recognize in the National Government, the right claimed for it by the gentleman from New York, it will carry alarm and dismay through the Southern sections of this Republic. If this nation is vested with this implied power of taking this species of private property, upon any great political exigency, for the common defence, without making just compensation to the owner, the citizen has no constitutional security for the acquisitions of his labor; and, if this distinction is recognized by this House, between slaves and other kinds of property, it will engender in

the minds of our people, jealousies and distrust. They will be led to believe, that that species of private property which is most common in the South, will be placed within the grasp of the national arm, without just compensation to the owners; while the property and the wealth of the non-slave holding States is shielded against its power by the restrictions imposed by the Constitution in protection of private property. A recognition of such a distinction will be highly invidious, and cause much just dissatisfaction. But this branch of the prerogative claimed for the Federal Government by the gentleman from New York, alarming as it may be, is nothing, when contrasted with the terrific power, which he also says was yielded up by the Southern States, at the adoption of the Constitution, as the equivalent for an increased representation on this floor. This power, he says, thus yielded to the General Government, was the power to embody our slaves, to discipline, to arm them—in fine, the power to place the lives of the master in the hands of the slave! It cannot be that the South ever consented to yield such a prerogative to the National Government. The magnitude of the grant is of too appalling and terrific a character for this House, for the gentleman from New York, upon deliberation, to believe, that the compromising temper of the Constitution, in relation to representation, eventuated in arming the National Government with such an unrestricted control over this species of property, which, according to the gentleman's views, not only may be taken without equivalent, but which, when taken, may be so used as to produce the most horrible results!

I forbear pressing any further this aspect of his position. My object is not to produce excitement.

I will, now, sir, examine this theory of compromise in relation to representation, which, in the view of the gentleman from New York, clothes this Government with this power over this species of property. He argues that the Constitution regards slaves as persons, and that for a very important purpose—to swell the representation of a State on this floor.

Yes, sir, they are so regarded for this purpose. In that article of the Constitution, the word person is used as synonymous with "human being and inhabitant." The Constitution, in the second section of the first article, provides, that "Representation and direct taxes shall be apportioned among the several States according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound for a term of years, three-fifths of all other persons."

The word persons was unquestionably substituted for slaves. The words free persons, including those bound to service, embraced all the inhabitants or human beings of a State, save slaves; and the delicacy of the framers of the Constitution avoided, sedulously, the introduction of the word slave, and embraced them under the general term of other persons. Yet, the gentleman says this substitution of the words "other persons," for slaves, deprives the master of that entire and exclusive control which the master, by the municipal regulation of the State, has over the person and labor of the slave, whenever the wants of the National Government demand his services in time of national danger. If this caste of human beings had then been called slaves in the Constitution, instead of other persons, they would have retained their character of private property for all purposes, and could only have been used like other private property, by the Government. If this view be correct, it may be asked with confidence, is the right of the master to his slave weakened, or can this Government assume any right to control the person of a slave, otherwise than is pointed out in relation to its use as private property, because the Constitution, from peculiar delicacy, forebore



H. OF R.]

Case of *Marigny D'Auvergne*.

[JAN. 11, 1828.]

to distinguish them as slaves, but as human sentient beings? They are so; but, because they are so, and are called so, they do not cease to be slaves, for any purpose: their relations are fixed by the municipal code, and let them receive what denomination they may, or be embraced by what circumlocution you choose, their condition is not altered until their bonds are burst asunder. They still continue to be property—to be slaves, however distinguished, and can only be used by the nation, as it uses other private property, by paying for it.

The gentleman from New York, [Mr. CLARK] in confirmation of his views of compromise and equivalent, has referred to the 54th number of the *Federalist* to show Mr. Madison's views upon this question. That number was prepared to remove the objections taken by the non-slave holding States to that feature of the Constitution by which three-fifths of the slave population are added to the free population of a State in relation to its representation here. It was objected that slaves ought not to give to their masters an increased representation: for "slaves are considered as property, not as persons—they ought, therefore, to be comprehended in the estimates of taxation as property, and be excluded from representation, which is regulated by a census of persons." In reply to this objection, it was argued in that number, that it was true that slaves were considered as property, but they were also considered as something more than property—they were considered as moral persons, liable to be punished for crime, as members of society. But that, inasmuch as the right of suffrage was regulated by the State Sovereignities, it was but just and equal that the Southern States should have their numbers also augmented by the addition of slaves, who were likewise excluded from voting, but who were "members of society." These conflicting opinions, sir, were reconciled by the compromising spirit of the framers of the Constitution, who consented to regard the slave as two-fifths of a man, and to graduate the representation upon this scale. The compromise was a compromise of the right of representation; it was not a compromise affecting the exclusive right of property and a cession of a portion of it to the Federal Government for the common defence in time of war without equivalent. It had no squinting at such unequal contributions by the different sections in time of war. But the gentlemen say that the slave is something more than property, yet they refuse this amendment; they adhere not to their theory of the relation which he holds to the nation, if he be something more than property; he still is property, and, as property, when taken, must be paid for. To resist this amendment, they ought to labor to prove that the slave is less than property (the very reverse of their theory) and being less than property, that Government was not bound to pay for it as property.

The gentleman from New York, [Mr. STORRS] and the gentleman from Ohio, [Mr. WHITTLESLEY] reject this power of the National Government over the slave for any purpose, and that, having no such power itself, it can delegate none such to its officers. I thank, sir, these gentlemen for this unapproachable character with which they clothe the slave, so flattering to our exclusive right of property; but, sir, I would have thanked them if they had referred to those principles of the Constitution which deny to the National Sovereignty the power of calling to the erections of fortifications, to the drudgery of the camp, to laborious and menial employment, this description of property, in times of great public necessity, paying to the proprietor a just compensation. Their opinions, however weighty, would have had more influence on my mind, if they had developed the principles and reasoning by which they come to these conclusions.

If I understand the gentleman from New York, he says that the Constitution of the United States never fix-

ed the relation of master and slave; that that is established by the laws of the State in which they reside. This position is unquestionably true. It is, therefore, of some consequence to inquire how this relation is fixed by the States. It is the power which the master has to his horse, his ox, his ass, his any thing, recognized by the municipal law, as the exclusive right of property, to sell, to will, to give, to do any and every act of proprietorship not inconsistent with humanity. No additional character to that of property, gives to this species of property a higher dignity; it is not entrenched by the laws of the State with greater jealousy against invasions of the rights of property. It is considered as property only, guided and controlled in its conveyance, in its bequest, and its descent, by the same principles that regulated property of any other species. In looking to the municipal code, we find nothing to distinguish it from the mass of other species of property. If then the State Sovereignities class it with, and subject it to all the principles of every other species of private property; and clothe it with no other higher attributes of property; and if the United States have a right, under the Constitution, to take private property for public use, paying a just compensation; I ask the gentleman to point out a prohibition in the Constitution, differing this species of property from others, and rendering the latter subject to the public use, and exempting slaves from the eminent control over all private property for public use, for which the Constitution provides. Flattered as I may be with this panoply, with which the gentleman has invested his property in our slaves, denying to the National Government any right even to their use in time of great national danger, let alone as fit subjects for that national legislation over their condition, so pressed upon the public attention by misdirected philanthropy, my judgment cannot adopt the gentleman's conclusion, that, although they are private property, by the laws of the States, and that, although the Government may take private property for public use, paying therefor, yet that this private property comes not within the range of the constitutional right to take private property for the public use, paying therefor.

The opinion of the treaty-making power has been brought to bear in opposition to the amendment. A little reflection will convince us, that the treaty-making power has uniformly considered slaves as property, and not as a part of the physical strength liable to be called by the National Government to fill the ranks of the army. Both of the gentlemen belonging to the Committee of Claims, have referred to the treaty of Ghent, as illustrating their position. The gentleman from New York says: Why did the Government of this country claim of Great Britain indemnity for slaves captured during the war? Was it on the ground they were 'property?' If so, the Government has made an odious distinction between the citizens. On this principle, it should have claimed indemnity for property of every description, captured or destroyed. I may be permitted to remark, that the principles upon which indemnity has been claimed from the British Government, for slaves and other private property, has been misconceived by the gentlemen who have alluded to this topic. The American Government has not pressed an indemnity from the British Government, for slaves, and other private property, captured and carried away contrary to the usages of civilized war, but for slaves, and other private property, deported from the United States by his Britannic Majesty's officers, in violation of the first article of the treaty of Ghent. The contracting parties assumed, as a basis of this article, the "*status ante bellum*," and stipulated to restore all territory, or places taken during the war, without distinction, or carrying away any public property originally captured in the said places, and

JAN. 11, 1828.]

*Case of Marigny D'Auterive.*

[H. OF R.]

which shall remain there at the time of the ratification of the treaty; or any slave or other private property. This article is a literal transcript of the definitive treaty of peace, of '83. The Government of the U. States sent, upon the exchange of the ratification of the treaty, agents to receive from the British officers commanding at those places stipulated to be restored, the public property, slaves, and other private property remaining there. The officers offered and did deliver all the slaves and other private property captured at the places restored, but refused to make restitution of the slaves and other private property brought to those places from elsewhere, after the places had been taken, and remaining there at the time of the exchange of the ratification—giving to the article a restrictive construction, imposing upon the obligation of restoration of slaves and other private property, the same limitation and restriction as to public property originally captured at the place to be restored. The Executive of the United States denied this to be the fair interpretation of the article, and gave to it the construction which imposed the duty of restoration of slaves and other private property, from whencesoever taken, if they were within the waters of the United States at the time of the ratification. In contravention of this construction, the officers of the British Navy deported slaves, which, under the spirit of the article, ought to have been restored, and the able and efficient representative of the American Cabinet to the Court of St. James was instructed to press the British Government for an indemnity to the owners, for slaves thus deported in contravention of the treaty. This demand was most pertinaciously denied, and was the subject of a protracted negotiation between the able diplomatists of that day; and eventuated in a submission of the obligation of restoration of slaves, and other private property, thus deported, to the Emperor of Russia. The gentleman from South Carolina is mistaken, when he says the question referred was the question whether a slave was private property. Great Britain had never denied that character to them; they are classed, in her treaties with us, as private property—slaves, or other private property. Her pledge for restoration sprung from the consideration that they were private property, and, as such, ought to be restored, as originally not liable to capture, from the pervading exemption of private property from capture, according to the rules of civilized warfare.

The gentleman from New York [Mr. CLARK] considers them as combatants, to be called into the armies. The Ministers of Ghent never viewed them as such—if they had, they would have come within the range of the second article, which provides for the restoration of prisoners, and there would have existed no necessity for a special provision providing for their restoration. Thus the stipulations of the treaty and the treaty-making power, not only disclaim the views of these gentlemen, but may be invoked to the support of the amendment, and of the principles upon which it is based.

I approach the doctrine of analogy between the case of master and apprentice, and master and slave. We are asked with great confidence to point out the difference upon the point of just compensation between the two cases. They are obvious. Sir, the apprentice is a free man—liable, on the very first principles of Government, to contribute to the Government that protects

him, his support; but it is not necessary to recur to these first elements of society, to shew that the Government has a right to control the service of the apprentice. Among the enumerated powers conferred on the General Government, by the Constitution, is to be found that which authorizes it to provide for the organization of the militia. Under this express power, they have a right to say at what age a citizen shall be enrolled and compelled to do duty. The limitation of age is a question of expediency; they have a right to raise armies; they can say at what age a citizen may enter into the service. The right of the master is conventional between him and the apprentice. It is a Lilliputian tie, which may be rent asunder whenever National danger or policy shall require the Congress of the United States to interpose. It is not so with slaves—as persons, they enter not into the calculation of those who bear arms against the foe; over them as such, we may look in vain for our chartered license to legislate.—Hence springs the difference: the Constitution gives us the right of legislation over the apprentice—withholds it from us over the slave. But a most essential difference is to be found in another aspect between their relations to the Union: Slaves are considered as property for all purposes of taxation. Apprentices are not considered as property for any purpose of taxation whatever. Yes, sir, slaves are considered as property for taxation: for, in 1813, among the war tax, a direct tax was laid on slaves, and the assessors were directed to value them at their full value; and, at the very time when this petitioner was in the ranks of the army, resisting the invasion of the enemy, he was paying a tax upon this very slave, which you yourselves had determined was property—as such, liable to be taxed, and being thus liable to be taxed as property, liable to be taken for public use, paying a just compensation. I put it to liberal gentlemen, if it be either consistent with the dignity or justice of National legislation, to say that, for purposes of taxation, when the public coffers are to be filled, and the impositions on other species of private property are to be lightened, we will consider slaves as property; and that, when we take them for common defence, we will suffer ruin to overtake their owners, by denying that they are property, and thus let the losses which the American Government ought to sustain from the National resources, fall, with a ruinous oppression, on its citizens.

But suppose, for a moment, that the Government has a right to the services of slaves in time of imminent peril, without equivalent, has it a right to the service of any particular slave? If it has a right, it may be a right to claim from the slave holders a fair contribution from the slave population. Distributive justice rejects with promptitude the idea of forcing one individual of a community to contribute his wealth, his resources, for the general defence, without a corresponding contribution from other citizens, alike interested in the national glory—in the general prosperity.

As to the danger from the exercise of such a power by the National Government, I thank the gentlemen for their warning voice. We fear no abuse of this power. It does not enter into our conception that any such danger is to be apprehended; that, "if this power is recognized, the General Government may fill its rank and files with slaves." That step would be a dissolution of this Union; it would fail in its object of providing for the general welfare and for the common defence, and the States would be dissolved from all allegiance. We ask for the delegation of no such power to the Federal Executive, but we are willing that our slaves may be called to that service of the country which does not jeopardize our own security, while it gives strength to the military arm, by enabling it to carry into battle the

\* Extract from Mr. Adams' letter to Lord Castlereagh, dated 9th August, 1813:

"Had the British Plenipotentiaries asked of us an explanation of our proposal to transpose the words, we certainly should have given it: we evidently had an object in making the proposal, and we thought the words fully disclosed it, viz: 'our object was the restoration of all property, including slaves, which, by the usage of war, among civilized nations, ought not to have been taken. All private property on shore was of that description: it was entitled, by the laws of war, to exemption from capture: Slaves were private property.'"—[Note by Mr. D.]

H. of R.]

*Case of Marigny D'Auterive.*

[JAN. 14, 1828.]

free citizens. We wish not—we fear not—that the eagles of this country will be borne in battle or sustained in the fight by bond men; when that time shall come, so degenerate shall we be, that this Union will not need preservation.

The gentleman from New York tells us, that, if a Southern President would not thus fill the ranks, a Northern one might. As to a Southern one, I entertain no fears: as to a Northern one, I tell the gentleman I am as equally free from apprehension. Does he not know that the law is gone forth, that we of the South have resolved that there shall be no future President north of the Susquehanna? The gentleman knows me too well, to suppose that in this rule of exclusion I participate. I am with him. Therefore, when he talks of a Northern President, he attempts to frighten us with an imaginary personage, which, in no time to come, is again to be seen. The committee will pardon me for this badinage; and I trust, that, when we recollect the great and glorious achievements of that day—the results which then and now attends it in our national and even social concerns, there will be no difficulty in this committee voting in favor of the amendment.

Mr. HAYNES, of Georgia, now obtained the floor but yielded it to

Mr. LIVINGSTON, of Louisiana, who said, that arguments had been suggested in this discussion, which he could not have foreseen. He had not the least idea that such a spirit could have been excited as had been manifested in the House; and, so far from having deserved the reproach of unnecessarily stirring an important and delicate question, the amendment he had proposed could not, as he thought, hurt any honest prejudice, or give the slightest shock to the most sensitive mind; on the contrary, in itself, it involved nothing but a question of plain obvious justice. He had, however, with deep regret, perceived, that it had been made the occasion of introducing the most dangerous and destructive doctrine; and, having no desire to prolong or to increase the excitement growing out of this debate, it was his intention, before he resumed his seat, to withdraw the amendment he had offered. Justice to himself, however, required that he should state his reasons for so doing.

It had been said that the excitement had been unnecessarily raised by those who had introduced and supported the amendment, and that there was nothing in the report of the Committee on Claims which in any wise called for it. It was on this point alone that Mr. L. said he wished to be heard. Gentlemen have said, "You have, without reason, raised a commotion, which the subject did not call for; you have grown warm, and have insisted that this is a most serious question, but, if it is a serious question on your side, it is no less so on ours." This was what he wished to examine. He held that, while the principle involved in the amendment was a most serious one, indeed to the slave-holding States, it was absolutely nothing to those States where slaves were not to be found; and so certain was he, that it would be so considered, that he would have been willing to submit it to William Wilberforce, or to the Apostle of Abolition, Caleb Lowndes himself. Gentlemen from the Northern States might, with some reason, have had their feelings of humanity roused, had it been proposed either to increase the number of persons in slavery, or in any manner to aggravate the hardships of their condition. So far as this, he fully entered into their feelings, he agreed, and he felt with them. But what is the case here? A man has had his slave injured, while taken by force to labor in the public service. The facts are settled, and the amount of damages ascertained. The only question is, shall we pay the demand? Now, sir, asked Mr. L. how are the feelings of humanity involved in such a question? Will the miseries of sla-

very be any lighter if we do not pay it, than if we do? Will the number of persons in slavery be increased by our paying, or diminished by our refusing? What good feeling will be gratified by our refusal? None that I can conceive of. Sir, is this a fair view of the case, or is it not? Be the prejudices of gentlemen ever so inveterate, even prejudice itself cannot be injured, by doing an act of manifest justice. And gentlemen must pardon me for saying, because I state what is the fact, that I have not heard so much as the shadow of a reason for refusing the payment.

Setting aside the argument drawn from approximating the condition of a slave to that of a minor or an apprentice, which I have fully answered, and which, if allowed, would only prove that the master of the apprentice was entitled to remuneration, not the master of the slave was entitled to none—setting this aside, the argument may be considered as comprised in the speeches of the two gentlemen from New York, the one a member of the Committee of Claims [Mr. CLARK,] the other, who followed him, on the other side of the House [Mr. STORRS.] The one tells us that slaves are property, but that they are something more—they are moral beings; that they increase the representation of the whites; that they may legally be called on to form part of the military force, and defend their country, and, therefore, ought not to be paid for. The other gentleman takes directly the opposite ground, but comes to the same conclusion: he says that they are property, in the broadest sense of the word, but that no one has a right to take them for the public use, and that, therefore, when they are so taken, they ought not to be paid for. Now both these gentlemen cannot be right. It will be no difficult matter to show that both are wrong. The difference between them is this: the one draws his false conclusion from incorrect facts; the other more inexcusably, from a correct statement.

That slaves, because they are moral beings, are liable to be called on to do military service, will now for the first time, and I trust for the last, be heard within these walls. Gentlemen who use it do not, cannot perceive its consequences, or they would not on any occasion, employ it; and if warmth of feeling has been excited, and warmth of language used to express it, we need look no farther for complete justification, that a doctrine that asserts the right of Congress to put arms in the hands of our slaves, to deprive us of their use, is little in importance compared with this dreadful doctrine, unsupported as it is by any law, any principle, or any constitutional provision; and I allude to it, not because I think it needs refutation, but because it accounts for, and completely justifies, any warmth which on our side may have been elicited. The conclusion, that, because they are moral beings, they are not property, or property of a kind that ought not to be paid for, has been justly exposed by the gentleman from Virginia, opposite to me, with his usual felicity of expression and strength of argument, to be, in fact, saying that they are not property, because they possess that quality, which alone makes them such—because they are human beings.

But what shall we say to the reasoning of the other honorable gentleman from the same State? The master, he says, has the most unqualified property in the service of his slave; no power can legally deprive him of it; and, therefore, when it is taken for public use, it ought not to be paid for. This is certainly a most impotent conclusion, to which the high reasoning powers of the gentleman would never have brought him, if he had not been led astray by the great interest he takes for the Southern planters, for which we can never be too grateful. He fears, that, if we pass this bill, military officers may be encouraged, by the passport of indemnity which

JAN. 11, 1828.]

Case of Marigny D'Auterive.

[H. of R.]

it offers, to fill their ranks with our slaves; that we, ourselves, if I understood him, might trust too much to that force, and become indifferent to its employment, if we were insured against loss. The Gentleman need not fear. Our slaves have never been employed as soldiers—never have been impressed as such—our foes are to be repelled *non tali auxilio, nec defensoribus istis*. To defend our country is too honourable an employment to be trusted to, or divided with slaves. We claim that function for ourselves. The same gentleman asks, shall an officer of the United States, because he has epaulettes on his shoulders and a sword by his side, be permitted to take the slave from his master, and shall we indemnify him for the illegal act? Sir, this is not a bill of indemnification, and the act, though an invasion of private property, is one of those cases in which such invasion is allowed by the Constitution, under the obligation of giving compensation—which obligation it is the intent of the amendment to fulfil. It is not an illegal act, done with a good intent, against the consequences of which Congress have generally thought it right to indemnify their officers; but is in case of property taken for their use, applied to their use, and lost in their service, by their act. It was not because the officer had epaulettes on his shoulders that he took this property, but because he had a head thereon that had formed the unbending resolution to use all the means in his power to defend his country; because he had a heart in his bosom that could feel and provide for the wounded soldier, whom this negro, and the cart which he drove, were employed to convey from the field where their blood was shed for their country.

This is the case which my amendment was intended to provide for; one that could excite with propriety, no warmth, and could hurt no prejudice; but it had been encountered with arguments that were indeed dangerous, and could not fail to produce the greatest excitement. Seeing, therefore, a disposition to protract the debate, and delay, by the discussion of this item in the claim, the larger amount to which it was acknowledged the petitioner was entitled, he thought he would be serving his interest in withdrawing the amendment, with the intent of renewing it when the cooler reflections of members should shew the justice of this claim, or of others depending on the same principle. In doing this, [said Mr. L.] I yield to the request of friends, for whose opinions I have the highest respect; but I yield nothing to the dangerous doctrines to which I have alluded, and which, I trust, a consideration of their consequences, and their injustice, will induce those who now support them to abandon.

Mr. GURLEY expressed his regret that his colleague had withdrawn the amendment. It was now too late to prevent excitement; and, as he apprehended that a majority of the House was prepared to pass the amendment, and as other cases resting on the same principle would, in all probability, arise, he felt himself bound by duty, and he did it with reluctance, to renew the motion for amendment.

Mr. RANDOLPH said, that he rose with the intention of making another motion. As (said he) the gentleman from Louisiana, [Mr. LIVINGSTON] has done us the favor to take away this bone of contention—for it is but a bone—from the House, I trust we shall have no more trouble from that quarter. But I feel myself called upon to state, with regard to the gentleman from N. York, [Mr. BURNES] who has spoken to day, but whom I do not now see in his place, and whom I sincerely thank for his remarks, that it was not the amount in dispute, but the principle involved, which brought about that contest with the British Government, which ended in our Independence. For that gentleman I have every kindly feeling. I knew him (and this puts me in mind of a disagreeable subject—and that is, how old I am) when

he was hardly more than an infant: but if that gentleman had been as long or even half as long as I have been, a member of this House, he would have seen the necessity of acting on the old maxim "*principiis obsta, venienti occurrere morbo*."

I remember the first time this question was stirred. I was in the lobby, and was an attentive auditor—it was under the first Congress—and my venerable friend from North Carolina, [Mr. MACON] would support me in the recollection—he was a member of that Congress—no—he was not at that time—for North Carolina herself was not then a member of the Union—it was in the first Congress—and I believe I remember almost every time it has been brought forward since—for this has not been attempted once—or twice—but a thousand times—not by storm—but by sap. Sir, we ought to remember the sentiment—*non vi, sed sæpe cadendo*, and not permit it ever to pass, no matter in how demure and apparently trivial an aspect it may be presented.

I do not intend to abuse the indulgence so kindly accorded to me by the Committee, both now and on a former occasion—but I must remind the gentleman, (Mr. BURNES) that, when, in the words of Hotspur—or rather of his uncle Worcester—"this heat was struck up"—some gentlemen were doing here—what has been tried elsewhere—to establish the principle that there is a law of God, which supersedes the laws of the functionaries of the land—that the legality or illegality of a measure is to be judged not by our social compact, but by some other code—of which there are as many different interpretations as there are sects. With a view to allay the excitement which has been produced, I now move to lay the amendment on the table.

The Chairman having reminded Mr. R. that no such motion could be received in Committee of the Whole, Mr. R. then moved that the Committee now rise. Understanding, however, that Mr. GURLEY, of Louisiana, wished now to address the Committee, he withdrew the motion; when

Mr. GURLEY rose, and said, that he regretted exceedingly that his colleague should have been induced to have withdrawn his amendment. It was now too late to prevent the excitement that he appeared to deprecate. That he believed the amendment was in accordance with the opinions of a majority of the committee; and as other cases rested on the same principle, would in all probability arise; and as it proposed merely an act of strict justice to the petitioner, he felt bound by a sense of duty (although he did it under existing circumstances with reluctance) to renew the motion that had just been withdrawn. In doing this, he could assure the House and his honorable colleague, [Mr. LIVINGSTON] that the excitement, if, indeed, any existed, should no longer continue by his agency.

Sir, said Mr. G., I wish at the outset to make an explicit declaration of my opinions on this subject; and I do so that my sentiments may not hereafter be doubted or called into question here or elsewhere. My constituents and myself are holders of slaves, and we have been accustomed to consider their property, and belonging to us by a title as perfect and absolute as the soil they cultivate. Any question, therefore, involving even a doubt upon this subject, and much more when that doubt is found in the report of a standing committee of this House, can never fail to produce a deep and intense interest. But the report in this case goes further; it expressly denies the master the right of property in his slave. If this proposition be established by the adoption of the report, you take from us one-half of all we possess. If this novel and monstrous doctrine, boldly asserted here for the first time, be true, then, said Mr. G., the South have labored under a strange and fatal delusion from the foundation of the Government to the present time; and the framers of the

H. or R.]

Case of *Marigny D'Auvergne*.

[JAN. 11, 1832.]

Constitution themselves, instead of meriting their reputation for wisdom and sagacity, would have left behind them only a monument of their stupidity and total unfitness for the stations they occupied. Does any one believe that this confederacy would ever have been formed without securing this great and important interest in common with other rights equally interesting to the United States? No one will hazard the assertion: it would contradict the letter and spirit of the Constitution, which subjects them to the taxing power of the Government; which power has been claimed and exercised by the Congress of the United States, and cheerfully submitted to by the citizens of the South. I mention these facts for the purpose of shewing that the principles for which we contend, are those of the Constitution, and have been recognized as such since its formation, both by the Government and the People of the United States.

Sir, I freely admit that slavery, in the abstract, is an evil, but one which I contend is not in our power to avert, and with which the General Government has no right to interfere. As to the right of property, therefore, of the master in his slave, it is neither more nor less than that which he has in his horse, in his ox, in his cart, in his barn, and the grain which is in it. He has the same unlimited control over the one that he has over the other, subject, in all cases, to the municipal regulations of the place in which he lives.

Gentlemen say, he cannot kill his slave as he can his ox. This depends entirely upon the laws of the State in which he lives, and in no case can be urged against his right of property. Property is the creature of the law, and is controlled and regulated by it. You may kill your ox, for the law allows it; but even in regard to domestic animals, there are laws in many of the States which limit the right of the proprietor without affecting his right of property. Gentlemen should not forget that the civil law, somewhat modified by statute, is the common law of Louisiana; and that by the law of Rome, the master had absolute dominion of life and death over his slave, as he had also over his child.

If, by the progress of christianity, or the prevalence of more humane feelings, the condition of slaves in Louisiana has been bettered, are we to be told that this has deprived us of our right of property in them?—a right, perfect, absolute, and unlimited.

Sir, I have said that slavery is an evil—I repeat it: but gentlemen, indulging their feelings and prejudices, are deceived both in relation to the circumstances of their original importation into this country and their condition in it. These persons were slaves in their own country. They were not illegally brought here; for it was expressly allowed by law and the Constitution. Many of them were liable to death for crimes committed in Africa, which punishment was commuted to slavery; and we have heard much about the humanity of such a change. When made captives in war, or condemned for offences, they were no longer burnt and massacred as they once were; but, in lieu of this, were sent from their native wilds to this fertile and happy country; and, although it is true that they do not here enjoy the rights of freemen, their condition has been greatly bettered by the change—and I take this occasion, once for all, to avow it as my fixed opinion, that this Government has as much right to take from me my horse, or any other property I possess, as to take away my slave; and that the obligation is as perfect to pay for the one as the other, when destroyed or injured in the public service.

I will now proceed to shew, said Mr. G., that the amendment I offered ought to be adopted. It appears from the testimony, that during the invasion of Louisiana in 1814, a cart, horse, and slave, the property of the petitioner, were impressed into the public service by order of the commanding general. The Committee of Claims,

in the bill under consideration, propose to pay for the cart and horse. The amendment proposes to pay for the injury sustained by the slave from wounds received while in service, and upon medical attendance consequent for those wounds.

Let us examine for a moment the question upon the grounds advanced by those opposed to the amendment, and I think it must appear evident, that, according to the gentleman's own arguments, the bill and the amendment must stand or fall together; that they cannot refuse payment for the slave, if they consent to pay for the other property taken the same time under precisely the same circumstances.

The chief reason, said Mr. G., why this subject has assumed an aspect of so much interest, is to be found in the language of the report of the Committee of Claims. If that report had not unequivocally denied that slaves are property, I should not have offered the amendment that I have had the honor to submit: the sum is small in amount, and in that point of view unimportant. But the principle involved in this question is of deep and vital interest to the peace and safety of a large portion of this Union, if not to the existence of the Union itself.

It is this principle that I feel bound now and at all times, here and elsewhere, to resist and oppose to the utmost of my ability. It is true that the gentleman from Ohio, [Mr. WHITTLER] who I believe is the author of the report, does not consider its terms as warranting the inference I have drawn from it; but I appeal to every candid and intelligent man who has read it, if such is not the fair interpretation of its meaning. What is the reason assigned by the committee for rejecting this item of the claim? Because, they say, the Government never considered slaves as property. Can language be more explicit? And am I to be told that the purport I have given to it, is not the only true legitimate one of which it is susceptible?

This report has gone before the people; it is so understood by them, and has been made the subject of executive communication to State Legislatures, protesting against the principle that I have ascribed to it.

The arguments urged by gentlemen against the amendment, do not sustain, I admit, the report of the committee. The ground on which the report is based, appears to have been abandoned even by the gentleman from Ohio, [Mr. WHITTLER.] We are now told that slaves are property in one sense, and not in another; that they confer political power in the quality of persons, and, therefore, cannot be considered absolutely as property. The fallacy of this reasoning consists in supposing that persons cannot be property. If they were not persons, they could not be slaves; and it is only upon the ground of slavery that we claim them as property.

The gentleman from New York [Mr. STORGE] expressly admits that the master has an uncontrollable right to the service of his slave, under all circumstances, and the absolute custody of his person. What other power can we possess over any property? The gentleman's definition is correct, and places the slave on a footing with any other property, subject to barter, sale, and the will of the proprietor. We contend for nothing else.

The honorable gentleman from Ohio, [Mr. WHITTLER] discovering that his report could not be defended, has changed his ground of hostility to the amendment, and now informs us that there are precedents adverse to this claim, and has referred the committee to several decisions of this House on former occasions. Although I am not a believer in the binding effect of legislative precedents, yet the committee will at once perceive, by a reference to the cases cited, that they all materially differ from the present, inasmuch as they are cases where the property was in the service of the United States by contract of hire, or where the slaves were voluntarily carried

JAN. 11, 1828.]

*Case of Marigny D'Aulverie.*

[H. OF R.]

as servants by their masters. In these cases the proprietor is the insurer. He charges in proportion to the risk, and the premium is included in the wages. But this is not the case, where the property is taken without the consent of the owner. In that case the obligation on the part of the taker is to save the owner harmless; to restore the property in as good state and condition as when it was received; if lost, injured, or destroyed, to pay its value; and in all cases to make just compensation for its use.

It has been contended by some gentlemen, who have taken part in this debate, that a distinction exists as to the kind of property; and, while they admit the general principle of liability on the part of the United States, would exclude slaves from its operation. Sir, the Constitution recognizes no such distinction. It says that private property shall not be taken without just compensation.

We have also been told that every taking without the consent of the owner, is not only a trespass, but that impressment is never rendered so far justifiable by circumstances of necessity, as to create any obligation on the part of the Government to make indemnification for losses occasioned thereby. To this doctrine I cannot subscribe; and, if the honorable gentleman from New York [Mr. SPOONER] intended to be understood, that no public exigency whatever was sufficient to justify the impressment of slaves, I cannot agree with him. I hold that it is justifiable whenever the public safety requires it; whenever the property seized, and the use to which it is put, are adapted to that purpose which the danger of the country calls for; then an officer is not only excusable, but is praiseworthy, if he takes it for the public use. We cannot foresee what emergencies may happen: let me put a case. Suppose that on the 23d of December, 1814, it had been necessary for the defence of the city of New Orleans, to throw up a breastwork within a given time; that this necessity was so obvious that nobody pretended to deny it: suppose, also, that there were at the camp no force sufficient to effect it, but that there were in the neighborhood one thousand slaves, whose masters refused to allow them to be employed in this necessary work, would not General Jackson have been justifiable in compelling the services of these slaves; and should we not have been bound in justice to pay their owners for their labor and time? Most undoubtedly. And General Jackson would have deserved a severe rebuke had he abstained from impressing them. He would certainly have had as much right to take the slaves as to take the carts and horses requisite to the operation. True, there was no written law to justify it; but it would have been justified by that great first principle of society, which requires a surrender of a part to preserve the whole.

Permit me, for a single moment, to advert to some of the circumstances under which this great power of impressment was exercised in the present case.

I know, Mr. Chairman, with what honest jealousy the American people view the exercise of doubtful powers, or even those expressly delegated, when exerted beyond the absolute necessity of the case. I rejoice that it is so. The true theory of free Government requires that the people should never delegate powers which they can efficiently exercise themselves; nor tolerate its exercise in others, except so far as necessary for the public interest.

Vieking, therefore, my assent to this wholesome and republican principle in its broadest latitude, I do not hesitate to say that there are situations in which an individual may be placed, in which it would be treason to his country to withhold the application of any power he might possess, necessary to command the means within his reach, either to avert great national calamities, or secure to his country important national blessings. Sir, the ex-

ercise of this power in the present instance, was under circumstances of no ordinary occurrence. The unexpected advance of the enemy upon Louisiana in 1814, found that important section of the Union wholly unprotected.

On the 23d of December, when the enemy appeared on the banks of the Mississippi, within six miles of New Orleans, to the number of three thousand men, the flower of the British army, and the boasted invincibles of Lord Wellington, you had not a breastwork, nor a fortification of any description—not a solitary cannon planted to sound an alarm, or check their progress to that great and all-important emporium of the West. The whole of the disposable force of General Jackson, at this time, did not exceed fifteen hundred men, and more than half of that number were militiamen who had never seen a field of battle. What was to be done? Delay was ruin, and an attack almost certain defeat. Under these trying circumstances the commanding general did not hesitate. He instantly resolved to meet the enemy; and this small, but gallant band, collected at the beat of the drum, were led by him to the field of battle. The contest was long and bloody. The combatants were at last separated by the darkness of the night; and the remnant of this little corps were planted on that memorable line which was destined to be illumined by the glory of the 8th of January. This sudden and desperate attack spread consternation and alarm into the ranks of the enemy. He resolved to wait for reinforcements from his fleet. General Jackson knew well the importance of this delay, and he lost no time in strengthening his position, and fortifying himself in the best manner time and circumstances would permit. Breastworks were to be thrown up, fortifications erected, and the whole means of the country were requisite for these operations, on which depended the salvation of the city. It was under these circumstances of high and pressing necessity the property in this case was taken. I now submit the question to the committee, whether, under all the circumstances of the case, the impressment was not justifiable. If there be one individual in the nation who doubts it, I envy him not his candor or patriotism.

An attempt has been made to liken the case of slaves to that of apprentices and minors; but there is no analogy whatever between them. The military power of this nation is confided by the Constitution to the Congress of the United States. They have the authority to enlist, to arm, and to organize the militia. Apprentices and minors are citizens; they form a part of society, and are enlisted by the delegated authority of the whole. They, like others, must consent to part with a portion of their natural rights; and, like other freemen, are bound to protect themselves and their country; but this is not the case with slaves. Slaves are no part of the militia; and if the Government have the power alleged, one thing is certain, they have never yet exerted it. When the gentleman from New York [Mr. CLARK] will shew me an act of Congress for the enlistment of slaves, I will shew him an act which he will admit to be a dissolution of this Union. But there is no such act. Apprentices are taken according to law; slaves are not, and cannot be.

Gentlemen deceive themselves, therefore, in supposing that this slave was taken as a part of the military force of the country. He was no more taken as such than was the other property; and there is no power in this Government that could authorize the employment of slaves as soldiers.

Mr. Chairman, I have stated briefly my views on this subject, and the motives that induced me to offer the amendment; and it is, in my opinion, due as an act of justice to the claimant—it is due to the character of the Government—to the transactions with which it is connected—and more especially it is due to the reputation



H. of R.]

Case of *Marigny D'Aulricre*.

[JAN. 11, 1838.]

of that gallant and distinguished individual, who, in the most gloomy period of the war, and under the most pressing and desponding circumstances, had the moral courage in defence of his country, to exercise the power which produced the individual injury proposed to be compensated by the amendment. By rejecting the amendment we virtually declare this meritorious act a wanton exercise of usurped authority.

Sir, it was not so. It was called for at the time by the supreme law of necessity, and was used in defence of the country, and in advancing its honor and glory.

I am aware that subjects of this character are calculated to produce excitement in this House—at least, I have found by sad experience that they do so.

No one can regret this state of things more than myself; but I implore gentlemen to recollect that we are forced into this discussion, in defence of our property and rights; neither of which we can surrender without a shameful dereliction of duty and a cowardly abandonment of the prerogatives of freemen. All that we ask, is, that the rights and obligations of this people, both in relation to themselves and the Government, may be left where the compact of confederation has placed them, and that no invidious distinctions may be made in regard to either.

When we are admonished by gentlemen from certain sections of the country, to discuss these subjects without feeling, may we not ask, in turn, that they may decide them without prejudice?

I cheerfully admit that their prejudices are honest, and that those who entertain them will, at all times, and under all circumstances, endeavor to remain faithful to the Constitution, which is the common property and the common safeguard of the whole American People. But, sir, if there is any portion of this country more ardent than another, in their devotion to the principles of our institutions, and in their attachment to them, it is the Southern. They furnished evidence of both in the last war, and received a rich reward in the glory that attended the success of their arms, and the approbation of their fellow-citizens. The spirit that animated them will be inherited by their descendants; and in all time to come, they will be found ready in peace to sustain the Union against domestic faction and civil discord, to secure a faithful administration of the Government, according to the theory of the Constitution—and in war to offer their treasure and their blood upon the altar of their country, and in defence of its honor. I ask pardon of the committee for this seeming digression, and trust that the amendment will be received, and that thereby we may preserve our consistency and do full justice to the claimant.

Mr. INGHAM said, that he regretted the motion should have been renewed, but as it had been, he hoped it would be discussed with calmness; and that, if the House could discover the principle which ought to bind them, they would be willing to do whatever justice might require. My object, said Mr. I., in rising at this time, has been, if possible, to narrow the ground of discussion. For I apprehend, with all submission, that the true point in this case has not yet been touched at all. If I understand the claim intended to be provided for by this amendment, it is for the loss of time and expense of medical attendance of a slave, who was impressed shortly before the battle of New Orleans. The demand was opposed by the Committee of Claims, on the ground that slaves do not constitute a species of property, which is to be paid for at the public expense, when pressed into the service of the United States; and farther, that slaves are not liable to impressment, and, therefore, ought not to be paid for when impressed. The fallacy of the argument embodied in the report has led to all the embarrassment, as well as to all the excitement, which has taken

place on this occasion. I think it has been shown that the war-making power is an attribute of sovereignty, (if there be any sovereignty in Government at all,) in order that all may be preserved for whose sake the Government was instituted. And if this attribute of sovereignty is in the Government, shall a city, threatened with capture, pillage, conflagration, and the violation of women, not be defended till those charged with the defence come down and chaffer with perhaps a disaffected partisan, whether his cart, and horses, and slave, may not be used in the construction of a breastwork for the defence of that city? Yes, Sir. Whether the public demand affects his cart, or his horses, or his slave, or his son, or his brother, or himself, all must be surrendered, and the country must be defended. But we are told that, though his horse and his cart may be impressed, and if injured, must be paid for, that slaves are not that species of property for which compensation is ever to be made. But, Sir, do we read any thing about species in that article of the Constitution which declares that private property shall not be taken for the public use, without just compensation? If I understand the word property, it is a generic term. The Constitution does not say that a certain species of private property shall be paid for, if taken, but it says, "that private property must be paid for, if taken for the public use." It was also said, that apprentices, minors, and persons held to service, constitute a kind of property, that ought to be paid for. Now, my principal object is to satisfy this Committee, that these two descriptions of property may be brought under the same rule, and justice done without any difficulty.

The right of property to a slave and to an apprentice, if not identically the same, are as nearly alike, as two things can possibly be, and they should be paid for under the same circumstances, and in the same way. There is no incongruity whatever between them. I maintain, that the right of impressment is a perfect, and not a qualified right; that it is a necessary attribute of sovereignty, and applies equally to a slave, an apprentice, a brother, or a son. But when this right is exerted, what is to be the rule of compensation? This is the gist of the question. The Constitution says, that when private property is taken for the public use, just compensation shall be made. Now, what is just compensation? It is a payment for the services of the person, or for the use of the things impressed. If a horse is taken, you must pay for the use of the horse; if a slave is taken you must pay for the services of the slave; there is no distinction in principle. All property, pressed into the public service, is, in this respect, of one and the same character; and distinctions between different species of property, tend only to entangle the question.

The friends of the amendment are contending for a principle—a principle which deeply concerns them, and hence the excitement which has been produced. To test that principle, let me put a case. An officer is charged with the defence of a city threatened by the enemy. To effect that object, he is bound to exert all the powers of the Government, so far as they are entrusted to his hands. In the neighborhood of that city, there are two different persons, both owning slaves: he applies to both for the use of their slaves, to be employed in the public defence. One of these slaveholders willingly consents: he says to the officer, take my People in welcome; it is true, I expect hereafter to be compensated, but I will not chaffer now. They are wanted, and let them go. The other slave-holder, traitorous in heart, or having, perhaps, a mistaken notion of his rights, refuses his slaves, and they are taken by force. What is to be the rule of your compensation to these two persons? The rights of the General extended alike over both. Will you adopt a different rule of compensation in one case, from what you adopt in another? Is not one entitled to the same rate



JAN. 14, 1828.]

*Captured Africans.—Contested Election.*

[H. OF R.]

of pay with the other? Will you acknowledge that you were, in the one case, a trespasser, and will you therefore pay the last slave-holder, and not the first? Surely not. The rule of compensation must be the same in both cases: for the Constitution requires, in both, that you make just compensation? And what is just compensation? Need I discuss it farther? Whether the General contracts for the slaves, or takes them with the consent of the owner, without special contract, the rule of compensation must evidently be to pay the same price as would be paid for the same services in a transaction between man and man. Can there be any other rule? In private contracts, the employer is bound to compensate according to the kind of service performed, and the length of time during which he employs it. It is precisely so with impressment. The Government impressing is bound to compensate the owner for all descriptions of property whatsoever, and according to the time during which it was employed in the public service. This, I think, is too clear to be disputed.

But there is another point in this case. When the Government presses persons into its service, or living animals, of any kind, does it thereby ensure the life, or the health of such person, or animal against all risks? Is this common between man and man? Certainly not. When private parties hire persons into their service, they neither ensure their life, nor health, nor the payment of their Doctor's bill; and the same rule must apply to persons impressed by Government. You are to pay for the use of the thing, or person pressed, but that is all; and if the Committee of Claims had allowed pay for the time of this slave, they would have allowed all they were bound to allow. In private life, if a hiring employed by you, falls accidentally from his cart, and is disabled, are you to pay for the injury he sustains by that fall? If you hire a horse, feed and use him properly, and, while in your service, he is taken sick, or dies, must you pay for him? Surely not. You are not bound to ensure either his life or health. If, indeed, he perishes from your mal-treatment, from a want of provisions, or from any criminal neglect of yours, the case is different. But, if he dies by casualty, or disease, the loss must be sustained by his owner. Now, there is no difference, as to the principle between death by a fall, and death by a bullet from the enemy. You must pay for his service during the time he was employed, and you must pay for no more. The doctrines from the report of the Committee—I repeat it—are fallacious, as might be shewn from the decision of former claims by that Committee. When claims were advanced, for horses lost in Kentucky, during the last war, compensation was resisted on the ground, that the risk of the horse's life did not enter into the contract, nor form any part of the consideration for which the price was paid: but this practice was afterwards broken down, not because the principle was doubted, but because it was proved that, in some cases the horses died from the neglect of Government to provide them with suitable food. These cases formed an exception to the general rule, and thereby confirmed, instead of interfering with it.

Mr. J. concluded his argument by declaring, that, if in this case, the Government have taken the property of a private individual they are bound to give him compensation, and to measure this compensation, by the time that property was employed, and the rate at which it could have been obtained by private contract. He regretted that this discussion should have excited any thing like irritated feelings. He repeated his conviction, that whatever of such feelings had been produced, was to be attributed wholly to the fallacious doctrines advanced by the Committee of Claims. The Committee had looked at precedents, but not at the reasons on which they were founded. The Government of our country was a fabric

of justice, and he was persuaded that deliberate and calm investigation, must ever discover, to those entrusted with it, the principles which ought to guide them. He trusted the discussion, on this occasion, would be conducted with calmness, and not with the spirit of an incendiary, who would throw a fire-brand into this House, to alarm a large and important portion of this country. He trusted that this was not the disposition of any gentleman on this floor, but such, he was sorry to say, had been the conduct too much pursued.

On motion of Mr. P. P. BARBOUR, of Virginia, the Committee of the Whole then rose, reported progress, and obtained leave to sit again.

The House adjourned to Monday.

MONDAY, JANUARY 14, 1828.

#### CASE OF THE CAPTURED AFRICANS.

Mr. WICKLIFFE, from the Committee on the Judiciary, to which was committed the bill from the Senate, "to authorize the cancelling a bond therein mentioned," with instructions to report the facts upon which the bill was reported, made a report, which was ordered to lie on the table.

#### CONTESTED ELECTION.

Mr. SLOANE, from the Committee on Elections, to which was referred the memorial of sundry citizens of the Second Congressional district of Pennsylvania, contesting the right of John Sergeant, the sitting member from that District, to a seat in this House, submitted the following report:

"This case presents the following state of facts, viz: That an election was held in said District, on the tenth day of October, 1826, for a member to represent it in the 20th Congress. After a canvass of the votes given, it appeared that John Sergeant and Henry Horn had the highest, and an equal number of votes. This fact was officially reported to the proper officer of the State, by the returning officers of the election. It appearing by this report, that the People had failed to make a choice, the Executive of Pennsylvania seems to have considered the case as a vacancy, but not to the extent sufficient to warrant him in directing another election, until both Mr. Sergeant and Mr. Horn informed him, in writing, that they relinquished all claims to the seat in virtue of the election of 1826. In consequence of the receipt of these letters, the Governor of Pennsylvania did, on the 5th day of September, 1827, issue his Proclamation, particularly referring to the circumstances of the case, and directing an election to be held, to supply the said vacancy, on the 9th day of October, 1827: at which election it appears that John Sergeant was duly elected. Official copies of these letters, and of the Governor's Proclamation, are herewith reported. The memorialists, who contest Mr. Sergeant's right to a seat, allege, that, at the election in 1826, "on counting the votes contained in the Coroner's, and other boxes, there was found a number of votes in favor of Henry Horn, over and above those given for John Sergeant. Clearly" (as they say) "indicating the intention of a plurality of the electors, to choose Henry Horn." This memorial was unaccompanied with any testimony, whatever. The committee, at their first meeting, directed their Chairman to notify the memorialists, that, on a certain day named, they would take up the subject for consideration, and that any testimony they might wish to present, would be duly considered. Several letters have passed between the Chairman of the committee, and one of the memorialists; and sundry depositions have been forwarded, all of which are *ex parte*, having been taken, for aught that appears, without any notice to the sitting member. These depositions the committee consider entirely insufficient to invalidate the rights of the sitting member. But they

H. or R.]

Mobile Court Martial.

[JAN. 14, 1828.]

think it quite unnecessary to go into an investigation of the rights of the parties, under the first election; because, whatever those rights were, they have been voluntarily relinquished. They, therefore, beg leave to submit the following resolution:

*Resolved*, That John Sergeant is entitled to a seat in this House."

The report, and the two letters to which it refers, of Messrs. Sergeant and Horn, being read—the question was put to agree to the report; and passed in the affirmative, unanimously.

#### MOBILE COURT MARTIAL.

The resolution submitted by Mr. SLOANE, on the 11th instant, "directing the Secretary of War to furnish the House with a copy of the proceedings of the Mobile Court Martial, for the trial of certain Tennessee militiamen, &c." was taken up and read, and, being under consideration—

Mr. WICKLIFFE, of Ky., said, that the subject referred to in the resolution submitted by the gentleman from Ohio, [Mr. SLOANE] had given rise to much acrimonious discussion in the newspapers of the day, and about which much misrepresentation had been employed. When the resolution was first read, it had arrested his attention; he had since examined it, in order to ascertain, if practicable, the national object, legitimate national object, to be attained by an answer from the Department of War, to the gentleman's resolution. He had in vain sought for that object, by an examination of the resolution itself. The gentleman from Ohio had not informed the House for what purpose he had made the call, and he [Mr. WICKLIFFE] had risen, not to oppose the adoption of the resolution, but to express his desire that the gentleman would be good enough to state what object, Legislative or otherwise, he proposed to accomplish, by the adoption of the resolution. Mr. W. said, he was ready, on all occasions, to yield his assent to a call upon any of the Departments, for matters of fact, or copies of documents, which might be necessary to enable this House to do the Legislative business of the Nation, and thereby promote the public interest—farther than that, he was not disposed to go.

Mr. SLOANE observed that the gentleman from Kentucky had very truly remarked, that the subject of this resolution was one that had greatly attracted public attention. It was a subject in relation to which the public of all parties felt a very great solicitude. And it was with a full knowledge of that fact that he had submitted the resolution. The subject is an important one, and the facts necessary to a full understanding of it are said to be in the War Department. On the one hand, it is averred that these facts are of a particular, and on the other hand, that they are of a very different character. He wished, for himself, to know exactly what they are. He would make no assertion—he would not even allow himself to conjecture. He considered them important for public information, and therefore wished to see them. Whether any legislative measure will necessarily grow out of their being communicated, must depend upon what they are. The personage most intimately connected with the transaction has informed the public that all the facts are in the War Department. To that Department let us apply. Let us see on which side of the question truth is to be found.

Mr. WICKLIFFE observed, in reply, that the object of making the call had now been distinctly avowed by the mover. That object, if I understand the gentleman, is this: that it was an important subject—one about which there had been a great difference of opinion, and he wished to get at the truth, and inform the public correctly. The gentleman farther remarked, that he did not know but possibly some legislation might be neces-

sary upon the subject. To settle controverted facts, (which have been placed in bold relief before the public by one of the great political parties in this Union, with a view to tarnish the fame of a distinguished benefactor of his country,) seems to be the main object avowed by the gentleman. Is this an object worthy the grave consideration of this House? Has it come to this, that the House of Representatives is to be the vehicle through which the facts connected with this subject, for purposes purely political, shall be conveyed to the public? I had hoped, Mr. Speaker, (said Mr. W.) that no subject would have been introduced into this House, by either party, at the present Session, calculated to exasperate and embitter party spirit, and excite the public feeling, beyond its present irritable condition. I had indulged the hope that the Members of Congress would have been permitted to legislate on the legitimate business of their constituents without having in view the advancement of their favorite candidate for the high office of President, or the destruction of the moral or political standing of their opponents.

I make these general remarks, Mr. Speaker, not with a view to defeat the call for all the documents and papers touching the subject, which may be on file in the Department of War. No, sir, the distinguished individual whose reputation is assailed, upon this and other subjects, will not shrink from investigation. His friends will not do it for him. And, however unpleasant to them, or unprofitable to those who force it upon us, we will meet the attack now—we will meet it here or elsewhere. Therefore, with a desire that the House, (I ought to say the public; for it is for them they are sought) shall have the documents, the whole documents, and nothing but the documents—no speech—I move to amend the resolution by striking out all after the word "divisions," and inserting the following:

"And also to furnish copies of all papers, letters, and documents, relating to said Court Martial; copies of all orders, general or special, made or issued by the President of the United States, or by the Secretary of War, concerning or relating to the length of service of the detachment of the Tennessee militia, detailed under the order of the Governor of said State, issued on the 20th day of May, 1814, and afterwards placed under the immediate command of Lieutenant Colonel Philip Pipkin; also, copies of the muster and pay rolls of said militiamen, which may be on file in the Department of War."

Mr. SLOANE said, that he should have been very happy if the gentleman's amendment had been such an one as he could have accepted, and made part of his resolution, but this he could not do, inasmuch as it cut off an important part of his resolution. The latter clause of his resolution called for all the correspondence.

Mr. WICKLIFFE observed, that, if the gentleman would examine his own resolution, and compare it with the amendment proposed, I am sure (said Mr. W.) he will admit that all the documents connected with the subject on file in the Department of War, are, and will be embraced by the resolution, if amended as proposed by me. The amendment, sir, extends the call—it goes farther than the original resolution. It embraces the muster and pay rolls of the detachment of Tennessee militia, to which these six militia men belonged. The resolution and the amendment both refer to a particular detachment of Tennessee militia, which entered the service on the 20th of June, 1814, under the immediate command of Lieutenant Colonel Pipkin. One object is to ascertain the length of time they were bound to serve in the army of the United States. To ascertain this, copies of all the orders, general or special, made by the President, or issued by the Secretary of War, in reference to this detachment; copies of the muster rolls and pay rolls are called for; if furnished, they will enable us

JAN. 14, 1828.]

Stenographers.

[H. of R.]

to fix the time their service commenced and terminated; and a reference to the acts of Congress, regulating the militia, from 1795, to 1814, inclusive, which are accessible to the members of this House, will enable every one to decide for himself, without the aid of a learned commentary from the War Officer of the Government upon the question.

One other object of the original resolution, which the gentleman from Ohio thinks is not embraced by the amendment proposed, is, he wishes the Secretary of War to tell us whether the President did make any order or regulation under the discretionary power vested in him by the act of 1814, which authorizes the President to call out the militia of the United States, for a term of service, not exceeding six months in any one year. The amendment certainly embraces this very object. It calls for copies of all orders, general or special. If such orders were made, it is but fair to presume records of them are preserved, and copies of them will enable us to judge of the import of them for ourselves, as well, and perhaps better, than if we had the opinion of the Secretary of War upon the subject.

My objection to that part of the resolution which I propose to expunge, is, that it does not call for copies of papers, and official documents, but it seems to invite the Secretary to furnish us with his opinions, his arguments, and his conclusions. I want the documents, and the nation will make up an opinion for themselves. The gentleman calls upon the Secretary of War to inform this House under what law these men were mustered into the service of the General Government, and what laws were in force. When you get the copies of the muster rolls, which will fix the date of the commencement of the service, (which will turn out to be the 20th June, 1814,) can it be desired by the Congress of the United States, that the Secretary shall tell us what laws were in force on that day? Do we not understand our own laws? Your Statute Book is better evidence of what laws were in force, regulating and governing the militia in the service of the United States, than the written opinion of any Secretary of your Government.

The effect of the resolution, in its original shape, must be to call in the Secretary of War, to settle, as umpire, which of the two Editors in this City was correct in the opinion which each have expressed, upon the law of the case. I prefer that question, if it be important to the happiness and prosperity of this Government, to be decided by the tribunal before whom all the great questions are depending. If general legislation be the object, why confine the inquiry to the Tennessee militia? Why not call for information of the practice of the Government, in reference to the militia of other States, under the law of 1814, and the length of time they were held to serve, and the laws in force under which they served?

Believing, as I do, the object most to be desired is full and complete information upon the subject of the detachments of Tennessee militia, to which the six militiamen belonged, I have confined my amendment exclusively to that subject, and I have endeavored to embrace every thing which belongs to the subject-matter. I repeat, sir, let us have the documents, the whole documents, and nothing but the documents.

Mr. WEEMS called for the reading of the original resolution and the amendment.

They were read accordingly, when the SPEAKER announced that the hour allotted to the consideration of reports and resolutions had expired.

#### AMENDMENT OF RULES—STENOGRAPHERS.

Mr. RANDOLPH said, that, like the gentleman from Kentucky, [Mr. WICKLIFFE] he came here with the hope that nothing would be introduced to disturb the harmony or interrupt the business of the session. I had come to

the understanding with myself (said Mr. R.) that I would introduce no measure which might in any degree retard or impede the execution of that business. But I am constrained, by peculiar circumstances, to throw myself upon the attention of the House on the subject of its Rules and Orders. Without some alteration in them, we shall not get through the session with that convenience and despatch which the public interest requires. We have adopted the Rules and Orders of the preceding Congress—but we have power to alter them. I had intended to call the attention of the House to this subject before the difficulty which arose this morning, and I shall now move a reference of the Rules and Orders of this House to a Select Committee.

[The CHAIR here pronounced such a motion to be out of order at present.]

I rose (said Mr. R.) only to give notice of the motion which I intended to make. We have voluntarily placed ourselves in a situation which enables a few members of the House to forestal any subject, whether they are for or against it.

[The SPEAKER here said that Mr. R. might get at the object he desired by moving to postpone the Orders of the Day, &c. with a view to take up this subject.]

Well, sir, said Mr. R., then I make you that motion.

The orders of the day and business on the Speaker's table were then postponed, upon Mr. R.'s motion.

When first I was acquainted with this Assembly, said Mr. RANDOLPH, the Rules and Orders hung up, in fair, large round text, on a single placard; but now they are grown to a volume. I was at that time acquainted as perfectly with the Rules and Orders as with the alphabet, and I should as soon have made a mistake in the one as in the other. But I have grown grey in the business of this House; I have been a member of this House until I have grown out of all knowledge of the rules of our proceedings; and why? Because they are complicated in the extreme, and highly unparliamentary. Now, sir, as on taking that chair you have restored one good old rule, the practice of which prevailed under the administration of the Muhlenbergs, the Trumbulls, the Daytones, the Sedgwickes, the Macons, and the Varnums—under every Speaker, I believe, but one—that of calling us over by our Christian names, as well as our surnames, which enables us all to know each other, so I hope to see restored some other good old rules. I shall at present confine myself to two items in the account. The first is, the practice which has just occurred—it is unheard of—that a motion shall be snipped off in this way; and it never was practised until the change in the rules. The other rule to which I will call the attention of the House, is one on the consideration of which the character and dignity of the Congress of the United States, at home, as well as abroad, materially depend. I will read the rule as it now stands. Mr. R. then read the following rule:

“Stenographers, wishing to take down the debates, may be admitted by the Speaker, who shall assign such places to them, on the floor or elsewhere, to effect their object, as shall not interfere with the convenience of the House.”

This may be a presumption so strong as to the will of the House, that no Speaker of this body, having a due reverence for public opinion, will refuse an application made under it for admission—I might say, can refuse. But then, by adopting this Rule, we make whatever these Stenographers may choose to publish, our own: we stamp it with at least a semi-official authority. I happen to know—I was informed of it but yesterday—I was informed of it by a distinguished foreigner, attending the debates of this House, that the gallery is a better place for hearing than any other part of the House—and that he had retired to it for that purpose. I know that the debates in the House of Commons are taken, and faithfully

H. or R.]

Old Seditious Law.—Cumberland Road.

[JAN. 14, 1828.]

taken—for though they are compressed, it is a miniature likeness—by persons whose seats are in the gallery.

The public mind, at present—it would be folly, and worse than folly to deny it—is in a state of great excitement. A reaction of public sentiment is fondly predicted in some quarters, and as fondly looked for—a new advent—and this House is made—I do not say by the members of it—that would be disorderly—and more, it would be indecorous—but it is made the theatre of electioneering. And I ask you, sir, what more powerful lever would you demand—what firmer fulcrum would you have for such a purpose, than to give to the People of this country the debates of this House in such a manner as to throw a shade on one side, and, at the same time, to cast a light on the other?

I should not have stirred in this, did I not feel myself personally aggrieved. I have no purpose, whatever, of entering into a contest with the press—I have not lived to my time of life, without knowing how vain a thing that is—and with what fearful odds it is undertaken. I only use my privilege to rescue myself, as far as I can, from misrepresentation—nor is this at all on my own account. I could bear it—as I have bore a thousand misrepresentations from the same quarter: it is only because it injures the cause—the good cause, with which my humble name has been very humbly associated. I say, sir, and I bottom myself on what we have all seen—that it does not comport with the dignity of this House, or the interest of this People, to lend even a semi-official sanction to that which is notoriously false.

For what purpose are stenographers admitted to the places assigned them? It was not surely that we might figure in the newspapers, or rather be disfigured in them, but it was for the information of the sovereignty of this country, the good People, our constituents. Now, when a member feels himself misrepresented, and asks for a correction of the error—after much slow, reluctant, (but not amorous) delay, he is told, that if he will send his representations, they shall be admitted into a certain book, which these persons happen to be publishing. Sir, do we admit stenographers on this floor, that they may first sell us in detail, and then sell us wholesale? Or, do we admit them for the information of the People of the United States? I ask, for which of these two purposes that I have mentioned, are they admitted? Sir, I have seen that book—and I have seen myself caricatured in it. I have seen these prints on the other side of the Atlantic—and have there seen words put into my mouth, which I never could have uttered, unless when I was asleep. I have seen them on the tables of the most respectable club-houses in England—I have seen them at Galignani's in Paris.

In the debate of Friday last, I did say that I would punish with death any man who should violate the law forbidding the introduction of Africans into the State of Virginia. In the report of what I said, as “the learned gentleman from Louisiana,” was transmuted into “my learned friend from Louisiana,”—(there never has been any hostility between us—but there has been no particular friendship—and, as I said in another place, I will not permit friendships to be made for me by any one—I choose to make them myself—I was, and I take pride in saying it, a humble coadjutor with that honorable gentleman—the youngest in the corps—in putting down an administration thirty years ago, and I should be happy to aid in doing the same now—and I should be proud of what I am sure I should receive, his aid and comfort in the process)—so these blackamoors have been whitewashed—and they are all converted into Irishmen! A more mischievous, or a more wicked misrepresentation was never sent abroad than that. We all know there is an immense population of Irish, and descendants of Irish among us—and why do we know it? Sir, we have felt

it; they have fought our battles in the field—they have filled the ranks of our army; they have distinguished themselves, in our Revolution, at Brandywine and elsewhere; and these men are to be insulted, and their feelings lacerated, that this House may be made an electioneering theatre, and the cause on one side may be put down, and that on the other side may be propped up.

I regretted to see the proposition introduced by the gentleman from South-Carolina, the other day, against which I was compelled to vote; and I regret now to see a proposition introduced, which must lead to effects, of which I will not now speak. I came here thoroughly convinced, that this was not the hour for reform; that the disease must run its course—and that, on the 4th day of March, 1829, the doctor or the patient must die—the safety of the one implies the dissolution of the other. I feel constrained, however, to endeavor to have the rules and orders altered, in the point I mentioned, and in some others.

I will call the attention of the House to another rule, which I wish to see altered. [Here Mr. R. read the following:]

“The Speaker shall examine and correct the journal before it is read. He shall have a general direction of the Hall. He shall have the right to name any member to perform the duties of the chair, but such substitution shall not extend beyond an adjournment.”

The adoption of this rule was contemporaneous with the change in the manner of calling our names.

This is a dispensation which the Muhlenburgs, the Dayton, the Sedgwicks, the Macons, the Varnums, never claimed or enjoyed, nor was it ever enjoyed by Chairmen in Committee of the Whole. I remember that I saw John Cotton Smith sit in the Chair for seventeen or twenty hours—I don't recollect which—and I have been glad to see that you, Sir, are content not only to receive the salary, and enjoy the patronage and honor of your high office—for high it is—but deign also to perform its duties. This rule, also, I wish to see altered.

I thank the House for their politeness and attention, and I conclude with moving that the Standing Rules and Orders of this House be referred to a Select Committee.

The motion was agreed to.

#### OLD SEDITION LAW.

Mr. HAMILTON said, that he had some time since given notice that he would on this day call up the resolution he had had the honor to submit on the subject of the Alien and Sedition Laws; but in consequence of having learned that the appropriation bills introduced by his friend from South Carolina, [Mr. McDuffie] would be taken up on Wednesday next, not wishing to impede the course of those important bills, he would, for the present, postpone his resolution, but would embrace the earliest opportunity of calling it up after those bills should be disposed of.

#### CUMBERLAND ROAD.

Mr. BUCHANAN rose, and said, that it would be recollected by many gentlemen upon this floor, that, at the last session of Congress, when the bill for the preservation and repair of the Cumberland Road, which provided for the erection of toll gates within the jurisdiction of the States through which it passes, was before the House, the session was so far advanced, that time did not remain to discuss and settle the important principles which it contained. Some days after that bill had been reported, I presented an amendment to it, which I gave notice I intended to offer, when it should come before the House for discussion. This amendment provided for the retrocession of the road to the States through which it passes, upon condition that they should keep it in repair, and exact no more toll upon it than might be necessary for that purpose.

JAN. 15, 1828.]

*Captured Africans.—Case of Marigny D'Auterive.*

[H. OF R.]

As the Cumberland Road then required immediate repairs, there was a general understanding throughout the House, that a simple appropriation should pass for that purpose; and that the decision of the question which would have arisen upon the bill, as reported, and upon the amendment which I had proposed, should be postponed until the present session. The same bill for the erection of toll gates under the authority of Congress, which had been reported by the Committee of Roads and Canals, at the last session, has been again reported, at this Session, by the Committee. For the purpose of bringing the whole subject fairly before the House, and of preventing any unnecessary delay, I, therefore, again present the amendment which I intended to offer, at the last session, and move that it may be printed; and I give notice that I shall offer it, when the bill for the preservation and repair of the Cumberland Road shall come before the House.

Mr. BUCHANAN submitted to the House a paper containing an amendment to the bill for the preservation and repair of the Cumberland Road; which was ordered to be printed, and will be taken into consideration when that bill comes before the House.

Mr. SMYTH, of Va. gave notice that on Monday next he would call up the resolution he had laid on the table, respecting an amendment of the Constitution.

TUESDAY, JANUARY 15, 1828.

## THE CAPTURED AFRICANS.

Mr. TAYLOR moved to refer the bill from the Senate to cancel a certain bond therein mentioned, [case of Mr. WILDS] to the same Committee of the Whole House to which was referred a bill of a similar tenor and title, reported to this House by the Committee on the Judiciary. He did this, Mr. T. said, in order that an amendment to the bill proposing an appropriation might be moved in Committee of the Whole, as it could not, by the rules of the House, be moved in the House until it had first been considered in committee.

The motion was opposed by Mr. WICKLIFFE, who wished the mover would postpone it until to-morrow, as he had given notice for calling up the bill on that day. The delay occasioned by going into Committee of the Whole, might possibly defeat the very purpose of the bill, by retarding it beyond the time to which the condition of the bond extended.

Mr. TAYLOR insisted on his motion as reasonable. The bill was important, and ought to take the usual routine of business, to which even the smallest interests were subjected. If a bill provided the allowing of 40 dollars in payment for a horse lost on the Western frontier, it must pass through a Committee of the Whole; a bill involving principles so important as this did, ought surely take the same course.

The motion prevailed, and the bill was referred accordingly.

Mr. HALL submitted the following:

*Resolved*, That the Committee on the Judiciary be instructed to enquire into the expediency of settling, by law, under what rules and regulations private property (if to be taken at all) shall be taken for public use.

Mr. H., in explanation of the object of his resolution, said, I have risen to present a resolution to the House which has been suggested to me by a debate, some time, nearly a week or ten days, carried on in this House, upon one of the simplest, most plain, and circumscribed questions which I have ever known to engage the attention of any deliberative body, for any length of time. I am still more astonished that the debate should have been so protracted, after hearing from all sides (if my memory serves me rightly) the admission, that the article in contestation was property. After this admission, I conceive,

the door was closed against debate, beyond the mere question, whether that which was sanctioned by the Constitution and law, should be done in this case? I am not certain that legislation on this subject is necessary or practicable. I should, however, suppose that it was competent for Congress, by some declaratory act, explicitly to recognize the principle, that what the State laws decide to be property, shall be so recognized by this House, in its legislation in relation to property. It is a question which peculiarly belongs to the States. But, as things now stand, we are placed in this most anomalous situation: Acts expressly recognized by the Constitution, or within its contemplation, may be performed by certain persons, and yet such acts are contrary to law, and the actors, or performers, subject to punishment for them.

Mr. TAYLOR hoped that the gentleman from North Carolina would not press the consideration of the resolution this morning. During the late war, a resolution of nearly the same tenor had been introduced into the House. It had been decided at that time with great unanimity, that impressment was a violation of all right, and could only be excused by the extremest necessity. It was, therefore, not a fit subject for regulation by law. It did not become Congress by a law to provide for the violation of all law, nor to provide for the exercise of rights, if rights they were, when all law is silent.

Mr. HALL, in reply, said, I do not know, Mr. Speaker, whether I perfectly understand that clause in the 5th amendment to the Constitution, which declares that private property shall not be taken for public use, without just compensation. It appears to me to mean, that, under certain circumstances, private property may be taken for public use. But, if taken, must be paid for. These are circumstances which must necessarily sometimes occur. They did occur in our last war, in every war we ever had, and, in all probability, they will occur in any future war in which we may be engaged. If this interpretation of the Constitution is correct, then, as I said before, the country is in a strange and anomalous situation. The self same act is allowed by the Constitution, and is nevertheless punishable by law. The resolution proposes a mere enquiry, and is introduced solely with that intention. My past conduct, (having been so long in this House,) I think, furnishes a sufficient pledge, that I have no disposition unnecessarily to consume its time. I hope the resolution will be permitted to go to the committee.

The resolution was then agreed to.

## CASE OF MARIGNY D'AUTERIVE.

The House having again gone into Committee of the Whole, Mr. CORRIËT in the Chair, on the bill for the relief of Marigny D'Auterive, and the question being on the amendment proposed by Mr. GURNEY, (to allow the claimant for the time of his slave while engaged in the public service during the attack on New Orleans, and also for the hospital charges after he was wounded)—

Mr. P. P. BARBOUR rose, and said that, as the Committee of the Whole, when this bill was last before them, had been good enough to rise upon his motion, and thereby to afford him an opportunity of expressing his views in relation to the proposed amendment, he could not make a more suitable return than to fulfil the promise which he had at that time made, of occupying their attention for as short a time as possible, and he should, therefore, now compress what remarks he had to make into the smallest compass, which would be consistent with rendering his meaning intelligible. At the outset, said Mr. B., I fully reciprocate the sentiments so well expressed by the gentleman from New York, [Mr. BUNNELL] who addressed us on the subject, and I assure him and this committee, that it is no part of my purpose, in the slightest degree, to fan any flame of excitement

H. or R.]

Case of *Marigny D'Auterive*.

[JAN. 15, 1828.]

which may have been kindled in the course of this debate; on the contrary, it will be my earnest endeavor to extinguish the last ember which might contribute to feed it. In any remarks which I shall make on this occasion, it shall not be, as it certainly has not hitherto been, my intention to make any appeal whatever to passion or to prejudice, which I consider as the worst possible guides to a right decision in this or in any other tribunal on earth. My appeal shall be made to the sober judgment of the committee, and to that alone. And in presenting it, I ask a candid and impartial investigation. Nor shall I attempt to discuss a question which has been alluded to by, I believe, almost every gentleman who has spoken in this debate, and which has been discussed, in part, by some who have spoken—I mean the question whether slaves are property. I should as soon think of instituting a grave inquiry, whether or no the citizens of the Northern States have a just title to those ships of theirs whose sails whiten the ocean, or whether the inhabitants of the South have a right to that soil which yields them at this time but a slender revenue. It was truly as well as forcibly and beautifully said, that all property is the creature of law. It is so. It is the creature of municipal law. The Constitution of the United States has been referred to by some gentlemen, as bearing on this question. I know of but two provisions in that instrument which refer at all to the subject-matter of the present discussion. The first is that which declares, that, in taking the census of the United States, a certain portion of this species of population shall be included. This it does for a two-fold purpose: first, to fix the relative proportion of representation of the different States in this branch of the Legislature; by which arrangement the Southern States get somewhat of an addition to their numerical representation on this floor; but then, by way of offset or equivalent, for this advantage, the Constitution fixes the same ratio for the direct taxation of those States: so that, while on the one hand they enjoy the benefit derived from an increased representation, by the same provision of the Constitution they labor under the corresponding disadvantage of an increased taxation. The other clause having reference to a slave population, proceeds on the idea that they are property; that the question is settled by the municipal legislation of the States; and it speaks of them as "persons held to service under the laws thereof." Neither of these articles in the Constitution professes to establish the point, that slaves are property. The one looks merely to representation and taxation, and by the other their being property is assumed.

I shall, therefore, proceed on the principle, as being unquestionable, and substantially unquestioned—as being a *concession* by all who have engaged in the debate, that slaves are property. Two simple questions will then present themselves on the amendment to this bill. The first is, shall the claimant be compensated at all, and if he shall, then, secondly, to what amount?

Every citizen of this country owes to the Government one common obligation, viz: to contribute his fair and equitable proportion of his property to those public burdens which are constitutionally imposed; he owes this, and he owes no more. On this fundamental principle of society rests the tax-laying power in this Government. The Government levies a contribution upon the citizens in proportion to their respective ability to pay, and the advantages which they derive from it, to enable them to meet its demands. The ordinary operation of raising taxes proceeds upon the principle that each man shall pay his fair proportion toward the general amount, and this is a principle which, as soon as mentioned, challenges the assent of every mind; and yet, all I ask is, that the committee will apply this obvious principle to the present demand. I need not detain the committee with those provisions of the Constitution and the laws, which

ensure the observance of this principle, both among the different States and among the People of the same States. The first provision in the Constitution on this subject directs that taxation shall be proportioned according to the census, and no direct tax shall be levied by the Government, unless in the same ratio.

We further find a declaration that the imposts, duties, and excises, shall be uniform throughout the United States; that no export duty shall be collected, and that no preference shall be given to one port of the United States over another. These provisions, taken collectively, enforce the utmost equality on the subject of contributing to the public burdens among the different States of the Union. In reference to the People of the same State, taxes on consumption are said to act upon the volition of those who pay them, and the presumption is, that, in general, their payment will bear proportion to the ability of those who pay; and, as to direct taxes, the laws provide every precaution to render them as equal as possible. I say, then, that, in the ordinary operation of Government, when it draws to itself the wealth of the People by taxation, the principle with which I set out is open and palpable, and no mind hesitates to assent to it. But the difficulty in the present case arises, because that case is under peculiar circumstances.

Besides the ordinary power of taxation, there is another power, which, for the sake of distinction, I will call an extraordinary one. It arises from the transcendental power of the Government, or what has been denominated by writers, the eminent domain. This they define to be a power in the government of a country, to appropriate the wealth of that country in cases of necessity, and with a view to the public safety. This definition shows at once the origin of the power, and its proper limitation. It must have its source in necessity, and for the object of its exercise the public safety. The power, therefore, is co-extensive with the necessity which gave it birth, and reaches no farther. When that conjunction of circumstances which produced the necessity has passed away, this right which grew out of it falls with it. An attention to the character of this power, will, I think, quiet the apprehensions which have been expressed by some gentlemen during the present debate; but, in saying this, do I mean in the least to admit that Congress may regulate the right and title to slave property? No more than I mean to admit that they may regulate the right to the soil of the several States.

To illustrate my meaning, I will take the liberty of presenting a few examples. Suppose that you had an army which was suffering for the want of food, and that, owing to an accidental position of the ordinary commissariat, (or by whatever other name the subsistence department of an army is distinguished,) provisions are not to be had, may not the commanding officer, under this pressure of immediate necessity, take, wherever he can find it, so much food as is absolutely requisite? Or, suppose your troops, when in some important position, should be destitute of ammunition—the army wants powder and lead—may not the commander take it if a supply is within his reach? Or, suppose again, that your army is in a state of difficulty and embarrassment, in regard to the saving of its baggage, and the bringing off of the wounded; and that, for these purposes, necessity calls for the use of a cart, or wagon, the horses which draw it, and the slave who was their driver—(for I presume the wagon would be of little use without the driver.) Under these circumstances, the act is done: the cart, horses, and driver are impressed for the public use—none can believe that the title to any property is affected beyond the duration of the indispensable necessity of the occasion. So, if it become necessary to occupy a building, or domicile, as a deposit for military stores, the effect of even that would be but temporary. No title to

JAN. 15, 1828.]

*Case of Marigny D'Auterive.*

[H. or R.]

that domicil would be at all affected. No more would the title to a slave. There is none who will say that this temporary use of any of these things, transfers to the Government any farther power over them. Now, when this power is thus exercised, what is the language of justice? It is, that compensation be made to the owner. The case has been aptly compared to that where merchandise is thrown overboard for the safety of a vessel. In the fifth amendment of the Constitution, this principle is acted on, and the power thus to take private property for the public use, is virtually affirmed, by denying its existence under some particular circumstances. What are those circumstances? They are expressed by the words, "without just compensation." To ascertain the meaning, we need not go beyond the terms. "Compensation," in my apprehension, means an equivalent; and the term "just," signifies (among other things) that it be full and complete: "Just compensation" is, therefore, to be understood as a full and complete equivalent for the loss or injury sustained. I ask, if it were declared as between two individuals, one of whom had caused a loss to the other, and the proposition was, to determine what should be "just compensation," whether there is a court or jury on earth that would stop short of measuring the compensation by the measure of the loss? Can it be pretended that some paltry allowance for the use of the cart and driver, is sufficient to satisfy this principle? In answer, let me put a case: Suppose this slave had been impressed, and, before he had been one day in the service, he was wounded, and the wound was such as might disqualify him for subsequent labor, or even destroy him altogether, and his master should then be allowed 50 or 100 cents for his day's labor, how would the question stand? I need only appeal to the culpable principle of ordinary justice. The claimant, through the tax laying power of the Government, has already contributed his share to the public burdens. If you, after this, take this slave, worth, I will suppose, \$ 500, and that slave is killed or disabled, and you make him no compensation for the value of the slave, will he not present a singular spectacle in society? He has paid his share, with others, of the common contribution to Government, and, at the same time, under an extraordinary exercise of the power of that Government, he has paid, over and above this, to the full amount of the value of his slave, if killed, or a part of his value if partially disabled. I will put to the committee this proposition: when it is your purpose to make just compensation, do you not mean that the compensation shall be equal to the loss sustained? And if you do not do this, does not the individual lose to the amount of all the excess of what he has contributed beyond his share to the public burdens of the country? And if you do mean to compensate him, must you not enquire into the actual amount of his loss? This principle, if once admitted, leads to the conclusion that the proposed amendment to this bill ought to be adopted. The whole argument may be reduced to one or two syllogisms. The Constitution says that private property shall not be taken for public use, without just compensation—but private property has here been taken for the public use; therefore, just compensation ought to be made. Again: compensation to be just, must be equal to the loss sustained—but the loss sustained has been that provided for in the amendment; therefore that amount ought to be allowed.

One or two arguments have been employed by gentlemen on the other side, which I feel myself bound to meet. One of them, which was first brought forward by the member from New York, [Mr. STORRS] and which has since been iterated and reiterated, I confess, surprises me. It is this: If a slave is to be paid for because he has been killed or wounded, why must you not pay on the same principle for an apprentice, or a son? To me it is won-

derful that a gentleman of the acuteness of mind which all allow to that gentleman, did not at once see that there is a conclusive answer to this argument. A son and an apprentice are citizens of the State—they are members of the political community; and, in that character, they owe, in their own persons, a share of service to the public. This obligation is paramount to any subordinate individual contract. The contract between master and apprentice, and the power of the father over the son, are subordinate to the public duty which they both owe to the country. If an apprentice, who has entered into a contract with a master, shall subsequently enter into another contract with another master, before the first has expired, may not he with whom the first contract was made, insist on its execution, and set aside the second? Though the corpus of a slave be a person, yet he is nevertheless property; and on this great principle I found my argument. The parallel attempted to be established is wholly untenable. The slave, as an item of property, is not a member of the body politic; he owes no service on his own account to the Government. The Government knows him only as the property of his master, and it can get at him only in two ways—the one is by the ordinary process of taxation, and the other is by the extraordinary exertion of power, under a pressing public emergency. In that case, compensation must be made—it must be just—and to be just, it must be equivalent. This is an answer to the argument drawn from the analogy of a minor or apprentice.

Another argument was advanced by the gentleman from New York, [Mr. STORRS] which also calls for notice. That gentleman labored to prove that the Government, in no circumstances whatever, may take a slave for the public military service.

I have already endeavored to shew that slaves can, in no case, be considered or treated as militia—as troops. That is out of the question. Such a proposition cannot even be received for discussion. There is no man who can doubt that the People only are fit to compose the army. But a slave, considered as property, may rightfully be taken for the Government service, when extreme necessity requires. But, placing the question on the gentleman's own ground, and admitting, for argument's sake, that the Government acted wrongfully in taking this slave, I ask this committee if they are prepared for the conclusion that the sufferer is entitled to no compensation, because, in inflicting the loss, the Government did wrong? Is the Government not to pay, because it acted wrongfully, when it would be bound to pay, even if it had acted rightfully, in taking this slave? If you once maintain that the Government acted wrongfully in this matter, you must then compare the case to that of two individuals, one of whom has wrongfully injured the property of the other. Is not the wrong doer bound to make compensation to the full extent of the injury? The argument of the gentleman comes to this: that Government is not responsible, because it has done wrong. Now, I say, with all deference for the acknowledged talents of that gentleman, if ever there were a *non-sequitur* this is one. The case is not at all altered because the act was done by an officer of the Government: for, besides the argument that the act itself was right—supposing it to have been wrong, I appeal again to the gentleman himself, whether, if one party commit on another a tort or trespass by his agent, the principal is not responsible for all consequences?

[Here Mr. STORRS replied, I agree with the honorable gentleman that, when the act of the agent is within the lawful line of his agency, the principal is responsible.]

Mr. BARBOUR resumed. I put it to the gentleman whether, if one trespass by order of another, the latter is not responsible. But there is no need to discuss the question in that view of it. Where the case of extreme



H. or R.]

Case of *Marigny D'Auterive*.

[JAN. 15, 1828.]

necessity exists, the extraordinary power of the Government may be exercised. The officers for the time being, are only its agents, and the responsibility devolves on their principal. I do not, indeed, wish to carry this principle to an extraordinary and unreasonable length. If the officer, wantonly or unnecessarily, invade the property of the citizen, he is a trespasser. But then this must be shewn, and, in the present case, not so much as a doubt has been suggested of the existence of such a case of necessity. If the necessity exist, then that case has arrived, in which the Government may take private property for the public defence. The Government did this. They did it through their officer, and the result has been a loss to this claimant of so much value as that for which he asks us to indemnify him. If we do so, we must restore him to an equality, as to his contribution to the public service, with others—his fellow-citizens. If he had but this one slave, and lost this, then he would have contributed more to the requirements of government, for the public defence, in proportion to his ability, by perhaps ten or twenty times, than his neighbors had done. This surely ought not to be. I conclude, therefore, that we ought to make him compensation, and that the compensation ought to be equal to his loss. And shall, therefore, vote for the amendment.

Mr. ARCHER said, he had not risen with any view of entering into the present argument, nor, to any extent, into that of the real question from which the debate had wandered. I have, said Mr. A. a higher purpose. I thought, when the amendment was offered, that the debate ought not to have been raised; but as it has proceeded thus far, it ought not, I think, now to be repressed. Some remarks appeared demanded of gentlemen from the South, by various considerations. We owe it to ourselves to shew, that, when what we consider as our most vital interest has been brought into discussion, we have not been more remiss in our duty to our constituents than others. We owe it to Northern gentlemen to respond to the liberality they have evinced. We owe it to the public, and the Southern public in particular, to shew how that question has arisen, in the devious course of this debate. The mention of the word slavery in this House (as evinced by this debate,) is calculated to waken a high degree of sensibility in the quarters in which it prevails. This was no subject of reproach. We know it to be the most delicate of all interests—we feel that it is a nerve that cannot be struck without communicating the shock to every function of our social system. The Constitution gives us the exclusive right of judging, in all questions affecting this interest, and we well know that any foreign interference can but aggravate the evil, whatever it may be. We fear that interference—and why? There is a belief (whether well or ill-founded, makes no difference as to the effects) in all the slave-holding States, that a fanatical spirit exists in many of the non-slave-holding States, which would interfere, and interfere fatally, in this matter. No matter whether this apprehension be just or not, its influence on Southern feelings is a fact not to be disputed—and it has produced, and produced justly, in the South, a sensibility, amounting, it might be, to ferocity, on this point. And here he would take occasion to say, of the People of the slave-holding States, that they were as loyal as the subjects of the Kings to the authority which they recognize, and to which they assented by the Constitution—they are restive under all other authority—and he hoped they ever would be so.

The subject of this amendment has gone abroad to the country, as in itself a subject of excitement. At a distance, people do not make nice distinctions—and it will be so considered. Now I think it ought not have such a character, and regard it as an act of justice and utility to place it in its true character. There is no excitement here which can be justified, and I shall be discharging a very

gratifying duty if I can succeed in impressing that opinion on this Committee, and on the Country. Sir, is there any man here who has attempted to maintain that slaves are not property? There is not one. All the gentlemen who have taken part in this debate, have expressly disclaimed such a position. How, indeed, can any man maintain it? If any one would attempt to maintain such a position to me, and I considered him worthy of being treated with the decency of a reply, my only answer to him would be—"Look at the fact. Who contributed to form this Constitution? Those who at that moment held slaves—they held them under it when it was formed, and they continue to hold them now as they did then." If any man doubted that slaves were property, in the contemplation of the Constitution, he was a fool. If he denied this, not doubting it, he was a knave. I believe there is no such man here. There may be an inconsiderable class who affect to believe so, that they may make this subject a handle to produce excitement: Their purpose was for their own selfish ends—to disturb the harmony of the Union. But I owe it to the non-slave-holding States to declare, that, as far as I have been able to obtain information on the subject, this class is as much despised there, by all the most respectable classes, as they can be among us. Sir, the proposition that slaves are not property, has not been maintained, as I consider, in this debate. It is the supposition that it has been advanced by implication, that has excited the warmth that has appeared. I certainly did not so understand the report of the Committee of Claims. They did not say so. They say, only, that this kind of property has not been put upon such a footing by the usage of this Government, as that, if lost or injured, it is to be paid for from the Treasury. Does this amount to a denial that slaves are property? The Committee say that this kind of property is subject to a certain usage. Does this deny the existence or validity of the property? If that were established, then all property whatever must be annulled: for all kinds of property whatever, are the subjects of peculiar regulation in some form or other. The committee and gentlemen, in debate, have, in effect, maintained, not that we have no property in our slaves, but that this is a kind of property so peculiar, as that it stands distinguished from all other property in this important respect—that the Government may, in no case whatever, lay hand upon it by impressment. Sir, instead of complaining, we ought to be much obliged to Northern gentlemen—their doctrine I hold indeed to be wrong—but we owe them every obligation, and every acknowledgment, and I tender to them my thanks for the liberal ground they have taken. What they contend for is, that this is a higher species of property than any other; that the sweeping power of the Government must here stay its hand; it cannot even touch it. I consider it just, therefore, to give the true character to this debate: to let the Southern States know that there appears no design to call in question the title or jurisdiction of their property. The committee have not questioned it; none but fools could deny—none but knaves will impeach it. The doctrine maintained, is no leaven to sour the daily and necessary bread of our harmony. Its propagation is no sowing of the dragon's teeth, to spring up in civil discord and conflict. It is a liberal doctrine, though not a sound one.

If it were true, that there exists no power in the Government, at any time, or under any circumstances, to impress slaves, then it is also true, as contended, that the officer who took the slave in question committed an irregular act, is liable to an action for trespass, and the Government is not bound to pay for what he did, as the gentleman from New York [Mr. STORAS] has inferred. But, the transcendental right of the Government over all property whatever, has never been contested. If an extreme exigency occurs, all the property, and all the Pec-

JAN. 15, 1828.]

Case of Marigny D'Auvergne.

[H. or R.]

ple of the country may be taken and employed for the public defence. But, the gentleman from New York [Mr. STORRS] maintains, that, in regard to slave property, this power is limited, and must be so, on account of the danger which would follow from it. If slaves are to be taken for soldiers in the Southern States, and the apprentice and the minor may be taken in the Northern; if the son may be torn from his father's hopes, and from his mother's anguish, then, says the gentleman, there is an end at once to every thing like freedom. But, this danger has no ground, either in fact or in construction. Not in fact: for, when soldiers may be legally demanded of us, we will always be ready in the South to furnish better than our slaves—ourselves. If the time should ever come, when South or North, Government or People, shall tolerate the idea of filling their ranks with slaves; all questions of legal power will be speedily at an end. We shall all be slaves together, to the first master who will assert his authority. The doctrine is equally unsound, as a doctrine of construction; because you may take slaves as property for the public use, it does not follow that you may use them as soldiers. You may impress property, men, too, by draft, according to the measure of public exigency. But neither, without abuse, can be employed, except in a function and manner adapted and referable to its proper character. May you employ a drafted man as a mere beast of burthen? No! You can as little employ a mere article of property, a slave, in the proper function and capacity of a citizen. You may not employ any object which you take for a use which disagrees with the character in which it is taken. You may take citizens, you may take property; but citizens must be put to the employment of citizens, and property to the uses of property. You cannot enlist, though you may impress a slave. Why not? Because enlistment is a contract, and imports a free agent. The distinction as to the case of an apprentice, which has been spoken of, is, that he labors only under a temporary disability to make this contract. The disability is not inherent and incurable—law may remove it, and then he becomes a citizen capable of making this contract. Not so with the slave. His is an incapacity, as distinguished from a disability: that is to say, is permanent. It is inherent in him as a slave, and no law can remove it until he ceases to be a slave. The idea that slaves are to be distinguished in any manner from other property, grows out of a misapprehension of the character in which slaves are regarded by the Constitution. The framers of this instrument evinced a studious desire to avoid introducing the name. Whenever allusion became necessary, periphrasis has been resorted to. But no point of the Constitution, in its true intent, sustains the idea of their being regarded in a light different from property. When it speaks of them as persons, reference is intended to their condition as human beings, and not to the artificial legal acceptance of that term, as importing something different from things as the ordinary subjects of property. In relation to the clause in which restraint on the importation of "certain persons" is intended for a term, this is the uncontested import. By persons, are intended those who were to be introduced as slaves only, and on whose importation a duty might be imposed, as is ordinarily done on property. Human persons are meant, but not legal persons. Legal persons have rights, duties, and obligations. These attributes are of the essence of a legal person. Can a slave ever have these? Certainly not. The constitutional regulation in respect to the census, has been adverted to by some gentlemen, by which three-fifths of the slave population are to be added to the number of free persons in the slave-holding States. Does the Constitution by that provision recognize slaves as persons in the legal acceptance? I say that it does not, and that the consideration of the true pur-

pose of that article disproves such an idea. Under the old Confederation there was no ratio of representation. Each State was entitled to one vote. By the Constitution, both the rule of representation and the rule of taxation were altered. Under the Confederation, the rule of taxation was derived from real property only. But the value of real property will always be relatively greater, amid the denser and more active population of countries, without slaves as compared with those which have them.

This was the case in the Northern States, and made a change of the rule desirable. With them there could be no objection to the adoption of a rule from population. The same rule, applied to the South, would extend only to our free population—the component elements of our political society. There could be no right to look to any other except in the character of property. Here, then, the rule would become unequal, and another must be resorted to. Writers differ whether the ratio of representation should be drawn from taxation or population. The framers of the Constitution adopted population as the general standard, but when they came to the Southern States they found that justice required them to adopt a mixed rule, founded partly on population and partly on property, and it was for this reason, and not because slaves were regarded as legal persons, that three-fifths of the number of slaves was allowed to be taken into account for the purpose of representation, to be added to the number of the free inhabitants. What is the proof? If population solely had been made the rule, what would have been the result? Surely they must have gone the whole length of the principle, and all the slave population must have been included. There was no conceivable reason why three-fifths only should be admitted, if representation was to be founded on population merely. The regulation would have been absurd, as well as unjust, but the authors of the Constitution allowed to the slave holding States all their population, and added to this three-fifths of the amount of certain description of their property. I hold, therefore, that the peculiar immunity which has been contended for in favor of our slave property is not countenanced by any just construction of the Constitution.

Another topic has been urged—the usage of this Government. On this I have only one word to say. It has, I think, been clearly shewn, that the gentleman from the Committee of Claims, who introduced the report, [Mr. WRIGHT], was mistaken in point of fact, when he endeavored to prove that there were precedents, shewing it had not been the usage of this Government to pay for slaves, when impressed into the public service. All the cases which he cited as precedents, were inapplicable, because no impressment took place, with the exception of one, and even in that case the damage was not direct, but only consequential, which makes it no fair precedent. But, agreeing that such has been the usage, the Constitution declares that compensation shall be made for property, without any exception, when taken for public use; and if, in relation to this species of property, the usage has been otherwise, the maxim applies, *malus usus abolendus esse*, and there is an end.

Some of my Southern friends, for whom I cherish a high personal regard, [Mr. RANDOLPH and Mr. DRAYTON] have been hurried in advance on this subject—a position in which they will always be found, in the discharge of the trust reposed in them. They have said, truly, that, if the question of slave property were made here, it ought not to be debated by Southern men. But, neither is there occasion to allude to it with sensibility, when the question is not made, but disclaimed.

My chief purpose in addressing the Committee, has been, to show that there is no necessity whatever for the least excitement in discussing the amendment. I have enjoyed ample opportunities, from service here and other

H. OF R.]

Case of *Marigny D'Auterive*.

[JAN. 15, 1828.]

sources of information, in regard to the North especially, to know the sentiments prevailing there, on this subject. I render no more than justice in saying that, in no respectable quarter, have I ever discovered any disposition to raise a question as to the validity of slave property, or as to our right of undisputed and exclusive control over the subject. Nor are they unaware of the mischief which would result to themselves, no less than us, from any interference with this control. Should the efforts of a desperate and frantic fanaticism ever be so far successful as to produce this interference, the disastrous consequences will not be confined to the Southern States. An atrocious banditti would infest our swamps and fastnesses, but so would a Lazaroni, scarcely less pernicious, their streets. The evil would pour into the free States in a torrent. All that industry which now supplies consumption and material to the enterprise of the North, will be paralyzed at once, and the blow which was directed at us, will quickly be found to have recoiled on those who gave it. The Southern States cannot, indeed, claim to be the arms—the strength of the Union—but they may, to be its breasts; and Northern gentlemen in general, and Yankee gentlemen in particular, know their own interest far too well, ever to desire either to cut off, or to dry up, this fountain of their prosperity.

A word in conclusion, only, on the real question—the claim involved in the discussion. It is not contested that the injury alleged has been sustained, and by regular impressment, on the part of a public officer. The right to compensation stands then equally irrefragable on the letter of the Constitution, and the higher and more authoritative constitution of justice.

Mr. MITCHELL, of S. C. said, that, when he addressed the Committee the other day, from an observation dropped by the gentleman from Alabama, [Mr. OWEN] he was led to believe, that the impressment of the slave by the Government had not been ascertained, and he then considered, as he now considers, that this was the important fact on which the decision of the House must ultimately turn. But all his doubts on this point had been cleared up by examining the report of the committee. The case there was fairly made out. It was admitted that the slave of D'Auterive had been impressed—that he was wounded—that the owner incurred the expense of employing a surgeon—and that, by the consequences of the wound, the slave had been depreciated in value to the amount specified in the amendment. With these facts in possession of the House, Mr. M. said, he was not only surprised at the length of the debate, but at the excitement manifested on both sides. For his part he considered it a mere legal question, to be decided by the Constitution and laws of the United States, and by the decisions and practice of the Supreme Court, and in itself neither exciting nor deserving either collision of feeling or intemperance of language. In this view he considered the case, and so he should endeavor to argue it. The 5th amendment of the Constitution is in these words. "Nor shall private property be taken for public use, without just compensation." Mr. M. said that this clause did not confer any new right on the citizen, but was merely declaratory of a pre-existing right, which would have been possessed if the amendment had never been enacted. He held that our right of property was inherent and absolute, and alienable only with our own consent. If our right of property was not inherent and unalienable, why did the People of the States think it necessary to give to Congress, by express grant, the power of taxation, and to limit and restrain the exercise of that power? For what is the power of taxation, but the power of disposing the property of the citizen to the public use? Who would think it necessary to give another a title to a small part of a fund, when he possessed a full right to the whole? It is clear, that, under this Government, the right of proper-

ty is inherent—as sacred from the invasions of Government as from those of individuals. Our only inquiry then is whether a slave is private property? And can this be doubted for a moment: what right, what power, what dominion has an Eastern man over any personal chattel, which a Southern man has not over his slave? Why, sir, he can sell his slave—he can hire him—give him, and bequeath him. The slave is liable to be seized and sold for his debts; if a ruffian attempts feloniously to take possession of him, the owner can, with his rifle, defend him as his property; and if a citizen should tortiously get possession of him, the owner can recover him by an action of detinue, or trover, to maintain either of which actions, two things are necessary—first, that the object claimed should be a personal chattel, and next, that the party claiming should have a property in it. Gentlemen may admit that this is the law of South Carolina, or Louisiana, but deny that it is the law of the United States. This, Mr. M. said, he would endeavor to establish. By the 34th section of the judiciary act, it is enacted that the laws of the several States, except where the Constitution, treaties, and laws of the United States otherwise require or provide, shall be "regarded as the rules of decision at common law in the Courts of the United States, in cases where they apply." Now, what is this, but adopting, as the laws of the United States, all the constitutional laws of the several States? Are they not, by this section, incorporated into, and made a part of the jurisprudence of the Union? South Carolina, by a similar enactment, has made of force as much of the common law of England, as is consistent with her Constitution. Now, is not that common law of England made, by that enactment, as much a part of the code of South Carolina as her legislative statutes? None can doubt this. The laws of the States, adopted by the Federal Courts, are as much, then, the laws of the United States, as the act of Congress. In which light, then, have the Courts of the United States considered our slaves? Precisely as those of South Carolina—as mere personal chattels—as, legally, nothing more than goods, wares, and merchandise, and liable to all the rules which govern the possession and alienation of inanimate chattels. To prove this, Mr. M. said, he would refer the committee to the case of *Williamson and Daniel*, reported in the 12th of Wheaton, 568, originating in the Circuit Court of Georgia, but finally decided in the Supreme Court. The substance of it is as follows: A testator left by will sundry slaves to A and B, with a provision, if either should die without lawful heirs of his body, the survivor should heir his estate. The following was the decree of the Court, pronounced by Chief Justice Marshall: "We think these words convert the absolute estate previously given, into an estate tail: and if so, since slaves are personal property, the limitation over is too remote." It is an old maxim of the common law, that an estate tail cannot be created in a personal chattel: for, if it be, the previous estate becomes absolute in the first taker. This rule applies to all property of a moveable nature—to money—goods, wares, and merchandise—to domestic animals, &c. Do not the above circumstances, from first to last, prove, that the Supreme Court views the slave precisely in the same light as the State Courts—that it considers the slave no more than a personal chattel, in which an absolute property may vest, and liable to all the rules which attach to chattels of that description? Again, Mr. M. said, he would refer the Committee to the case of *Shelby vs. Grey*, reported in the 11th Wheaton, 361. This was carried from the Circuit Court of Tennessee, to the Supreme Court, at Washington. It is only necessary to my purpose, to give the preliminary statement of Judge Johnston, who pronounced the decree of the Court. "The plaintiffs here, were defendants below, in an action of detinue, brought by Thomas Grey, to recover sundry slaves. The defendants pled *non detinet*,

JAN. 15, 1828.]

Case of Marigny D'Auterive.

[H. of R.]

and the act of limitations of the State of Tennessee, which bars the actions of detinue, is three years." Can any one say that slaves are not viewed, by the Courts of the United States, as private property—as nothing but personal chattels, by these two cases? In the first, they are disposed of by will, liable to become the property of the first owner, when the limitation over is after an indefinite failure of issue; and, in the second case, they are recoverable by action of detinue, and become the absolute property of the holder after a tortious possession of three years. By way of illustration, Mr. M. said, he would state a case, and apply the foregoing rules. Suppose the unfortunate D'Auterive had been indebted to the honorable member from Ohio [Mr. WHITLSEY] in the sum of \$600; and he either would not, or could not pay. What course would the honorable gentleman most likely take? Why, as a citizen of Ohio, he would commence an action against him in the Federal Court of Louisiana, and, as the debtor would have no defence, judgment would be obtained, and execution follow of course. This execution would be a writ of *feri facias*, tested in the name of the President of the United States—sealed with the seal of the Clerk of the United States Court—lodged with the Marshal, the Executive officer of the same tribunal—directing him to levy on the lands, tenements, hereditaments, and goods and chattels of D'Auterive; and, under this authority, the Marshal would seize negro, horse, and cart, and, after having advertised them the legal time, knock them off to the highest bidder at the same moment, and pay over the proceeds of the sale to the honorable gentleman. Now mark, sir, this is a proceeding entirely of a United States' Court—created by the Constitution—regulated by the laws of Congress—and in which, the sovereignty of Louisiana would have no more concern than in a procedure of the Court of King's Bench, or Guildhall, in London. The gentleman from New York [Mr. CLARK] told us that a slave was an *amphibious*, anomalous creature, in the eyes of the Constitution: but if I am right, our highest judicial authority (the Supreme Court) decides that a slave is neither amphibious, nor anomalous, but a legitimate chattel, and nothing but a chattel. So much for the decisions of the United States' Courts on this subject.

But let us now consider the light in which slaves have been viewed by Congress; and for this, Mr. M. said, he would advert to the act of 1813, imposing a direct tax: and it is not unimportant to recollect that this act was ratified by James Madison. No man was better acquainted with all the provisions of the Constitution, their relations and dependencies, than this illustrious statesman. The hallowed charter of our rights may be almost called the fruit of his creation; and if the memory of Washington is enshrined in our adoration for having obtained the independence of the States, and created them an empire—the imperishable monument of his disinterested patriotism—let us not forget the milder glory of him, whose pith and prime were spent in establishing that Constitution, which dispenses liberty without licentiousness, and restraint without oppression—and where the mind, free to think, to speak, and to act, develops all its powers, and enjoys a happiness no where else attainable. The 5th section of that act reads as follows: "That, whenever a direct tax shall be laid by the authority of the United States, the same shall be assessed and laid on the value of all lands, lots of ground with improvements, dwelling houses and slaves, which several articles subject to taxation, shall be enumerated and valued by the respective assessors at the rate each of them is worth in money." Could Congress have employed words more emphatic—more minutely descriptive—to signify that a slave was private property, than are contained in the above paragraph? Is there any distinction made in it between lands and slaves? Each is liable to be taxed—the tax is to be assessed on the value

of each—and that value to be estimated by the worth of each in money.

Again. Let us advert, said Mr. M. to the 24th section of the same act, and this idea is still more strongly expressed—is painted in still more glaring colors: "That, where any tax, as aforesaid, shall have remained unpaid for the term of one year, as aforesaid, the Collector in the State where the property lies, and who shall have been designated by the Secretary of the Treasury as aforesaid, having first advertised the same for sixty days in at least one newspaper in the State, shall proceed to sell at public sale, so much of said property as may be necessary to satisfy the tax due thereon, together with an addition of 20 per cent thereon. If the property advertised for sale cannot be sold for the amount due thereon, with the aforesaid additions, the Collector shall purchase the same, in behalf of the United States, for the amount aforesaid." Now, here Congress not only expressly admits that a slave is property, but directs the Collector to purchase the slave in their behalf, if he is not bid up to the value of the tax, and thereby becomes a slave-holder. Yes, sir! The Congress of the United States acknowledges, in the plainest and strongest language, that it will not only tax slaves as other property, but that it will sell and buy them. Can any one say, after this, that the Legislature, the Judiciary, or the Executive of the United States, do not consider slaves as private property!! And if, in the act of 1818, Congress says a horse, a boat, a cart, comes within the meaning of the words of private property, in the 5th amendment, and is to be paid for, by what ingenuity, under what construction, can they exclude slaves? These authorities, said Mr. M. prove incontestably, that the amendment proposed by the gentleman from Louisiana [Mr. LIVINGSTON] ought to be adopted, and made part of the bill.

Before I conclude, said Mr. M. I must reply to some of the positions of the gentleman from Ohio, [Mr. WHITLSEY.] He asserts that slaves cannot be impressed. And why, I would ask? It can be for no other reason than because slaves are private property. It cannot be because they are persons: for all persons are liable to be impressed, under particular circumstances. The liability to be impressed does not arise from the possession of civil and political rights. Aliens, who have neither, unless they are gratuitously given by the Government, are liable to be impressed. Under the Law of Nations, for the temporary protection which they enjoy, they owed temporary allegiance. The gentleman, therefore, admits, what he set out with denying, that slaves are, to the fullest extent, private property, and not persons, and admits them also to be private property of a more sacred nature than we are disposed to acknowledge, because we hold, and have ever held, that their services were at the call of the Government, when necessary. I agree fully with the doctrine of my honorable colleague, [Mr. HAMILTON,] that any and every thing may be impressed, when the exigencies of the Government requires it. The *salus populi* creates a supreme necessity—paramount to the Constitution—paramount to the law—to which life, liberty, property, every thing which is most cherished, most estimated, must yield. To preserve the sovereignty of the States, to secure the freedom of the People, a commanding General might put a torch to our beautiful city of Philadelphia, and make it in the language of the most illustrious and most unfortunate man of the age, "an ocean of flame." But this he does at his peril—he assumes a vast, a tremendous responsibility. In so doing, he stakes his life on the event, and either lives his country's saviour, or dies its martyr. But even this necessity, great as it is, will not, when peace is restored, suspend the operation of the 5th amendment of the Constitution. Government may not be able, under such a crisis, to make compensation, but it will owe it.

Again, said Mr. MITCHELL, the gentleman relies on the

H. OF R.]

Case of Marigny D'Auterive.

[JAN. 15, 1862.]

act of 1818, authorizing payment for property lost, captured, or destroyed, &c. And because slaves are not included among the enumerated articles, he concludes that we are not bound to pay for them. But can this, or any act, restrain the Constitution? When that instrument employs the words "private property"—the most universal phrase which can be used, embracing every thing which is subject to the dominion of man—can we, by an act, confine our relief to a few selected articles? Surely not. But, if that gentleman had extended his researches, he would have found that Congress had put a different construction on the act; that it had felt itself bound to pay for the loss of every sort of property, when that loss was sustained under proper circumstances, and manifested by proper evidence. And here I beg leave to refer the Committee to the act passed on the second of March, 1821, for the relief of Rosalia P. Deslonde. Here the sum of \$2,227 was appropriated, according to that act, "in full for damage done to her house and plantation, by the troops of the United States, at the invasion of New Orleans by the British." In the report of the Committee of Claims, we have the items, with the value of each, which make up the amount appropriated. They are as follows:

"28 arpens of four and five rail fence, destroyed or burned.	\$343 00
200 feet of close garden fence,	254 00
5 negro houses,	400 00
1 kitchen frame, on sills, weather-boarded, shingle roof, two rooms, and a double chimney,	400 00
1 coach-house, two rooms,	120 00
Damages done to the mansion-house,	500 00
1 large gate,	60 00
An out house damaged,	150 00
	<hr/>
	\$2,227 00

It will be seen that the compensation granted in this act was for the loss and destruction of articles not enumerated in that of 1818, and under circumstances the reverse of those required by it to justify relief. In the act of 1818, the building must have been destroyed by the enemy; here it was destroyed by our own troops.

Again: In the act for the relief of Pierre Dennis de la Ronde, compensation is allowed for the destruction, by our troops, of sugar-cane growing in the field. Again, in an act passed on the 27th March, 1816, for the relief of the executors of John Ross, compensation is allowed for the occupation of their lands by our troops, and the loss of the rent of a farm attached thereto. Again, in an act passed on the 3d of March, 1817, compensation is allowed Peter Kendall, for merchandise captured by the British forces in the late war, in consequence of having his team and wagon impressed by order of General Brown. Now, all these cases form exceptions to the act of 1818, not only in regard to the articles, but to the circumstances under which they were lost or destroyed. These prove that Congress did not intend that the act of 1818 should form the boundary of relief: on the contrary, that it will consider the special circumstances of each case, and grant compensation according to the great principles of equity and expediency.

The gentleman from Pennsylvania [Mr. ICHAM] has, however, advanced a new doctrine, with which he appears to be much delighted. He says, that the owner of property impressed can only demand compensation for its use or service; that, if it be lost or destroyed by any of the dangers incident to the situation or employment in which it is placed, that the Government is not liable. If you impress a horse for the use of the cavalry, and he be killed in battle; if you impress a slave to throw up a breast-work, and he lose an arm or a leg, by the sabre of

the enemy; if you occupy a house, and it be burnt by the carelessness of the troops, or by the hot shot of the enemy; or if it be destroyed for your own safety—as these are all circumstances which are incident, and may be reasonably expected to happen—the property is not to be paid for. But this is answered by referring to the act just quoted. Congress have, in every instance, paid the full value of the property, and not the value of its use.

Mr. M. said, he would now conclude, with one or two observations. Many of my Southern brethren shrink with horror from any approach by this House to the subject of slavery. He confessed that he felt no such sentiment. He considered slavery as much a part of the Constitution, as the great right of representation: for, though the word slave is not used in that instrument, the condition is admitted—it is clothed with rights, and protected; and the laws of Congress, and the decisions of the Supreme Court, are practical and living illustrations of its being an integral part of our system of Government. Now, when we approached the Speaker's Chair, and swore that we would support the Constitution—all of us, North and South of the Chesapeake—East and West of the Alleghany—bound ourselves to respect and protect the rights growing out of this institution, by a tie as strong as to respect and protect the personal liberty of the Freeman. Nor, sir, have I the least apprehension that the rights of the South, in this respect, will be disturbed. I care not for the affected philanthropy of certain politicians in this House, nor for the ravings of religious enthusiasts out of it—the first are influenced by a cold, selfish, and heartless ambition—an ambition, which, for the sake of self-promotion, would involve millions in the horrors of civil war; and the last are evidently labouring under the severest of all calamities—the delusions of a perverted understanding. My confidence for the security of these, and of all other constitutional rights, is in the good sense of the People of the States—is in their intuitive knowledge of their own true interests—is in their devotion to the Constitution—is in their strong conviction, that the countless blessings, moral, civil, and political, which they enjoy, are derived in a pre-eminent degree from the Union of the States.

One observation more, sir. From my describing the slave as a personal chattel, I do not mean to deny him the feelings and reason of a human being. He is entitled to all our sympathies, and in the South he enjoys them all. There is no relation, except that of blood, productive of warmer, more animated, or more lasting affection, than that of master and slave; nor is there any laboring poor on the face of the earth, who work less, or enjoy more of the comforts of life, than the slaves of the South.

Mr. STORRS said, that he had not intended to have said another word in this debate. He did not now mean to enter upon the particular merits of the claim. On a former day he had so fully stated the reasons for the final vote which he should give on this particular amendment, that it was useless to go over that ground again, and he would not now have thrown himself again on the indulgence of the committee, if he had not heard some principles advanced, in the course of the discussion, in view of which, the amount of compensation claimed by the petitioner sunk into utter insignificance, and was not worth a moment's reflection. If I thought, said Mr. S., that they could be sustained by the laws and constitutions of the country, I would not sit here for a moment, and represent a People whose rights would be no longer worth the protection or defence of any man. I said, sir, the other day, that, in every case in which we had indemnified officers of the army for the impressment of private property, we had indemnified them in their character of trespassers. I have voted for several acts of that kind, but we have never acknowledged the legality of any sei-

JAN. 15, 1823.]

*Case of Marigny D'Auterive.*

[H. or E.]

zures of that sort, and I have always considered them as violations of the personal rights of our citizens. I meant to assert this doctrine in its broadest sense, and if it cannot be sustained here to the most unqualified extent, then I have learned nothing from books, and have profited nothing from the history of other countries or my own. I could now have felt that I had done my duty here, if I had not risen to re-assert it. There can be nothing in the Constitution that sanctions, by the remotest implication, the pernicious doctrine that, in time of war, the officers of the army can exercise any power over the property of our citizens, that is denied to them in time of peace. The change of our amicable relations with a foreign power, does not work such a distraction of civil government among us, or destroy any of the securities of our civil liberties at home. It is true that the Constitution declares that private property shall not be taken for public use without compensation. But so far does this clause fall short of any implication that would sanction such a principle, that it directly asserts the very doctrine that condemns it. It was placed there to repel the assumption of such an extravagant and despotic claim on the part of this Government, in any case. The same clause is found in many of the State Constitutions; and if I have any knowledge of the uniform course of decision in the courts, private property cannot be touched, even by the Government itself, until the compensation is actually made, or provided for. I will not even speak of the officers of Government. I say the Government itself: for the clause has no reference whatever to any subordinate agents of Government, acting on their individual discretion. The Legislature of a State, which finds this clause in its Constitution, cannot authorize the agents of a Turnpike Company, or the servants of the pettiest corporation, for any purpose of public utility, to place their foot on the land of any man, before his damages have been ascertained and paid. It would be a fearful clause indeed, if it had been placed there to sanction, by implication, a doctrine that might shelter an officer of the army from the retribution of the law for the seizure of private property. It neither legalizes it by implication, nor even acknowledges it as the act of the Government. Nor is there, in my judgment, any analogy between the appropriation of private property for public use, under this clause of the Constitution, and the exercise of the general power of taxation. The process cannot be assimilated to that of taxation in any just sense, nor is property so taken appropriated at all, by way of assessment, in the nature of a tax for the public use. The compensation is strictly of the nature of an equivalent for its value, and the only operation of such a power, even when lawfully exerted, against the will of the owner, is to fulfil the most obvious dictate of natural justice. I do not think an instance can be found, where the Government itself, in the exercise of the high and transcendental power which pertains to it, has taken the lands of any man, even for fortifications, without his consent, or ventured to dispossess him of his freehold before his damages have been assessed and provided for. But to whom does this clause relate in any case? "Private property shall not be taken." By whom? By the officers of the army, or any other mere agent of the Government, acting at his own will and on his own judgment or pleasure? No, sir—by the Government itself. I am yet to learn that a Commanding General, or any other officer, can exercise any of the powers of this Government, in time of war, or at any other time, except over the army. I am not about to say that, in a case of extreme and uncontrollable necessity, when the safety of an army, or the security of a post requires such an act to be done, a commanding officer may not be morally excusable by his Government for the impressment of private property, on a sudden emergency, nor that, if he acted with discretion,

he deserved its censure; nor will I speak of the measure of contempt that would justly follow any man who should refuse to dedicate cheerfully, in a moment of immediate danger, his property or his life to his country's defence. I know that this power has been exercised in some cases where censure was not demanded; but in others, that we should never recommend as examples. It is against the doctrine that holds such seizures of private property, by an officer of the army, against the will of the owner, to be lawful, that I protest. If it can be justified in a court of justice in this country, the whole Government is a mockery, and every man a slave. I cannot reflect, without emotions that I cannot suppress, on the miserable slavery under which we live, if such a power is to be tolerated. Who, sir, is to be the judge of the necessity that shall justify it? If an officer of the army, then, is he only bound to exercise his judgment as a military man, and he stands, on every analogous principle of law, irresponsible and justified. Will any gentleman here, of that profession of which I am an humble member, show us a precedent of such a justification? Will he let us know the name of an English lawyer that ever put his name to such a plea? Will he produce a record from the whole history of British jurisprudence, where it can be found? Such a point was never suffered to be debated before a judge in England. No writer, since the days of James II. has asserted it, and no lawyer there would defile the record of a court with such a defence. We have recognized the illegality of these impressments, in numerous acts for the relief of officers. The act for the relief of General Swartwout, even recites the judgment of the Supreme Court in New York against him, for the violation of right that he committed by order of his superior officer, in a case of impressment. The records of that court abound with the vindication of that principle in every free Government, which protects us from the arm or the discretion of military power, in every form and disguise. If such a discretion is vested in a commanding general, the discretion is not traversable in a court of justice. He must be the sole judge of the necessity, and every man's property is held at the mercy of his sword. If his property is subject to military discretion, then is his person also. I know of no distinction in principle between the securities that we hold for both. The security of life and liberty, as well as the enjoyment of property, stand on the same great constitutional principles. The only vote I ever gave in this House, that I have regretted, was at the first session I came here. It was to indemnify an aid-de-camp of General Pike, who, even by order of his superior officer, arrested several citizens of the State of New York. I have voted for no indemnities since, where the personal liberty of any man has been violated; and I wish every act of that sort was stricken from the statute book. What, sir, do we mean, when we speak of that free system of British laws that our fathers brought with them here, if we have only lived to hold our property at the mercy of an agent of this Government that wears its tinsel on his shoulder? Is it an idle delusion only, when we look to Magna Charta as the security of every British subject against the encroachments of his sovereign? I thought it was our boast and pride, as freemen, too, that no man in this country should be deprived of his life or liberty, or despoiled of his property, without the judgment of his peers—the trial by jury. If an officer can take my property, of any sort, at his discretion, he may take my money with it—and if mine, my neighbor's. And if he can do this in any shape, or to any extent, he may levy a contribution on all who are within the reach of his sword, and enforce it at the point of the bayonet. If Government has not provided support for its armies, shall they live on the people, and measure their rights by the length of their swords? It is worse in practice than the levies of ship-money under the



H. OF R.]

Case of Marigny D'Arvergne.

[Jan. 15, 1838.]

race of the Stuarts. There was at least the consolation there, that the warrant came from the hand of a civil officer of the Government; but with us, we should find the authority of the precept in the name of an adjutant general. The Stuarts only called in the soldiery when the spirit of an English freeman resisted the claim; but we should first realize our slavery by finding the bayonet at our doors. The King of England, with all his army at Hounslow, and all his navy at London Bridge, would not dare to execute an order for impressment of private property in the city of London. If the Minister should assert such a prerogative in the House of Commons, he could not hold his place an hour; and the sovereign who should dare to maintain him in it, would not wear his crown a day. It has already been tried in England. This doctrine cost the first Stuart his head, the last his crown, and the indignant spirit of England drove him a vagabond to the continent, to beg his bread at the Courts of Europe.

The doctrine that unlimited power might be assumed for purposes of public utility, was the maxim of James I; and this monarch went one step in that path of tyranny beyond the examples that he found in the days of the Roman Republic. The consul sometimes contrived to invest himself with the same power, but he always took the precaution to obtain it under the form of a decree of the Senate. The English despot took it without consulting his Parliament at all. It was about the latter end of the days of the Roman Republic, that the maxim sprung up, that has been thrown out on this floor. I heard it once offered before, in another place, where it became my professional duty to notice it. *Silent leges inter arma.* It is worth an inquiry, in any Government that pretends to freedom, to trace this sentiment to its origin. It is not to be found in the English Common Law, and will never be sanctioned in this country, until we have nothing left that is worth protecting. It was first avowed under the consulship of Pompey—then become sole consul, and virtually dictator. The time of this consulship, in which this convenient maxim was first started, is deserving of some attention. He was sole consul only four years before he was himself assassinated, and eight years before the Triumvirate of Antony, Lepidus, and Octavius Cæsar, was established—the same patriotic Triumvirate that partitioned the Roman power among themselves. Octavius Cæsar took the West, Antony the East, and Lepidus took Italy, for their shares of the Government. This celebrated conspiracy against the liberties of Rome was successfully maintained until they quarrelled among themselves in the distribution of the spoil, and the most ambitious of them all defeated his last co-patriot at the battle of Actium, and established the Augustan dynasty on the ruins of the Republic. Surely, sir, there is nothing in the character of the times in which this maxim was started, that recommends it very highly to our imitation here. Its first inception is to be found in the oration of Cicero in behalf of Milo; and there were some circumstances in that celebrated trial (which took place in the year of Pompey's sole consulship) that are worth our notice, too, when we are about to try the value of such a sentiment in a free country. Milo's trial was not had before the Prætor, nor under the ordinary laws of Rome. Pompey created a tribunal for the sole purpose. It was of the nature of a special commission, and the friends of Clodius, whose favor Pompey courted, were gratified with the trial of Milo under this new form of justice in that commonwealth. The whole proceeding was a scandalous mockery, and the trial was conducted, and the judgment rendered under an *ex post facto* ordinance. The hall, too, was filled by the soldiery, which had been stationed around the seats of the Judges. The soldiery—which Cicero, in that oration, quailing under the power, if not the eye of Pompey, pusillanimously alluded to by the

less offensive name of *comitatus-attendants*! While he designated the whole proceeding by the mere cowardly terms of *novi judicii nova forma*, the recreant advocate apologized to the minions of power whom he addressed, for his embarrassment in the presence of the soldiery that surrounded them. It was on that occasion, and in such a situation, before such a tribunal, and in times like these, that, instead of denouncing the whole proceeding as a disgrace upon the Republic, he basely flattered the ear of Pompey with a sentiment that is truly grateful to the ear of every tyrant—*silent leges inter arma.* Deservedly as we may admire him as an orator and a scholar, his cowardice as an advocate has left an indelible reproach upon his memory. He basely truckled to the power of Pompey, when he was perhaps the only man that could have roused the Roman people from the lethargy that precedes despotism every where. He shrunk from his duty, as a recreant—and, afraid to follow Pompey, or to oppose Cæsar, he fled from Rome, and fell a victim, at last, to the very Triumvirate that put his principles into practice; and, when overtaken by the emissaries of Antony, who proscribed him, meanly thrust out his head from his coach,\* and tamely bowed his neck to receive the stroke of his assassin. The execrable despotism that followed, is the best commentary that history can furnish to illustrate this maxim, by which tyranny has sustained itself every where; and when the people of this country shall be prepared to tolerate it here, they will have become the fit vassals of the first imperial despot that will consent to disgrace his new-born dynasty by condescending to rule over such a set of debased and ignominious slaves.

Mr. McDUFFIE, of South Carolina, obtained the floor, but yielded it to

Mr. RANDOLPH, of Virginia, who said, as I was the means of introducing the unfortunate Latin maxim to which the gentleman from New York has referred, I am glad to have the authority of that gentleman, that, at least, it was Ciceronian; and, therefore, could not be bad Latin. I feel bound to explain the sense in which I introduced it. I mentioned it not as sanctioning any of those doctrines which the gentleman from New York has impugned this day. Far from it, sir; and I have a good right to say this; because, unlike that gentleman, I never did vote for a bill to indemnify an officer, having either one or two epaulettes on his shoulder, for violating the most sacred rights of an American citizen. I never did, and never will, so help me God! I introduced the quotation only as declaring what I supposed had been a fact—done *flagrante bello*—done *ex necessitate rei*—and necessity, sir, does not stop to argue even with the gentleman from New York, rhetorician and logician as he is. But does not that gentleman perceive that all his argument against the amendment, goes equally against the whole bill? That it is as good against the cart and horse as it is against the slave? Does he not perceive—if he will permit me in my homely vernacular to say so—that what is sauce for the goose is sauce for the gander? Sir, it was this which occasioned me to move, the other day, that the Committee should rise. I gave up that motion at the request of an honorable gentleman from Louisiana, [Mr. GURLEY] who was desirous, at that time, of addressing the Committee; and I would now again have moved it, but for the same desire on the part of the gentleman from South Carolina, (to whose courtesy I am indebted for the opportunity of now addressing you) with a view of having the bill re-committed. The Committee of Claims—I say it with no disrespect—have not, in my opinion, taken a proper view of the subject. When this bill was first introduced from that Committee, I did not read their report. I do not read the

\* Mr. STORRS, by a *lapsus linguæ*, here used the word "coach," instead of *litteræ*.



JAN. 15, 1850.]

*Case of Marigny D'Autriche.*

[H. OF R.]

reports of Committees; and, far less, all that immense mass of trash which is heaped upon our tables, and printed by our order—for whose benefit I cannot tell; certainly not for ours, nor for that of the People. I do not mean sir, to apply the term “trash” to the report of the Committee of Claims; but I did not read that report: and I am not ashamed to say that I do not read the reports. Sir, I subscribe most heartily to the doctrine maintained by the gentleman from New York, and I do not mean to pronounce a palinodia, when I say this. I will, as heartily as he can, defend the right of every citizen of this country against any hand but the hand of the law; and that, after its act has been authorized by the verdict of twelve good and lawful men. I concur with him in the sentiment, that the right of property is not only as dear as the right of life and of liberty, but from policy it ought to be even dearer, because it is at this right that the blow of the oppressor will always be levelled. The tyrant will let his subjects go about with their throats uncut, so long as he can find the means of answering his exorbitant demands, by touching their property; so long as he can do this, there is no fear that, like Cicero, we shall thrust our heads out of our coach windows (such of us as have any) that they may be cut off by the cimatars of his satraps. I now hold, and always have held, the doctrine which the gentleman from New York has so ably and so eloquently enforced—ably and eloquently, as was shewn by the profound attention with which it was heard. That, sir, is a barometer which never fails. I will not incur the risk of forfeiting the favor which the House has been so good as to extend to me, in every instance, when I have addressed them. The floor is the right of another gentleman—from South Carolina. After we have heard the gentleman from South Carolina, and such other gentlemen as now wish to address the Committee, I shall move that the Committee rise, either that this matter may be put at rest forever, or that the bill may be recommitted. I will also remind gentlemen that this is a private claim, and, by the strangest rule that ever was heard of, we have given to private bills two sixths of our time, and as much more as they can get in the scramble. I will say no more.

Mr. McDUFFIE said, that no member of the Committee could regret more sincerely than he did, the extent to which this discussion had been carried, and the time which had already been consumed in it. He believed, also, that the general sentiment of the Committee would sustain him in the declaration, that there was nothing in the intrinsic merits of the question before them that required or justified a debate so protracted. Entertaining these views, he had intended to have abstained altogether from any participation in the discussion; and he certainly should not have abandoned his original intention, but for the very extraordinary course pursued by the gentleman from New York, [Mr. STORRS] who had just addressed the Committee. He felt that he was called upon to meet the argument of that gentleman, in the only way it was proper to meet it, by exposing its drift and tendency, and its obvious bearing upon a question which was not the proper subject of discussion in this Hall. And, said Mr. M'D., I think I can make out so plain a case, that every member of the Committee will, with me, be disposed to ask, whence this labored argument against military usurpation and military power, on this question, and at this particular time? The gentleman must underrate the common sense of this Committee very greatly, if he supposes that the drift of his declamation on this extraneous and irrelevant topic—to say nothing of its design—is not as well understood by every body else as it is by himself. The argument of the gentleman is the more worthy of particular notice, and exposure, from its utter inconsistency, not only with his concession that the claim for the cart and horse is well founded, but with the whole course of his legislative conduct in reference to claims of this description.

Now, Sir, after all that he has said on the subject of military usurpation, and the necessity of resisting claims growing out of such usurpation, the Committee will, no doubt, be surprised to learn, that the gentleman himself has gone farther than any member of Congress, in supporting claims founded upon that very species of military usurpation, which he now so emphatically denounces. Yes, Sir, he has been instrumental in drawing from the National Treasury, nearly I believe, half a million of dollars. I do not recollect the exact amount of the Niagara claims—to indemnify individuals on the Northern frontier of New York, for injuries they sustained from the seizure and occupation, and actual destruction of their property, by the arm of military power. When the gentleman was urging this House to grant indemnification to those sufferers, did we hear him declaiming so eloquently upon the danger of military usurpations? Did he then tell us that there was an end of civil liberty, because the property of the citizen of New York was converted to military use, and the very mansions, nay, entire towns, involved in ruin, by their military occupation? Did he then maintain the strange doctrine which he does now, that these military usurpations should be discountenanced, and put down, by the singular expedient of refusing to grant to the sufferers any indemnification for the injuries inflicted upon them? No, Sir. Although these claims grew out of military seizures and trespasses, infinitely more extensive and dangerous than the impressment upon which this claim is founded, the gentleman did not utter a single word upon the subject of military usurpation.

And yet, sir, at this time, in the discussion of a claim much more clearly maintainable, upon the very same principle, he deems it a fit occasion to bring to the view of the committee, in artful connexion with the impressment in question, all that is odious in the military usurpations of antiquity, and in the civil despotism of modern times. What possible bearing can these references have upon the merits of this claim? Why is the dictatorship of Pompey, and the imperial dictatorship of the second Cæsar, dragged into a discussion with which they have no legitimate connexion? Is it because General Jackson was the officer within whose command this impressment was made, and the defence of New Orleans the purpose to which this military usurpation was consecrated? Is it to impress upon the nation the danger of entrusting its liberties, in any degree, to the guardianship of a “Military Chieftain?”

Mr. Chairman, I had indulged an earnest hope that the appropriate legislative business of Congress would not be embarrassed and delayed by the introduction of any allusions, whether open or disguised, to the great and agitating question which now engrosses the attention of the People of this country. For my own part, I had resolved to suppress any remark, however applicable to the question, which might be discussed here, which could give rise to any thing like party excitement. But sir, when I hear a strain of declamation, having no possible bearing upon the question under discussion, and of which the evident scope and tendency is to produce a political effect, both here and elsewhere, I am constrained to ask the gentleman from New York, why it is, that the shock which civil liberty would sustain, and the countenance which military usurpation would derive from the recognition of claims similar to the present, did not occur to him, when the conduct of other officers was involved, and how it happens that this sudden horror at the idea of a military impressment has seized him, when the conduct of General Jackson is incidentally involved?

Having briefly shown the tendency of the remarks of the gentleman from New York, I leave it to this committee, and to the country, to determine what was their design.

Amongst the admirable and appropriate historical analogies with which we have been favored, we have been

H. or R.]

*Case of Marigny D'Auterive.*

[JAN. 15, 1828.]

told by the gentleman from New York that the impressment of property under the emergencies of the military service, in time of war—emergencies no less imperious than the obligation to defend and save the Republic—is much more incompatible with civil liberty than the lawless exaction of ship-money, which marked the tyranny of the English Stuart: for, in that case, it seems the People had the consolation of reflecting that they were plundered by the hand of civil power. Is it true, that there is any thing in the nature of civil power, that can either consecrate civil despotism or console its victims? And are we to be seriously told, that the most infamous and profligate civil dynasty that ever swayed the sceptre of despotic authority, is preferable to a system of liberty which recognizes no power but that of the laws, except on these mere occasions, when the extreme necessities of war demand that those laws should be partially and temporarily suspended, as the only means of effecting the public safety? Does the gentleman not know, that, under every form of Government, and in every country, of which history has kept a record, this power has been exercised by the military defenders of the nation, and that, in the very nature of things, it must be exercised by every Government charged with the duty, the sacred duty, of maintaining the independence and preserving the existence of the body politic! And yet the gentleman—such is his estimate of civil liberty—would prefer the dominion of the hereditary monarch, exercising the power of unlimited taxation in peace and in war, without any limitation, either as to time or circumstances, and without consulting the Representatives of the People, to the freedom we enjoy under this Government, and under the military usages which have been habitually recognized and sanctioned by this whole People, and by all their public functionaries. Sir, if this be the opinion which that gentleman entertains of civil liberty, I do not envy him the exclusive enjoyment of it.

Now, sir, I put it to the gentleman to state what inference he means to draw in reference to the merits of this claim, from his argument, or more properly, his declamation, on the subject of this military power. He says it is a power extremely dangerous. I grant that in the fullest extent. Yet, as the gentleman has been constrained to admit that it is a power that must be exercised in cases of extreme emergency, and has not pretended to deny the existence of such emergency in the case we are considering, how is the claim of the individual sufferer invalidated by the fact that the injury he sustained was inflicted in the exercise of a delicate and dangerous power? Suppose, sir, it be granted that the impressment was strictly illegal, (and I am not disposed to dispute about terms,) can it be seriously believed that the right of the individual to indemnification—a right expressly guaranteed by the Constitution—can be impaired by the admission? Is he to be gravely told by this Government, “true, sir, your property has been seized, and converted to the military use of the Republic, but as it was illegally taken, you must pocket the injury, and rest satisfied with the consoling reflection, that the Government had no legal right to take it?” I am astonished to hear such a solemn mockery of argument advanced, or in any degree countenanced on this floor. It has been urged, indeed, that the refusal to indemnify the sufferer is the true mode of securing the rights of slave-holders from similar invasions in future of their rights of property. It would be just as reasonable to say that the best mode of suppressing highway robbery would be to publish a declaration that robberies of a certain description would not be punished.

The impressment in question was made under circumstances which furnished the strongest possible justification of the officer. It was essential to defend from pillage and desolation a city which is the key to one-third

part of this Union; and I should regard it as a disgrace to the Government, if it were to refuse its sanction to this, among other cases, of a similar nature, and to attempt to avoid paying the claim of the petitioner upon the miserable subterfuge of the technical illegality of the impressment.

Having exposed the drift and inconsistency of the remarks of the gentleman from New York, the object I had in view in rising is accomplished. I did not intend, when I rose, to utter a word on the merits of this claim, but to limit myself to the task of proving that the speech of the gentleman from New York was neither consistent with itself, nor with his general course in relation to similar claims. On the intrinsic merits of the claim, I think it would be difficult to speak pertinently to the question more than fifteen minutes. In conclusion, I will submit a word or two—contrary to my intention when I rose—upon the principle which ought, in my opinion, to govern the decision of the Committee.

Every gentleman who has participated in this debate—there may be possibly a single exception—has admitted unequivocally that negro slaves are property. Then, sir, I submit this question to the gentlemen opposed to this claim. If the other property impressed be the proper subject of indemnification, upon what principle can this species of property be excluded from the benefit of a similar indemnity? The injury is the same to the owner—the benefit is the same to the Government—and it is impossible to resist the claim, disguise it as we may, but upon the latent assumption that negro slaves are not property. I therefore hope that those gentlemen who have conceded to them the character of property, will exhibit a consistency between their words and their actions, by voting for the proposed amendment.

Mr. STORRES, said that the gentleman from South Carolina had misunderstood him, or he would have seen the ground on which he had drawn the distinction between the impressment of other property and the impressment of a slave. I said expressly, observed Mr. S., that, if I were an officer, and a pressing emergency presented itself, I would myself take private property for the public use, and trust to my Government for indemnity. I have always voted to indemnify officers for so doing where I thought that necessity justified the act, and where no great principle was violated. I stated, the other day, that if the officer had exercised his discretion in a fair and proper manner, we are bound to indemnify him; but to indemnify him as a trespasser—and because he could have no other indemnity than that which proceeded from our act. This is the principle which is contended against now. I think the exercise of such power is an evil; but if it is fairly exercised, I would never refuse to indemnify the officer. I voted to indemnify Gen. Swartwout, and, on another occasion, to indemnify Gen. Brown; but I said, in relation to slaves, I never would consent that an officer should exercise this discretion. It is too dangerous. The safety of a large portion of this Union is too deeply concerned; and though I would indemnify for the taking of other property, I would always make this an exception. This was the ground I took, and in this doctrine I can perceive nothing to justify a charge of inconsistency—if there is inconsistency in this, the gentleman from South Carolina has, indeed, shewn me to be so; but I cannot consider the suggestion as anything more than the very common parliamentary argument to refute a proposition that can be successfully met in no other way.

Mr. McDUFFIE rejoined.

Mr. DRAYTON now obtained the floor, and was proceeding as he said to shew the inconsistency and contradiction which had been manifested by the gentleman from New York, when he yielded the floor to

Mr. HAMILTON, who moved that, as the hour was now late, the Committee should rise.

JAN. 15, 1828.]

Case of Marigny D'Auterive.

[H. or R.]

The Committee rose accordingly, reported progress, and asked leave to sit again; and the question being on granting leave, it passed in the negative—Ayes 69, Noes 77.

Mr. RANDOLPH now moved to discharge the Committee of the Whole from the further consideration of the bill and amendment, and that the bill be recommitted to the Committee on Claims; but

Mr. McDUFFIE expressing a desire that the bill should now pass,

Mr. RANDOLPH divided his motion, and the question being put on discharging the Committee, it passed in the affirmative.

Mr. RANDOLPH then said, I now renew the motion to recommit the bill—and I will state my reasons for making it. I said, when I attempted to exculpate myself from the implied censure of the gentleman from New York, that I did not read the reports of the committees, but I did not mean, by this, that I did not look at the facts in the cases on which they report—my habit is to look at the evidence and to look at the bill, and then to trust to the discussion for the rest; because, sir, there is a physical impossibility that I should read all we print (for whose benefit I don't know, certainly not for ours, or the People's.) But it appears to me, sir, that there is in this report of the Committee of Claims—what shall I call it? I will not give it any character—but it is reasoning that I cannot subscribe to. The report would have us pay for the cart and horse, but not for the slave—but the owner lost the one as well as the other—and I used the maxim *inter arma silent leges* as stating the fact, not justifying it—he has lost his property—it is gone—it went *flagrante bello*, and the sole point is, shall he be paid for it? Whether taken lawfully or unlawfully, still it must be paid for—if it was taken lawfully it should be, as my colleague [Mr. P. P. BARRETT] has conclusively proved—as he proves every thing—then, *a fortiori*, it should be paid for if taken unlawfully. It is because I dissent from the doctrine in the report that I have now moved to re-commit the bill and report—and why re-commit? Because, if we refuse to do so, we do practically sustain the doctrine and adopt the reasoning of the Committee. I thought I heard, substantially, the same doctrine on a question in comparison to which even that between the gentleman from New York and the gentleman from South Carolina is of little moment—I mean the question, who shall be the next ruler of this Commonwealth.

Mr. HAMILTON was opposed to the recommitment. He did not desire, after the discussion which had taken place, to have a decision defeated by any interlocutory matter or measure. He hoped it would not be disposed of until an opportunity was afforded of taking the question upon it.

[Mr. RANDOLPH here, speaking across, said, I will withdraw it, then. Mr. HAMILTON expressing some surprise at the interruption—Mr. R. said, he had not declared his willingness to withdraw the motion from the least unwillingness to listen to the remarks of the gentleman from South Carolina.]

Mr. HAMILTON resumed. I am persuaded it cannot be from impatience to hear, that the gentleman was so hasty in withdrawing: for, surely, if one good turn deserves another, that gentleman ought to be the last to refuse that attention to others which he always receives himself. I hope, Sir, when the whole argument is clear, when the battle has been fought and the field is just about to be decided, that the bill will not be recommitted. After I fight a battle, I wish either to beat or be beaten.

Mr. WHITTLESLEY now renewed the motion which Mr. RANDOLPH had withdrawn, to recommit the bill. He desired this, in order that the Committee of Claims, as well as the House, might be enabled to obtain a correct

view of the facts. This they had not yet had, for want of the necessary testimony, and it was a rule in all the Committees of the House, where testimony was not sufficient fully to establish the claim, to make an unfavourable report; but, then, they do not turn away the claimant by a final rejection: they determine on the principle involved in his claim, and he may afterwards farther establish his facts, if he can. If there is a disposition in this House, said Mr. W., to pay for the loss or injury of this property, the case at least should be scrutinized by the same rule as other cases. If this is, indeed, a case of impressment the Committee should have evidence that such was the fact. The impressment is the leading fact in the case, and the impressment is not proved. It surely does not follow, because the slave is property, and because he was injured in the service of the United States, that, therefore, he must have been impressed into that service. It is necessary to know whether his master did not take or send him voluntarily into the public service; whether he was willing to take the risk or not; and on this point the Committee are without any satisfactory evidence.

Mr. GURLEY, of Lou. now desired to renew in the House the amendment he had offered in the Committee; but the motion was declared not in order until the recommitment was decided on.

Mr. McDUFFIE would add one word. Would the recommitment gratify the gentleman from the Committee of Claims? if not, he could see no good result from it—what are we to refer? The Committee have reported in favor of paying for the cart and horse, and the self-same principle is involved in paying for the slave.

Mr. WHITTLESLEY replied—The Committee have no evidence that the slave who was injured was in possession of the cart and horse. There were five slaves taken—but whether this slave, or some other of the five, was with the cart when it was taken, does not appear. The Committees of the House have never reported favorably where the evidence was imperfect—nor has the House ever sanctioned such a practice. Let the owner come here and fill the chasm in the testimony, and then the Committee can report with proper facts in their possession. Mr. W. disclaimed every thing like irritated feeling in relation to this case—and regretted that he could not have had an opportunity, at a proper period of the debate, of expressing more fully his views. He would not now detain the House to do so, and he concluded by expressing his hope that the House would not refuse to the Committee the testimony which they called for.

Mr. HAMILTON said, the gentleman from Ohio had been unfortunate, to say no more, in selecting this late hour to declare, for the first time, the defect in testimony to which he has now alluded. If the Committee doubted the competence of the evidence before them, he (Mr. H.) had certainly never heard of it before. How soon could the gentleman have cut short the debate which had so long agitated the House, if he had apprised them that they were all this while discussing a case which, after all, was purely hypothetical. But now—at the moment the final blow is about to struck, he makes an objection to the testimony of the facts. Sir, I am opposed to the recommitment. I do not wish to have a side-blow like this after a discussion of five days. If the gentleman has anything to say relating to the certificate on file, let him say it, and let us have a decision.

Mr. GURLEY now said, that, as the gentleman from Ohio had intimated that the testimony of the impressment was incomplete, he would, for his satisfaction on this point, send to the Clerk's table a number of affidavits going most fully to settle that point—and which he desired to have read.

The affidavits were about to be read, when an adjournment took place.

H. OF R.]

Mobile Court Martial.

[JAN. 16, 1828.]

WEDNESDAY, JANUARY 16, 1828.

## MILITIA COURTS MARTIAL.

The House again resumed the consideration of the resolution, moved by Mr. SLOANE, of Ohio, on the 11th instant :

And the question being on the amendment moved by Mr. WICKLIFFE, on the 14th instant, to strike out from the resolution all that part of it after the word "decisions," and to insert the following, to wit :

"And also to furnish copies of all papers, letters, and documents, relating to said Court Martial; copies of all orders, general or special, made or issued by the President of the United States, or by the Secretary of War, concerning or relating to the length of service of the detachment of the Tennessee Militia, detailed under the order of the Governor of said State, issued on the twentieth day of May, one thousand eight hundred and fourteen, and afterwards placed under the immediate command of Lieutenant Colonel Philip Pipkin; also, copies of the muster and pay rolls of said militiamen, which may be on file in the Department of War."

Mr. SLOANE said, that he thought it proper to remark, that, as there was no difference between the gentleman from Kentucky [Mr. WICKLIFFE] (who had yesterday moved an amendment to the resolution) and himself, as to the object in view, he was prepared to adopt the amendment, and he had therefore modified his resolution so as to read as follows :

"And to furnish copies of any orders of the President or Secretary of War, by which, in the exercise of the discretion vested in the President by the 8th section of the act of the 18th April, 1814, the term of service of the Tennessee Militia may have been extended beyond three months; and if no such order exist on file in the War Department, to state that fact to this House; and, also, to furnish copies of any correspondence in the War Department between the President or Secretary of War, and the Governor of Tennessee, during the late war, on the subject of the time which the drafted militia of said State should be required to serve in the armies of the United States."

After some explanation between the SPEAKER, Mr. SLOANE, and Mr. WICKLIFFE, as to the effect of the modification—

Mr. BUCHANAN said, he had an amendment to offer to the resolution, which would afford the gentleman from Kentucky [Mr. WICKLIFFE] time to examine and understand it, in its present form, as it had been modified by the gentleman from Ohio, [Mr. SLOANE.] He was pleased that such a resolution had been moved, because the subject had already excited much public interest; indeed, it had attracted the attention of the whole nation. He wished to have presented before the American People the documents, and all the documents, which related to this transaction.

It would seem, from the terms of the resolution, in its original form, that its intention was rather to implicate the then Governor of Tennessee than the distinguished individual who was now so conspicuously within the public view. Even in its present modified state, it does not embrace all the documents which it is proper we should obtain. The People of this country feel a deep interest in every thing which relates to the character and conduct of that individual. It was necessary, therefore, that the whole case should be brought before this House, and the public. [He then moved an amendment, which called for a copy of the order issued by Governor Blount to General Jackson.]

Mr. B. said, he would state his reason for this motion. He had observed in the public papers, some time ago, a copy of the order issued by Governor Blount to General Jackson, in May, 1814. If this copy were authentic—and

he had no reason to doubt its authenticity—it would cast a blaze of light upon the subject. If any person could, by possibility, be implicated, it would be Gov. Blount, and not General Jackson.

In that order, the Governor explicitly declares, that it was issued in compliance with the requisition of Major General Pinckney. It commanded General Jackson to order out one thousand men, of the second division of Tennessee militia, for the term of six months, unless they should be sooner discharged by the President of the United States. And it declared, that this latitude, in relation to the call, had been given by instructions from the War Department. It will be recollected, that General Jackson was, at that time, an officer in the militia, and not of the regular army. He was bound to obey this order of the Governor of his own State; and it could never have occurred to him to inquire whether that officer had lawful authority to issue it, especially when upon its face, it contained an express recital of such authority. If this order did issue, it will shew conclusively that, if there be any question in the case, it has an immediate bearing upon Gov. Blount, and not upon General Jackson. Mr. B. wished to have a copy of this order. No doubt the Governor had transmitted it to the War Department, under whose authority he had been acting. Mr. B. concluded by expressing a hope that the gentleman from Ohio [Mr. SLOANE] would accept his amendment as a modification of the resolution.

Mr. SLOANE now signified his acceptance of the modification proposed by Mr. BUCHANAN, and the resolution having been read, as modified—

Mr. WICKLIFFE moved to amend it, by striking out the following :

"And to furnish copies of any orders of the President or Secretary of War, by which, in the exercise of the discretion vested in the President, by the eighth section of the act of 18th April, 1814, the term of service of the Tennessee Militia may have been extended beyond three months; and, if no such order exists on file in the War Department, to state that fact to this House: And also, to furnish copies of any correspondence in the War Department between the President or Secretary of War and the Governor of Tennessee, during the late War, on the subject of the time which the drafted militia of said State should be required to serve in the armies of the United States."

In support of this amendment,

Mr. WICKLIFFE said, he had risen to propose an amendment to the gentleman's resolution as now modified. It is to strike out all that part of the resolution which calls upon the Secretary of War for copies of any orders made by the President, under the discretion given by the act of 1814, by which the length of service of the Tennessee militia was extended, and also copies of the correspondence between Governor Blount and the Department of War, upon the length of time which the militia of Tennessee were bound to serve.

I will, said Mr. W. briefly state my reason for this motion. I have no disposition to discuss the merits or point to the objects to be effected by this resolution. I would rather leave that task to the People; they will not fail correctly to appreciate the great public utility to be promoted by the important disclosures which are to follow the gentleman's call for information.

The mover of this resolution avowed his object to be a desire to obtain all the information in the Department of War, connected with the Court Martial and the six militiamen. His resolution, if modified as proposed by me, will give him all the documents which belong to that subject. He desires a copy of "any order or regulation made by the President, under the act of 1814," by which the term of service of the Tennessee militia was extended to six months. I am satisfied, and so must be the gentle-

JAN. 15, 1828.]

*Mobile Court Martial.*

[H. or R.]

man, that no such order ever was made, either as relates to the militia of Tennessee or any other State, save to the requisitions which may have been made from time to time upon the Executive of the respective States, by the letters of the Secretary of War, calling upon them to detail their quota of men. Why then call for a copy of a paper which we believe, and which the public have been assured, does not and never did exist? If such an order were on file, would we have the call for it? I will not answer the question. If it is not there, I am to be told the Secretary is called upon "to state the facts." We ask for a thing which we know we cannot get; and if we could get it we would not ask it.

The object avowed, or seemed to be avowed by the gentleman from Ohio, is to ascertain the main fact, how long these men, I mean the six militia men, were bound to serve. To obtain this object, can it be necessary to call upon the Secretary to inform us that President Madison and the Secretary of War failed to discharge their duty in omitting to enter upon the records of the Office of War, that the militia called into service from the State of Tennessee, should serve six months, three months, or any other term of time? I repeat, the important fact in this investigation is to know whether the detachment of militia, of which the six shot for mutiny and desertion were a part, were called into service for six months. An answer to this question, full and complete, must be given in responding to the resolution as proposed to be modified. If the gentleman's object was a reformation of the militia law of the last war, which has performed its functions; if he designed to arraign the then President of the United States, and his Secretary of War, for a dereliction of duty, perhaps the information sought might be proper as a preliminary step. No such purpose is intended or expected. I do not understand this resolution to be a declaration of war against the distinguished citizen who then filled the Presidential chair.

Unless gentlemen will close their eyes, it is impossible not to see its tendency. It is in vain to disguise it. Why has this business slept so long? Why has it not excited the patriotic sensibilities of the statesmen who have filled this hall for the last fifteen years? Is there a member on this floor who does not believe the effect of this resolution is most anxiously looked to, as appalling to the hopes of the gentleman whose fame has been assailed by every art which intrigue and falsehood could invent? I will not say that such is the desire of the gentleman from Ohio, or those here who act with him.

I desire, Mr. Speaker, said Mr. W., to strip this subject of all extraneous matter. I wish to present it naked to the public eye. The man whose character has been assailed on account of the execution of the six militiamen, seeks no concealment. His conduct on this, as on all other occasions when he has been engaged in the service of his country, will stand the test of human scrutiny and of time.

I object to that part of the resolution which calls for the correspondence between Governor Blount and the Secretary of War, for the same reasons. That correspondence has nothing to do with the six militiamen. It relates exclusively to other detachments of militia, called into service under the authority of the State. When the Creek Indians commenced hostilities, and threatened devastation to the frontiers of the Southwest, the Legislature of that truly gallant and patriotic State, with a promptitude which did honor to its members, called out the militia, without regard as to the duration of service, and placed them under the command of a General who was destined to conquer. Some of the troops were detailed for three months, some for six months, others for no definite period. These troops were afterward ordered into the service of the United States. In the midst of difficulties which no other man but Jackson would

have surmounted—in the heart of an enemy's country—with a starving and suffering soldiery, unable to advance, and unwilling to retreat, the time for which the greater portion of his men had agreed to serve was about to expire, or had expired: then it was that the correspondence which gentlemen so much desire, commenced: then it was that it became a matter of enquiry with the Commanding General, the Government, and the Secretary of War, what length of time these Tennessee militia were bound to serve. What has this to do with the six militiamen who were detailed and mustered into the service of the United States on the 20th June, 1814, for a six months' tour.

This correspondence has been seized, (by those whose employments for the last twelve months has been to mislead the public mind,) and connected with the militia who mutinied at Fort Strother, in September, 1814. This correspondence has furnished alimant for the malice which has been employed in the abuse of that man whose reputation is the property of his country. We have heard it said, and seen it published, that these militiamen had served out their time, and that Jackson had illegally and wantonly shed the innocent blood of his fellow men.

Yes, sir, after this misrepresentation had gone the rounds, during the late Summer's campaign, with cold reluctance, after persevering application, we were informed, officially, that they were mustered into the service for six months.

I am opposed to the call for this correspondence, not because I dread its disclosure; no, sir, it has nothing to do with the question. It will only mislead the public mind. If it is given connected with that of Gen. Jackson upon the same subject, it will shed a lustre upon the talents and patriotism of him whose destruction seems to be essential to the future hopes of others. We will see, in the language of Mr. Jefferson, the true Roman, one "who possesses more of the devoted feeling which in the love of country forgets self, than any man now living."

Mr. BELL said, it would, perhaps, not be in order to enter into any general discussion of the merits of the resolution, nor of the objects intended to be attained by it, further than might be necessary to express his views, briefly, of the propriety of adopting the amendment moved by the gentleman from Kentucky, so far as it proposed to strike out those words, which, if adopted as part of the resolution, would give the Secretary of War any latitude of remark, upon what may not be found upon record in his Department. I certainly would not think of intruding myself for one moment upon the indulgence of the House, said Mr. B. seeing so many abler men around me ready to take up the subject, if I did not perceive that the purpose of the resolution may be to arraign, before the tribunal of the public, the character of a distinguished citizen, who resides in my own immediate neighborhood. Under this impression, I feel myself called upon by a sense of duty, to notice an attack made on him, which I conceive to be unmerited and unjust, for the same reason that I would feel it my duty to defend the reputation of every other private citizen of the district I have the honor to represent, and who could not be heard in his own defence on this floor. I acknowledge, however, that I may possibly do injustice to the intentions of the mover of the resolution, in supposing that the conduct of the distinguished individual I have alluded to, is alone to be the subject of investigation. Judging from what appears upon the face of the resolution, and the imperfect avowal of the mover, as to what may be his motive, it is left doubtful whether one or all of several gentlemen of distinction, are intended to be the object of attack. It may be intended to disturb the repose of a late President of the United States: for, if it shall turn out to be true, that Mr. Madison did permit a Secretary of War to invest

H. OF R.]

*Mobile Court Martial.*

[JAN. 16, 1828.]

the Governor of a State, during the late war, with important discretionary powers, without his authority, and suffered a large detachment of militia to be called into service for the purpose of manning several important posts, situated at a great distance from the States from whence they were drawn, without giving any instruction for retaining them in service for six months, when it is evident that the shorter term of three months must have been chiefly consumed in distributing them among the posts to which they were ordered, then was he guilty of a most gross and criminal omission of duty. If a late Secretary of War proceeded to exercise such extensive powers without the sanction of the President, or failed to renew his instructions to the Governor of Tennessee, according to the requisitions of the law, and the exigencies of the war, then was he guilty of a usurpation of authority, or a neglect of an important duty. I confess I am not ready to admit that a late Governor of Tennessee could be charged with any gross impropriety of conduct, in proceeding to act under discretionary powers, conferred without any other limit as to the time in which they were to be considered operative, than the termination of the war, even if the fact be that his instructions were not renewed in the Spring of 1814. But how a charge of improper conduct, or responsibility for the blunders and omissions of others, if any such there were, can be fixed upon the mere instrument and organ appointed for the execution of the orders and decrees of his superiors in office; how such a charge can be fixed upon the distinguished individual to whom I have more than once alluded, for retaining in service the detachment of militia referred to in the resolution, during a term of six months, and treating them accordingly, when it is known that he ordered out that detachment, acting then as Major General of militia, and that, in doing so, he obeyed, as he was bound to do, an order from the Governor of the State of Tennessee, expressly stating, upon the face of it, that the detachment was to serve six months, and that the Secretary of War had authorized that latitude of the call, is to me most incomprehensible. But if it be against him that this resolution is intended to operate, then I would remind gentlemen that they begin their attacks at the wrong end, and that there is but little magnanimity in striking at the tail, instead of the head, of the offending series of public agents.

Be this, however, as it may, and we shall know more, and hear more, too, perhaps, upon this subject, when the Secretary shall have made his report, yet, I feel bound, in courtesy, to believe that the mover of the resolution, no matter against whom the attack may be meditated, would not have proceeded to lay the foundation of an enquiry of such a nature in this House, unless he expected some public benefit to result from it. No other motive could, in my opinion, justify such a step. It would, therefore, be illiberal to suppose him capable of a design to avail himself of any improper or unfair means to advance his purpose; it being in extreme cases only, that the public good may be consulted by the sacrifice of justice and candor. But I put it to the gentleman himself to say whether this liberal presumption can continue to operate in his favor, if, while he seeks to give weight to an accusation, by the notice this house may take of it, he still persists in the attempt to bring it forward, bolstered up by the opinions and arguments of an officer of this Government, high in authority and patronage. This House should act on this subject, as upon all others, free from every bias. The prejudices of our minds should be discarded, if possible, and certainly we should not be exposed to the influence of the prejudices of others. Could a more dangerous precedent be established, in cases of this nature, than to allow the opinions of the high officers attached to the Executive Department of the Government, to cast their weight into the balance against the

reputation of a private citizen, who, for some cause or other, has become obnoxious to them? I would not be understood as speaking harshly of the Secretary of War, in anticipation of what his opinions may be. I do not pretend to know what his opinions or prejudices may be upon this subject, nor is it material to the argument whether they are one way or the other; my purpose, in addressing the House, being not to oppose the utmost latitude which can be given to a call for facts, from which we have nothing to fear, but to ask that every pretext shall be taken away from the honorable Secretary, for attempting to assist our judgments, by the exercise of his own. I am glad that the gentleman from Ohio, in agreeing to modify the resolution in one point, has acknowledged that there are gentlemen on this floor, (of course I would not be included in the number,) who are competent to decide what laws were in force fourteen years ago, and under what laws certain important arrangements were made for the public defence, without an appeal to the learning of the Secretary of War.

I have no disposition to delay the decision of this question, by any farther discussion of it on my part. I would, however, respectfully suggest to the mover of the resolution, that if he still thinks any great public interest can be secured, by attempting to bring down reproach upon the character of the distinguished citizen so often alluded to, his patriotic intentions will be best promoted, by avoiding all suspicion of unfair dealing in the process which shall be adopted for that purpose: for I scarcely need remind that gentleman, that, by a very large proportion of his fellow citizens of the United States, he is thought to have deserved well of his country: nay, I am convinced they would believe with reluctance that he was unworthy of public confidence, and, if I am not greatly deceived, the nation at large could not see but with deep concern, one of the chief pillars of its fame broken down, and cast into the mass of neglected rubbish.

In what I have said at this time, I have endeavored to avoid all criminary reflections, being sensible, as I am, of the serious, the deep responsibility which will be incurred to this House and to this country, by him who shall persist in provoking a kind of discussion, tending to convert this House into an arena for the exhibition of fetes of violent party degradation in debate, to the exclusion of more appropriate business, and endangering its credit with the People, upon whose good opinion alone it must depend for the support of its measures.

Mr. CULPEPER said, that he did not know the motives of other gentlemen, and he thought that the House had nothing to do with the motives of any of its members. Their conduct alone was the proper subject of animadversion. What I want, said Mr. C., in this case, is the truth, and nothing but the truth, and I intend to move to lay the resolution and amendment on the table, that gentlemen on both sides may consult together and agree upon the proper form of this call, without further dispute on this floor. I want, I repeat it, nothing but the truth. I have no wish to get rid of the subject, but a very strong wish to get clear of this very disagreeable debate.

Mr. C. then moved to lay the resolution and amendment upon the table, but withdrew his motion at the request of

Mr. POLK, who said: Since the gentleman from Ohio had been pleased, at this particular juncture of time, to introduce to the consideration of the House, this extraordinary resolution, none could doubt its object. He did not rise to oppose it, however unnecessary he might have considered its introduction to be. He fully concurred with the gentleman from North Carolina, that, if we called for information at all, we should embrace in the resolution a call for all the facts in reference to the "six



JAN. 16, 1828.]

*Mobile Court Martial.*

[H. or R.]

militia men," in the possession of the Secretary of War, and he wished nothing but the facts. He wished to embrace in the call, copies of all the correspondence, documents, and orders, which may be on file in the Department of War, but he did not wish to pass the resolution in such a shape, as, by implication or construction, to enable the Secretary of War to accompany the facts with an argument, or exculpatory defence of himself in reference to what had heretofore taken place on this subject. When the House receive the documents themselves, gentlemen here, and the public, would be able to form their own opinion upon them, without the aid of any lights from the Secretary of War, or any other officer of the Government, in the shape of argument. It was with a view to obtain the facts and the facts only, that he supported the motion made by the gentleman from Kentucky.

The ostensible object of the resolution seemed to be, to obtain information from the Department of War in relation to the detachment of militia, of which the "six militia men," executed at Mobile, under sentence of a Court-martial, for the crime of mutiny and desertion, in 1814, were a part; and yet the gentleman from Ohio proposes, by the resolution, to call for the whole correspondence between the Secretary of War and the Governor of Tennessee, not only in relation to this particular detachment of militia, but from the commencement of the war, in 1812, until its termination. The gentleman was not content to have the correspondence in relation to this particular detachment, which was already embraced in another part of his resolution, but desired all the correspondence which ever took place between the Secretary of War and the Governor of Tennessee, during the whole war, in relation to other detachments called into the public service from Tennessee, at different periods. He could not perceive the purpose to be effected by calling for a lengthy correspondence, which had no connexion with the main object of the inquiry, unless it was to obscure and cover up the material facts of the case, by a mass of documents which had no relation to it. Why had not the gentleman likewise called for all the correspondence with the Governors of other States, whose militia were in the public service during the war? It would have just as much to do with the "six militia men," as that part of the correspondence with the Governor of Tennessee which does not relate to the service of the "six militiamen," or the detachment to which they belonged. He wished the information called for, when received, to stand naked before the public, and to be stripped of all extraneous matter.

One word in relation to this resolution, generally, and to its object as avowed by the mover. In ordinary cases, when information is asked from the President or Heads of Departments, it is presumed to be necessary, in order to predicate upon it some legislative act, or to enlighten the understanding of the House, in reference to some subject pending before it. The gentleman from Ohio had avowed in his place, the other day, that he did not know that the information called for was necessary for either of these purposes, or that it would be so used. For what purpose, then, did the gentleman want it? He had informed us. This subject, (the trial and execution of the "six militiamen,") said he, has produced considerable excitement in the public mind during the last year, and he wished to see how the matter was. Sir, said Mr. P., after this avowal on the part of the mover of the resolution, the object of this resolution was too obvious to be concealed or disguised. The public will understand, and duly appreciate it.

[The SPEAKER here remarked, that the hour allotted to the morning's business had expired, and that the further discussion of the resolution must be suspended.]

Mr. POLK moved to postpone the Orders of the Day, that the discussion might proceed; remarking, that, as

the discussion had commenced, it would be an economy of time to dispose of the resolution at once.

The motion to postpone prevailed—yeas 98, nays 71.

Mr. POLK resumed. It was no part of his purpose at present to defend the distinguished citizen of his own State, who commanded in the South during the late war, and whom it was now attempted to assail. For, disguise it as you will, such was unquestionably the purpose of this resolution; but he would say, in relation to this celebrated matter of the "six militiamen," tried and executed for the crime of mutiny and desertion, at Mobile, in 1814, that that individual and his friends have nothing to fear. As one of his friends, he wished the public to have the facts, the whole facts, and nothing but the facts connected with that transaction, and should therefore vote for the resolution, however unnecessary it may have been to have introduced it. The friends of that individual do not shrink from making the call, since the gentleman from Ohio desired it. They do not fear to meet the facts, and with every confidence successfully, before an impartial public. After the lapse of more than thirteen years from the date of that transaction, it was now for the first time introduced here. When other charges were alleged against General Jackson, immediately after the war—when the Seminole question was discussed and decided in this House—this affair of the "six militiamen" slept and slumbered; it was not then heard of; it did not then constitute any charge against him. The American People, at that time, when the occurrences of the war in the South were fresh in the recollections, spoke a language that was intelligible; they awarded to that distinguished man, what his eminent services merited—their approbation of his conduct. But now, for the first time, the new charge in relation to the "six militiamen" was thrust upon the consideration of this body. Why introduce it at this particular juncture? Why had it not heretofore claimed the attention of the gentleman from Ohio? He would detain the House no longer. The American People will understand and duly appreciate the object.

Mr. SPRAGUE said he hoped to be more successful in avoiding topics not necessarily involved in the question before the House, than some gentlemen had been who had made the same promise. The proposition is to strike out a part of the resolution offered by the gentleman from Ohio [Mr. SLOANE.] Much had been said of that gentleman's motives. Whatever they may be, they are no concern of ours. It belongs not to us to scrutinize into the motives of any member here; they are confined to his own breast, which no human eye can penetrate. They can be known only to the Searcher of hearts.

Mr. S. said he would not himself have introduced the original resolution; and, it was, perhaps, unnecessary for him to say, that he had no knowledge that such a motion was contemplated until he heard it read at the Clerk's table. But the resolution is before us. Its passage is not opposed. The single question upon the present motion, is, whether the call shall be more or less extended; whether we shall have more or less information—a part or the whole? The gentlemen who support this motion, have assumed two things—first, that there can be but one single object in asking this information; and, secondly, that the information, if obtained, would have no connexion with that object. It has been urged that the only purpose of this resolution was to affect a single individual. If that be the only purpose of the mover, whether the individual be high or low, it meets not my approbation. But the resolution being here, and it being agreed on all hands that it is to be adopted, may not other gentlemen wish that other objects may be obtained by it?

It was conceded by the gentleman from Kentucky,



H. of R.]

Mobile Court Martial.

[JAN. 16, 1828.]

[Mr. WICKLIFFE] that, if a revision of our militia laws was proposed, the parts which he has moved to strike out, ought to be retained. Now, sir, it so happens that we have, this morning, had laid upon our desks a bill from the Senate revising those laws. Upon that bill we may be called upon to act during the present session. Surely, then, according to the gentleman's own views, it will be proper to obtain this information, in order that we may be guided by the light of past experience, in adopting the provisions or proposing amendments to that bill.

What is it proposed to strike out? Copies of orders from the Secretary of War, relative to the length of time which the Tennessee militia should be required to serve, and copies of correspondence between the Executive of the United States and the Chief Magistrate of Tennessee upon the same subject. And it is insisted that these can have no bearing upon the present subject. Do they not appear, on the face of the proposition, to have a palpable and an intimate connexion with it? And can we say, before-hand, that they can have no relation to it whatever? When seeking light, shall we voluntarily close the avenues through which it is expected to be received?

The gentleman from Kentucky [Mr. WICKLIFFE] urged, as an objection to that part of the resolution which calls for the correspondence, that, if complied with, and copies be sent here, it will tend to obscure the subject. But the gentleman then proceeded himself to relate to us, from memory, the contents of that correspondence. Could he intend to obfuscate (to adopt an unusual but expressive word) the understanding of the House? He certainly could have had no apprehension of such an effect. And if we may with safety turn our attention to the contents of that correspondence, when stated verbally, and from memory merely, there cannot be danger in receiving official copies of it, from the documents in the Departments.

The gentleman from Tennessee [Mr. POLK] has advocated this amendment with much vehemence, because he would not have any arguments or opinions from the Secretary of War. The time was, I believe, when that gentleman entertained different views of the proper scope of calls of this kind. A certain resolution, of some notoriety, proposed to call upon the Head of a Department, not only for facts, but for reasons also; and to that resolution it was understood, the gentleman from Tennessee had no aversion. But the truth is, that this resolution calls for no opinion, and no argument whatever. The gentleman must have labored under a great misapprehension. It requires copies, and copies only, of official orders and official letters; and, if none are found in the Department, that the Secretary shall merely state that fact. The gentleman wants no statement from the Secretary of War! Sir, every call for copies from a Department, necessarily requires such statement, in the contingency of the records not being found. Such is the invariable practice. If you demand of an officer documents which are not in his possession, he must return to you a respectful answer, stating that fact.

The gentleman from Tennessee declares that he is anxious to obtain all the documents and all the facts. The resolution, as it stands, proposes to produce to him the very objects of his wishes, official copies of official documents; and certainly, if he reconsiders the subject, he will not insist on rejecting them.

Mr. S. concluded by saying, that he felt very little interest in the original resolution, but, if it were to pass, he hoped it would retain its present form, and not be curtailed by the proposed amendment. If the House did call for any information upon this subject, he hoped they would require the whole.

Mr. BELL now said, that, in the remarks he had before offered, he had no intention of expressing any wish of

striking out the last clause of the resolution, as modified. He should prefer to include every thing which could be called a statement of facts, and he hoped the gentleman from Kentucky [Mr. WICKLIFFE] would consent to modify his amendment so as to retain the following words:

"And also to furnish copies of any correspondence, in the War Department, between the President, or Secretary of War, and the Governor of Tennessee, during the late war, on the subject of the time which the drafted Militia of said State should be required to serve in the armies of the United States."

Mr. RANDOLPH said, that no possible modification could, in anywise, affect the course he had chalked out to himself, and for reasons which he would now briefly state. I will promise, said Mr. R. if I throw no light upon the subject, that, at least, I will not (to borrow a word used by the honorable gentleman from Maine) "obfuscate" it.

I concur most heartily with the gentleman from North Carolina, [Mr. COOPER] in his view of this matter. Before he made his motion, I had expressed a similar opinion to the gentleman from Louisiana, [Mr. LIVINGSTON.] I am sorry he withdrew it. I think the House ought not to act in this matter at all. And why? Because, sir, disguise it as much as we will—as much as we can—it is a matter (as was said in another body, on a very different occasion) as notorious as the sun at noon day, that the state of public feeling throughout this country (and what are we but the pulse, the artery, which shows the action, the sanity, or the unsoundness of the heart?) is such, that, if this game is once commenced, there will be no end to it. Sir, I have nothing to do with gentlemen's motives. I am bound, not only by the Rules and Orders of this House, and by a sense of decorum, which ought to be a still stronger restraint on every gentleman, but I am bound by evidence before my senses—to believe, that the motives of the gentleman from Ohio cannot be such as have been imputed to him. And why? It is notorious, that you affect a balance as much, by taking out of one scale, as by putting into the other; and after what I have seen in the public prints, under his name, he can never surely mean, by taking out of the scale A, to give preponderance to the scale B. I wonder, sir, that it did not appear to the very acute and astute perception of the gentleman from Maine, [Mr. SPAID] that there was another occasion for this information, besides the bill from the Senate on the subject of the militia laws. This House, in the last resort, may, by the Constitution, be called upon to decide that question on which the public mind is in a state of so great and so justifiable inflammation. Now, as we may be called upon the next session, to decide that question, and good managers, all people of forecast, like to be beforehand with their business, it is no doubt highly proper that we should proceed now to get all the information we may need in the performance of that duty. But, sir, it is time to dismiss this style of treating the subject—it demands a graver tone. A bill from the Senate, affecting the militia laws of the United States—well sir—a bill shall I call it, or an anathema got up by some of those, under whose order certain militiamen were shot at Norfolk is thrown in contemporaneously—not with the bill from the Senate—no sir—that is a different affair, but with this motion; an anathema, sir, has been issued from the laboratory of the modern Vatican, and comes to us via Richmond—yes, sir, via Richmond—and a nuncio has been despatched—(I believe I must drop the metaphor, or it will drop me)—well, sir, an agent, then, has been despatched, and has touched at this port, on his way to Richmond, for instructions—yes, sir, in mercantile phrase, cleared out for Cowes and a market—to Cowes, and wait for instructions from London. Sir, the gentleman from South Carolina deserves our thanks for having torn the mask off

JAN. 16, 1828.]

Mobile Court Martial.

[H. OF R.]

this thing yesterday. It is the curse of this age—the opprobrium of this country, in its legislation, that, in grave concerns, requiring the deliberation of statesmen, and the decision of common sense, a system is pursued of artificial reasoning, and of special pleading, drawn from the forensic school, (where it may be very right and proper,) and, while we are debating about the danger of having our heads chopped off by the myrmidons of an usurper, we are ourselves chopping logic. [By the way, sir, I was extremely sorry that the gentleman from New York, [Mr. STORAS,] who spoke to us, the other day, about Cicero, did not favor the House, at the same time, with a dissertation on the subject of the Roman coaches, out of one of which, he told us, with great good breeding, that Cicero stretched his neck, that it might be struck off. Sir, I should greatly like to see a model of one of those coaches—I would send it to Longacre, by way of specimen—yes, sir, not as a model, but as a curiosity.] Great public mischief is produced by bringing into this House the system of word catching, and watching, and quibbling, and quirking, from the Court below—it will hardly do even there. Sir, this practice is as notorious as another, confessed to prevail in the House of Commons, on a subject of the most vital interest to the liberties of Englishmen—it is as “notorious as the Sun at noon-day.” We, sir, are country gentlemen, plain planters, or farmers, sometimes styled clod-hoppers—we have not a fair chance under such a system; and, what is worse, our constituents have not. Sir, it is time we had done with this practice, of looking one way and rowing another. I entirely concur with the view presented to us in the speech of the gentleman from North Carolina, [Mr. CULPEPER]—I hope I may say, without offence, the Reverend gentleman from North Carolina. Sir, I applaud him for preaching peace—not peace, sir, with the enemy, in time of war—“Blessed are the peace-makers!”—but I am not one of those who preach the love of enemies in time of war. Let me ask of this House, if they can imagine a case in which, by bringing forward a motion in this House, every part and any part of the public conduct, (for we shall hardly invade the sanctuary of domestic life,) but the public conduct of either or any one of the parties now most prominent before the nation, may not be attacked? Sir, cannot we, too, bring motion after motion, to bear on one of them? We can: and I will tell the gentleman from Maine how—he does not need to be told—but I speak for the information of those out of this House—a resolution can be introduced, bringing a charge against the Minister—another motion can be brought against the conduct of some of our diplomatic agents—and then we shall discuss it here pro and con—such-a-one versus such-a-one—and then we must have another “blow-out”—and then again the same thing may be done on the appropriation of money. Sir, it is endless; and, therefore, I think we ought to remember the old doctrine—a doctrine I have long preached in this House, and which I ever shall preach, *obsta principia*. Occasion enough can be given for every man to shew, on the floor of this House, how much he is or is not a partisan. And where will it end? With the exception of, perhaps, the necessary appropriation bills, scarce any thing else will be done this session. For, do gentlemen believe, if this thing is done on one side, it will not be done on the other? Do old and practiced statesmen suppose that, if they trump, their adversaries will not trump too? Why, sir, I thought that Hoyle had taught them better. Yes, sir, that Hoyle had taught them better. Sir, we shall have our tables flooded with such resolutions. No, Sir, let us do what all men cannot at all times do, and some at no time—let us do right sir, fearless of the consequences. I know very well, what a bug-bear—what a ghost will be conjured up, if the motion to lay on the table shall prevail. Yes, Sir, it will be said, we are about to “put out the light, and then”—

and then, sir, to smother the Constitution; to cut the throat—not of Cicero Sir, no Sir,—but of poor half-suffocated Desdemona—of the Constitution. Sir, this is a responsibility I am willing to meet; if I was not, I would not show my face here. When inquired of, I should say to my constituents, “a motion was made in this House, calling for information about the six militiamen—the public papers and the Richmond manifesto are full of the subject. It has been worn thread-bare. We were called upon to second the Anti-Jackson meeting at Richmond. It must have led to recrimination. We should have had the same game played over and over again, *iterum iterumque*. It would only have led to ill blood and calling names, and therefore, I endeavored to put an end to it at its commencement.” Sir, if the militia laws want mending, they will not get it, take my word for it, this session. Our militia-laws, Sir, are like some reprobates—always about to reform, or to be reformed. We do not want this information to act on the bill from the Senate, and as for the other object, most of us, I believe, are pretty well prepared to act on what we have.

I promised, when I rose, that, if I shed no light upon the subject, I would at least endeavor not to make it more obscure. I cannot promise *e fumo dare lucem*, but I will not lend my aid to raise a smoke to obscure the judgment and to inflame the mind’s eye of this House. Without wishing in the least to forestall debate, or put it out of the power of any gentleman to reply to me, I shall, before I take my seat, renew the motion of the gentleman from North Carolina, [Mr. CULPEPER.] I shall move that the resolution and the amendment be laid, to lie upon the table. But I shall withdraw the motion if any friend, or if any adversary—for I trust I have no enemy here—shall request it. It is a case in which I would yield more readily to the request of an adversary than of a friend.

Mr. RANDOLPH so moved accordingly: when

Mr. WEEMS said, I request the gentleman to withdraw the motion.

Mr. RANDOLPH retaining his seat,

Mr. WEEMS said, I call upon the gentleman to comply with the promise he has just given.

Mr. RANDOLPH still keeping his seat,

Mr. WEEMS said, I call upon the gentleman to fulfil his promise.

Mr. RANDOLPH now rose and said, Mr. Speaker, I rise to comply with it. I promised that if any friend, or, much more, any adversary, should make the request, I would withdraw my motion. I have never, thank God, refused to keep my word, nor shall I now break my promise. But, as that honorable gentleman stands to me in the relation, neither of a friend nor of an adversary, I shall not withdraw my motion.

The question being now about to be taken on Mr. RANDOLPH’S motion,

Mr. SLOANE requested that it be taken by yeas and nays. It was so ordered by the House, and the yeas and nays were taken as follows:—yeas 42, nays 150.

So the motion to lay the resolution and amendments on the table was negatived.

Mr. WEEMS said he felt very much gratified to find, by the vote just taken, that so large a majority of the House thought with him, that a subject of such importance ought not to be smothered or nipped in the bud (if he might be allowed to use the expression) at the instant suggestion of any member, and more especially so, when the vote seemed also to justify what he was about to offer as advice to the honorable gentleman from Virginia, who had thought proper to quote the same authority as it regards peace makers: “Blessed are the peace makers,” &c. was his remark. “Let that man who esteemeth that he knoweth all things, remember that he knoweth nothing yet as he ought to know.” I have no idea, sir, [said Mr. W.] of any one individual member of this House undertaking to

H. or R.]

Mobile Court Martial.

[JAN. 16, 1828.]

suppose, when he has made a speech, that every one is to be hushed by his shutting the door upon them, because, forsooth, he may suppose that they cannot or dare not introduce a word in reply to him. I had hoped, sir, after the member from Virginia had voluntarily promised to withdraw his motion to lay the resolution on the table, if any gentleman suggested a desire to be heard on the subject, upon rising and requesting him to suspend, or withdraw his motion, to have found him willing, at once, to comply; finding this not to be his disposition, I expressed a hope that the gentleman would comply with his word; and whether that gentleman considers me as standing in the relation of friend or enemy, or neither, towards him, sir, was neither asked or cared about. [Here the gentleman from Virginia asked permission of the gentleman from Maryland to apologize.] Mr. WEEMS, said he asked no apology, but would give the gentleman from Virginia an opportunity to explain; when

Mr. RANDOLPH said, nothing was further from his intentions, than to say any thing uncourteous. The gentleman from Maryland, [said Mr. R.] had called on him in so imperative a tone, that that happened which often happens in similar cases. We often refuse, what we should otherwise grant with willingness, when we conceive ourselves to be rather more enforced than we like to be. But, the candor of that gentleman will induce him to acknowledge that I stated neither more or less than what is the actual fact, when I said, that he stands to me in neither of the relations—either of adversary or friend. I can assure him, however, that I shall never again offend the gentleman by noticing him in that, or in any other way.

Mr. WEEMS said he was not disposed to trifle with the time of the House, or to attempt, in the slightest degree, to discuss the merits or demerits of the subject to which the proposition before the House, barely calling for information, pointed. But he rose to offer, first, his thanks to the gentleman from Ohio, for introducing the resolution, in any shape that would eventually obtain all the information immediately relating to the subject. He cared not about the form, or phraseology, provided it resulted in laying before the Nation the truth, and nothing but the truth. He agreed, to the fullest extent, with the gentleman from Maine, "that it was not our privilege to judge men's motives;" and he hoped he might be allowed to offer another quotation, as it seemed fashionable to do so, from the volume of truth, without incurring the appellation (sarcastically, or otherwise) of reverend gentleman from Maryland, "Who art thou, oh man, that judgest another man's servant? before his own master, he standeth or falleth." Sir, said Mr. W., this subject has now been introduced, and I, for one, am unwilling to return home to the high minded freemen whom I have the honor to represent, and say to them, I voted against this inquiry, because I feared to trust my strong prejudices and partialities. That might answer for the gentleman from Virginia, but it would not answer for me. Mr. W. protested against being governed by any such influence. The sovereign People of Maryland felt anxious for information, and would not be content without it, and, for himself, he could with truth declare that he wished it, and would receive it any how, rather than not have it, although he would prefer having it without any thing like that massive weight that accompanied some of our documents: for instance, the Georgia affair—the immense bulk of which deterred almost every man from attempting to wade through it. No, sir, said Mr. W., that man whose character and conduct are to be affected by it, will, like pure gold, seven times refined, be found the more pure the oftener his conduct or patriotism shall be scrutinized. I shall not trouble the House further, at this time, said Mr. W., from a hope, sir, that the gentleman from Ohio and the gentleman from Kentucky will

be able so to modify the proposition as not only to agree themselves, but to produce an accordance throughout the House.

Mr. WRIGHT, of Ohio, said he had but a few words to say, and would trouble the House but a short time. If I understand the question, Mr. Speaker, [said Mr. W.] that part of the resolution proposed to be stricken out by the motion of the gentleman from Kentucky [Mr. WICKLIFFE] embraces a call for copies of the correspondences of the Government of the Union, with the Governor of Tennessee, relative to the time the drafted Militia of that State should be continued in the service of the United States—for copies of any orders of the President, directing such drafted militia to be retained under the law of the United States, for a period beyond three months; and if no such order existed, directing the Secretary of War to certify that fact to the House. Such is the motion of the gentleman from Kentucky, to refuse the call so far as I have specified. But, sir, how is the motion supported by the argument of the mover, and by the argument of the gentleman over the way? They all tell you, we want all the facts—all the documents; but we would shut the door upon the opinions of the Secretary, or his arguments. I, too, want the facts and documents, and no opinions or arguments; and will not any gentleman perceive, who will take the trouble to read over that part of the resolution proposed to be struck out, that these arguments are directed against matter which has no existence in fact? Sir, is it argument or opinion, to furnish us with copies of the correspondence with the Governor of Tennessee? Is it argument or opinion to furnish a copy of the Executive order to continue the militia in service longer than three months? Or will it be said to be argument or opinion, if no Executive order exist, to certify that single fact to the House? Surely no gentleman will pretend it is either; yet we have heard much of a desire to give all the facts and documents, and to withhold only opinions. Let us have all the documents, and all the facts. How will the case stand before the country, if the motion prevail and gentlemen deny the information sought? We may be told, if the information obtained bears hard on any individual, that, if the whole correspondence between the War Department and the Governor of Tennessee had been published, the country would have found ample evidence to justify either the Governor, or any militia officer acting under him, for retaining the militia in question for six, instead of three months; and if we have not an express certificate from the proper officer, that no order of the President exists, it may be said, it has been withdrawn. I therefore want the whole information, correspondence, and documents. I wish an opportunity of judging for myself what they contain—to have the light shed upon my own mind, that I may form an opinion myself. I do not believe, Sir, for I could not impugn any man's motives, there can be a single gentleman on this floor, who would withhold the information sought for, if he understood the subject.

[Here Mr. W. yielded the floor, at the request of Mr. RANDOLPH, who said that, having been informed (by a friend) that he was under an error in regard to the shooting of the militiamen at Norfolk, last war, he wished to withdraw what he had said upon that subject. That, although he had derived his impression from a recent, and, as he had believed, an authentic source, yet he did not wish, under the circumstances of the case, for the allegation to go out to the world—and he was desirous to retract it, before it should have excited notice or remark.

Mr. W. resumed. I said, Sir, I did not believe there was a member in the House, who understanding this subject, would refuse the information asked, unless, indeed, on the ground that it could not connect itself with our Legislative duties in any way whatever. Sir, it is a mat-

JAN. 16, 1828.]

*Mobile Court Martial.*

[H. OF R.]

ter of common interest and concern, for us and the country, to know how our laws are administered. The proceedings of our ordinary judicial tribunals, we are duly and regularly apprised of through the medium of the reports of cases which we provide for by law. It is not so with the proceedings of our Military and Naval Courts Martial. The records of their proceedings are returned to the proper office, and remain in deposit there. We have no means of ascertaining what they are, except by a call of the House for information. A knowledge of the proceedings of the Civil and of the Military Courts, is necessary to determine upon the propriety of altering or amending our laws. We should be made acquainted with the transactions alluded to, and with every thing connected with them, that we may judge of the necessity of altering or amending the laws and regulations governing our regular troops or militia. Let us have, Sir, in the language of the two gentlemen from Tennessee [Mr. BELL and Mr. POLK] the whole of the correspondence and documents, and all the facts. Let us put a stop to all misrepresentation on this subject at once.

Gentlemen have seen proper to question the motives of my colleague and friend, the mover of the Resolution. Sir, I enter my protest against questioning the motives of any gentleman on this floor. I disclaim all personal or improper political motive for resisting the motion, and for supporting the resolution: and those who know my colleague—and I know him well—will be satisfied that the motives which govern him in the discharge of his legislative duties here, or his conduct elsewhere, are as pure, to say the least of them, as the motives of those gentlemen who question him, or as pure as the motives which governed the conduct of the distinguished individual whose character they seem so anxious to defend.

I repeat, sir, I am sure gentlemen cannot wish to withhold the information sought for in that part of the resolution proposed to be struck out, and I hope the amendment will not prevail.

Mr. FLOYD, of Virginia, said, that he had heard it declared, on all sides of the House, that gentlemen want information; that they seek the truth, the whole truth, and nothing but the truth. I wish this as strongly as any one; and because I want this, I don't want any speeches from the department. The gentlemen who profess to want the correspondence most, give to me the strongest evidence, by their speeches, that they are perfectly conversant with it. I shall not dive into their motives: that belongs to another power—a power from which this Administration once claimed its right to rule. I had, like others, hoped that we should have met to transact the public business; and that we should have agreed to leave this question to the People; but it is in vain to conceal the fact, that this House is intended to be made an arena on which to excite the passions of the People. We see an individual branded with reproach, for having consented to the execution of several militiamen—we who are nursed by the pap of the Treasury—it is no expression of mine—pap—it comes from the Treasury, of course it must be good—we are told that these are the proper scenes to engage the minds of men, and not the vulgar scenes of bloody war. At the same time we do see a General of the United States trying soldiers at Norfolk, and shooting them too, for desertion. I know it to be a fact: for I was an eye witness. A gentleman near me says, that these were not militiamen. I believe two of them were. I derive my information from a source entitled to at least as much credit, as if it was drawn from hired and pensioned letter-writers in one of the Departments. But, sir, if they were not militia-men, they were men; and is not the life of man dear? And are we now to be told that no regard is to be shown to the life of a common soldier? My information goes still farther. An

order was issued by a United States' Commander, to go in pursuit of a deserter, and if he could not be taken, to shoot him, and he was shot. Why was not the same noise made then, that there is now, and why was not information of that fact laid before the House, by the same gentleman or his friends, who have stirred this inquiry? It is true I belong to the Committee on the Militia, but I have not been called upon to attend it, until this morning.

[A sentence, or two, of the speaker, here escaped the Reporter's ear.]

Sir, I have no doubt the Department of War is well regulated—that it has learned to profit by past experience, and that the Military Chieftain will find its discipline much better than it was some years ago. To that end I had proposed to move an amendment, calling for the number of deserters from the Army in 1825 and 1826. No doubt, this, also, will be valuable information on the bill to regulate the Militia.

Mr. WICKLIFFE now signified his agreement to the proposal of the gentleman from Tennessee [Mr. BELL], to modify his amendment in such a manner, as to retain the call for the whole correspondence.

Mr. SLOANE also expressed his willingness to modify his resolution, by striking out the following words: "and if no such order exists on the files of the War Department, to state that fact to this House."

Mr. BURGESS expressed his regret that a simple resolution calling for information should have taken the turn this had. He understood that copies of documents could not be obtained from the Public Offices without a legal order, and he thought the regulation a good one. Under that regulation, it was impossible that the record called for by the resolution of the gentleman from Ohio [Mr. SLOANE] should ever go to the public unless by the direction of this House, or of the Senate.

The question, said Mr. B. for us to settle, is, whether this information shall be laid before the House, and the public be enabled to know the truth as it is? What the ulterior intentions of the mover may be, is nothing to me; I shall vote for myself according to my own views of propriety—so, I presume, other gentlemen will vote; and, even if the rules of the House did not restrain me from a violation of decorum, I hope I should have civility enough not to impute, without evidence, to any gentleman in this House, motives hostile to the public peace and to the safety of individual reputation. It cannot be denied that much curiosity, to give it no other name, exists in the public mind, in reference to these papers. I have seen the evidence of it in those records, which, from our childhood, we are accustomed to consult—I mean the Chronicles of the day.

It is commonly said that certain militiamen have been executed, and it is said by some, that their execution had no legal sanction. The question whether that execution was legal or not, is one on which great anxiety prevails. The person under whose orders it is said to have taken place is a person of great consequence in this nation. He fills, at this time, a great space in the public eye, and occupies much of the public feeling, and I ask if it be courtesy in this House to interpose before the facts of the present case, any obstacle which may disappoint the public curiosity, (if it is to receive no better name) quickened as that curiosity now is, and anxious as the most manageable appetite. What courtesy will it be to lay your hand on a part of the documents inquired for, and to say, they shall not go to your constituents? Why will you withhold from them what either the friends of that distinguished individual, or, if you will, his foes, may desire to lay before this House? For myself, I should be satisfied if the gentleman from Ohio [Mr. SLOANE] should select one portion of the documents, and the gentleman from Kentucky [Mr. WICKLIFFE] should select another por-

H. of R.]

Case of *Marigny D'Auterive*.

[JAN. 17, 18, 1828.]

tion. I should be satisfied with their discretion, and would call for the whole. I would not, at least transmute this hall into an arena for gladiators. I think better of my country—of this House—of those opposed to me and those who are with me, than to apprehend that the sword of the gladiator, or the pistol of the assassin, is in any danger of being used, whether here or elsewhere, in consequence of our decision on a resolution like this. If there is any thing in this matter to produce exasperation, it must be the withholding, it cannot be the granting, of this call. The gentlemen who spoke with so much ardor of their illustrious friend, spoke only as a man should speak, when he supposes the character of his friend is in danger. But their zeal might well have been spared. The character of that illustrious man is not impugned. Nobody here has injured, or wishes to injure him. Why then should his anxious friends endeavor to forestall public opinion, or keep back from the public ear, the voice of truth? Why will they refuse to satisfy public anxiety? Why do they strive, with so much earnestness, to strike out from the resolution a call for the orders of the President, copies of which are said to be in the War Department? Why do they dread so much, if such copies are not there, that the Secretary shall say they are not there? What would gentlemen have? The public will believe the signature of the Secretary of War; for, prostrated as he has been, at least in the wishes of his enemies, still the American public will believe him, without an oath, while they remember that he belongs to the State of Virginia, although he be the Secretary of War, and a member of the Administration. May he not be permitted to say, if the fact be so, that he cannot furnish copies of any such orders, because they are not in his office? We want no commentaries, no glosses, no labored explanations. We want the record alone, and, if it is not there, we want him to certify that it is not there. Sir, what will, what must, the public think, if you prevent him from giving this certificate? I do suppose there are abundance of our citizens who know what the usual form of a certificate is, and if you put forth to the world a certificate in some unusual form, they will have too much acuteness not to perceive that you deny them the knowledge which they desire to have. I might beg gentlemen, for their own sakes, not to excite such irresistible suspicions in the public mind.

Mr. BUCHANAN now obtained the floor, but yielded it to

Mr. WICKLIFFE, who, said, his desire was, that every fact connected with the six militiamen should be developed; he desired to keep back nothing. If gentlemen wished it, he would even consent to call for the celebrated letter of Harris, which so feelingly invoked the public sympathy last summer, if the original could be found in the Department of War. I will, said Mr. W., withdraw the amendment to strike out, and substitute a motion to insert a call for copies of two letters, written by the Secretary of War, to Governor Blount, dated the 11th and 31st January, 1814. They are short. I will read them as the best illustration of their character. [Here Mr. W. read the two letters, as follows:

"DEPARTMENT OF WAR, 11th JANUARY, 1814.

"You are authorized to supply, by Militia drafts, or by volunteers, any deficiency which may arise in the Militia divisions under the command of Major General Jackson, and without referring, on this head, to this department. It may be well that your Excellency consult Gen. Pinckney, as he can best judge of the whole number necessary to the attainment of the public objects.

"J. ARMSTRONG."

"WAR DEPARTMENT, 31st JANUARY, 1814.

"Sir: I had the honor to receive your Excellency's letter, of the 5th instant. My letter of the 11th, will have

anticipated your inquiries relative to the further detachments of Militia," &c.]

Mr. FLOYD now made some explanations, which appeared to be directed to one of his colleagues, but from his position, was not heard by our reporter with sufficient distinctness to attempt a report of it. He was understood, in conclusion, to state that of two men who were tried for desertion at Norfolk, one was a militiaman and one not, and that it was the soldier and not the militiaman who was shot.

Mr. SLOANE now signified his acceptance of the addition proposed by Mr. WICKLIFFE, and the resolution, as thus modified, was finally adopted, in the following form:

"Resolved, That the Secretary of War be directed to furnish this House with a copy of the proceedings of a Court Martial, which commenced its sittings at or near Mobile, on the fifth day of December, one thousand eight hundred and fourteen, for the trial of certain Tennessee Militiamen, together with a copy of all the orders for the organization of said Court, as well as those subsequently issued in relation to its decisions.

"And, also, to furnish copies of all papers, letters, and documents, relating to said Court Martial: copies of all orders, general or special, made or issued by the President of the United States, or by the Secretary of War, concerning or relating to the length of service of the detachment of the Tennessee Militia, detailed under the order of the Governor of said State, issued on the twentieth day of May, one thousand eight hundred and fourteen, and afterwards placed under the immediate command of Lieutenant Colonel Philip Pipkin; also, copies of such order, and of the muster and pay rolls of said Militiamen, which may be on file in the Department of War.

"And to furnish copies of any orders of the President or Secretary of War, by which, in the exercise of the discretion vested in the President by the 8th section of the act of 18th of April, 1814, the term of service of the Tennessee Militia may have been extended beyond three months; also, copies of two letters from the Secretary of War to Governor Blount, dated the 11th and 31st January 1814.

"And, also, to furnish copies of any correspondence in the War Department between the President or Secretary of War and the Governor of Tennessee, during the late war, on the subject of the time which the drafted militia of said State should be required to serve in the armies of the United States."

THURSDAY, JANUARY 17, 1828.

The House was principally occupied this day in disposing of resolutions of inquiry, and discussing the general appropriation bill; which was ordered to a third reading.

FRIDAY, JANUARY 18, 1828.

#### CASE OF MARIGNY D'AUTERIVE.

The House resumed the consideration of the bill for the relief of Marigny D'Auterive: and the question recurring on Mr. WHITTLESSEY's motion, pending when the bill was last before the House, to recommit the bill to the Committee on Claims; Mr. W. withdrew the motion.

Mr. GURLEY then moved to amend the bill, by adding the following:

"And that the further sum of \$ 234 dollars be paid to the said D'Auterive, for the injury done to his slave while in the service of the United States; and for medical attendance on said slave."

Mr. KERR addressed the House to the following effect:

Mr. Speaker: From the serious aspect in which this subject is now presented to the whole nation—network

JAN. 18, 1828.]

Case of Marigny D'Auterive.

[H. OF R.]

standing the opinions first entertained, that it was of minor importance—I feel myself under a sort of moral necessity of assigning reasons for the vote I shall give. I am, sir, decidedly in favor of the amendment offered by the gentleman from Louisiana. Although I was not very solicitous to obtrude myself, the other day, upon the attention of the Committee of the Whole, when I moved its rising, and when, after giving way for the explanations of a gentleman from New York, I was intercepted from the Chair by the precipitancy of gentleman who rose to speak, yet I confess that I did feel a desire to declare my opinion upon the question in debate, inasmuch as my constituents as well as those of others, who had delivered their sentiments at large, had a direct interest in it.

Our local situation—dwelling as we do on the waters of the Chesapeake, late the scene of a most vexatious predatory warfare, and always exposed, in time of war, to the loss of that very species of property which, in the case before the House, is attempted to be refined away—gives us an interest in the question not far short of that of Southern men. I am not, sir, a Southern man—strictly so called—but I feel, and my constituents feel drawn towards the People of the South, by chords of sympathy in many respects; and, in that particular interest which has now become the subject of controversy, even on this floor, we have a common stake. Although our concern in the subject is not, perhaps so important, yet the interest we feel in it is scarcely less vivid than that of the Southern planter. Sir, since the last speech of the gentleman from New York, in which he has portrayed the consequence flowing from the premises which he had, himself, most kindly assumed for the advocates of this measure—as leading to the destruction of all civil liberty in this country—I cannot content myself without an humble effort to refute the fallacies by which it is attempted to blind this House against the true import of the question before them.

It is (true, sir, (as had been before said by a gentleman on our side of the question,) the portion of Roman history selected by the honorable gentleman from New York for this occasion, was ably and eloquently recited by him; and yet, I must be permitted to say, that it was ill-placed, and without any just application to the subject: and I will endeavor to vindicate myself, in respect to the vote I mean to give upon this amendment, from the direful stigma, which the conclusion from his remarks might cast upon it. I entertain as great hatred of arbitrary power, exercised in any form and upon any pretext, as that gentleman: and it is precisely because I abhor tyranny, in every shape, that I would sedulously guard the citizens of this country from oppression, and would secure every individual against, or indemnify him for, all undue sacrifices to the public. I would, sir, resist as firmly as any man in this nation, the ambitious stride of a Dictator; and whenever the semblance of that kind of danger shall appear—whether it comes as a speck in the Eastern or Western horizon—let the gentleman sound the alarm, and I will plant myself by his side, and resist with him.

Although, sir, I will not undertake to impute to the gentleman from New York the bearing which has been attributed to his remarks by a member from South Carolina, yet I must endeavor to redeem myself and my vote from the effect of his conclusions.

[Mr. STORRS rose to order; and submitted to the Chair whether it was in order to answer in the House arguments offered in the Committee of the Whole.]

The SPEAKER said it was not strictly in order.

Mr. KERR. I will, then, sir, proceed, without any further particular reference to that gentleman. I meant nothing personal, though I acknowledge it was my special object to reply to his argument, and to deprecate every effect of it. I will go on to argue this point as one

not inferior in importance to any which is to be agitated in the councils of this nation. The question has gone forth to the People, and you cannot now stop the current of the public mind upon it. No matter how needlessly it may have been brought up; no matter what disavowals or admissions gentlemen may now think it wise, or prudent, or liberal, to make; the question has been raised—whether slaves are property?—not in those general terms, I admit; but whether they are property in the view of this General Government, insofar as it may have power to affect them in certain exigencies of State, and in which the owner is to be indemnified for any loss or injury sustained by him thereby. And it is our solemn duty to meet and to decide it on the claim of the individual now petitioning for redress. It is because I regard this question as vital to the interests of a large portion of the citizens of this country, and of those too, whom I have the honor to represent, that I was opposed to the recommitment of the bill, and now advocate a decided vote in favor of this amendment.

Gentlemen now say, (some of them at least,) that they do not deny the general proposition that slaves are property; yet they do contend that, *pro hac vice*, they are not property, and they are not to be considered as such, when taken or lost or injured in the public service. Here then is the issue: We aver that slaves are property; so declared by law, and so held in the view of the Constitution. It is the report of this committee with the bill, which will make up the record of our judgment here; and if you had permitted this amendment to be dropped, because of the insignificant amount of the claim of Marigny D'Auterive, or now reject it, you establish a precedent, to be quoted on all future occasions, against the most important claims, and against redress for the most serious individual losses: and I have no doubt it would be set up by some as a solemn decision on record, that slaves are not property.

Although I am not now, it seems, at liberty to remark on what gentleman have said before the Committee of the Whole, yet I will proceed, and I will suppose arguments which may have been used, or might be set up; I will imagine reasons, but refer to no names. There is no other course left us for coming to the point. I repeat, Sir, that this is a question of serious import, and I am for meeting it *in limine*; and with my friend from Alabama, who offered his opinion in the beginning of the debate, I say now is the proper time to have it settled, and put at rest.

Many observations have been made by gentlemen in this House, to do away an impression that they would in any manner impugn the right of property in slaves; and it has been said that such a question will never be stirred until "some bold, bad man," shall raise it for the purpose of his own ambition. I feel happy in believing that this bold, bad man, has not yet found his way into this House; but I have made some note of the opinions and dispositions of men in different quarters upon this subject. Not alone in the East, or in the North, but in the middle States—aye, in the South, too, even without the instigation of that ambition which has been assumed as the only motive to it—bold, bad men, have had the folly, or the wickedness—call them fools or knaves, if you please, (as they have been so denounced by a gentleman from Virginia,) to avow and maintain that slaves are not property, and that all such pretended rights ought to be abolished. I trust that men of this description will be long kept from this place; but there is no question, they have been seeking, by stealthy steps, to make their way into the State Legislatures, for the express purpose of stirring, by slow degrees, the question of slavery, and, in due season, the solemn one of universal emancipation. You may call such people fanatics, hypocrites, or knaves, or by whatsoever other epithets



H. OF R.]

Case of Marigny D'Auterive.

[JAN. 18, 1828.]

of reprobation you please, but all the while the fatal consequences of their principles and their movements, may spread and be felt in every part of the country. If such a character should ever show his face in this House, I trust there will be always here, men of firmness and talent, to make him toe the twig, and avow himself clearly, so that he may be held up to the scorn and detestation of every good man in the nation.

I confess, sir, that, being little accustomed to address the House, I have felt, on this occasion, much embarrassment: for, intending more particularly to reply to the remarks of the honorable gentleman from New York, and to plant myself against the efficacy of that Roman story which he had so eloquently narrated, but which he forbade me to touch, I have been obliged to turn the current of my thoughts, and have deviated into too many general observations. Sir, with whatever eloquence, and force, and solemnity, passages of history may be recited here, to warn us against future tyrants who may rise up amongst the People of this country; with whatever ingenious dress the sophistry of gentlemen may display itself, relying on the supposed ignorance and want of intelligence in this House, to detect what a "pigmy's straw can pierce," every member must be satisfied of the importance of this question, as to the security of the rights of private property, in general, though now presented in the humble claim of Marigny D'Auterive. The importance of the general principle in controversy, is the only justification for the long arguments used on this occasion, though I think that the claim is substantiated by the plain and clear principles of law.

Gentlemen here say that they do not deny the right of property in slaves; but the report of the committee does give color to, and in effect declares the doctrine to a great extent, and in so much destroys the rights of owners. They aver in effect that, as to the purpose in view, slaves are not property, or are not to be so considered. [Mr. K. here read the report of the committee of the present session, and proceeded.] I will not trouble the House with reading the report of January, 1826, referred to by the present committee, and adopted by them, as it must be familiar now to every member; but I will assert that the foundation of the report is an actual denial of the right of property in slaves. They say that slaves have not been put on the footing of property, and paid for when lost to the owner in the public service, and they report that this petitioner ought not to have relief. No matter how you disguise it, common language will be understood by the people, and they will consider a rejection of this amendment as a decision against the right of property to this extent; for the committee do aver, that, as to any claim to compensation for injury done to a slave taken for public purposes, such slave is not considered as property, and therefore not to be paid for. Now, sir, this is the very reason why I would now decide at once that they are property, and so to be considered, and settle the question forever. I stand upon the ground that slaves are property to all intents and purposes, and should be paid for as such, like every other species of property. I will not take upon myself to lay censure on an honorable committee of this House; but I must say that all the excitement which has been exhibited on this occasion, is owing to the mistaken views of their report.

If slaves are property, as admitted, why shall they not be considered as such? I will put the absurdity to this House: What is that which is property, and not to be considered such? Such refinements are not for us, sir. If gentlemen knew how this kind of thing is felt by those more immediately concerned, they might excuse my earnestness. If slaves be property, why should they not be so considered? These are convertible propositions; and they are property of a kind the most valuable and most exposed. Has any direct reasoning been offered, on ge-

neral principles, or from the Constitution, to prove that though slaves are property, they are not to be considered such? Not a scintilla of reason has been presented to support the position. The only thing like argument which has been attempted, is the statement of the gentleman from Ohio, [Mr. WHITTELLER] that it has not been the usage of the Government to pay in such cases; but all the instances he has cited, have been shewn to be inapplicable to the present. If they were applicable, I would, on that account, call upon the House now to come to a direct decision in this case, and settle the true principle. It has been urged that because the Constitution of the United States, with certain views, considered slaves as persons, they are but a qualified property, and therefore not to be paid for. You may seize the property for the public use—deprive the owner of the services of his slave, and carry him into danger even of the loss of his life, and if he be injured or destroyed, you will not pay! I will tell the gentlemen, in a word, why slaves are property: They are such in respect of the right of the owner to sell them; not like the relation between master and apprentice, or father and son, where there is a contract or a right to the temporary service—but it is the absolute power of disposing of the slave altogether, that makes him property. Again, sir, the owner of a slave pays a tax on him, as has been before enforced in this debate; and that is the peculiar badge of private property in relation to Government. The slave was property, sir, before this Government was formed—was such under the laws of the States, and was so declared by them, as he had been held by the inhabitants of the provinces before. This General Government found slaves the property of the citizens of the States, and its power cannot impugn the right. It shall not define property, but must take it as it was, and construe the Constitution, which enjoins compensation for it, when taken for public use, with reference to what is property in the States. If this Government takes slaves for the public use, in any emergency, it can only touch them as the property of the owner; not as citizens, for they are not such; and they cannot be enlisted as soldiers, or enrolled in the militia. They cannot be enlisted, because they are slaves, and cannot contract; and they cannot be enrolled in the militia, because the fundamental militia act of 1792, excludes all but free white males. An attempt has been made to do away this right of property, by comparing slaves with apprentices; but they are citizens, and participate in the rights and burthens of the Government, and are not property. The force of this suggestion, however, has been triumphantly put down by the gentleman from Louisiana, by the brief answer that, if there were any analogy, it might prove that the master of an apprentice was also entitled to remuneration for his loss, but not that the owners of slaves are not so entitled.

Not a single case has been presented from the acts of Congress, to shew that any principle has been established against allowing compensation for the loss or injury of slaves taken for the public use, without the consent of the owner. All the cases cited, were instances of the voluntary risk of the owners, except that of Purkill, whose slave, whilst impressed into the public service, was supposed to have contracted a fatal disease by working in the mud, and the claim for remuneration was rejected by a committee, on a nice distinction between direct and consequential damages.

The gentlemen of the committee, in this case, have kindly and humanely suggested, as the best scheme for obtaining compensation in these cases, to provide for placing slaves on the footing of a militiaman. I now, sir, enter my solemn protest against this suggestion, as I consider it an impeachment of the right of the slave-holder, under the existing Constitution and laws: for these provide for the case sufficiently—nay, expressly. Our slaves



JAN. 18, 1828.]

Case of Marigny D'Aulerville.

[H. OF R.]

are property, and not citizens : and I will not consent to place them on the ground of free citizens. Such a scheme is directly against the policy of the General Government, as I have stated, and against the policy necessary to the salvation of certain States, which is to exclude them from the use of arms. And as it runs counter to the feelings of Southern men, so it is a mockery of justice as a remedy.

But it has been contended that there is no constitutional provision, nor any existing law, to authorize the Government, or its agents, to take private property for the public use, without a previous contract, and that, even in the exigencies of war, neither the Government nor its agents can seize upon a slave, in a case of imminent public peril, or necessity; and we are warned against recognizing the lawless acts of officers with epaulettes on their shoulders, lest it lead to tyranny. I would guard, sir, with as much care as any man, against the slightest infringement of individual rights; but this is a national question, which involves the essential means for the security and safety of this whole People, who must, in time of war, look to this Government for protection. In whatever unpopular light some gentlemen may attempt to place this necessary power, in time of war, I am of opinion that the Government may be justified, in the imminent peril of war, and for the public safety, to seize upon such private property as the exigency of the case demands. When the Constitution was formed, it did not profess to provide for every case, which no law can do : many things were left to the pre-existing principles of Government, which were known and established. The fundamental laws of society, in every regular Government, provides for the case in question : and the 5th article of the amendment to the Constitution is only declaratory of the rights of the citizens to just compensation, and affirms the existing power of Government. It is the rock of our salvation, as it is the means of general protection, under this Government, in cases of extreme public danger. This *dominium eminens*, or transcendental propriety, or, power, is necessarily incidental to Governments of every form, and it is most essential to a Republic, wherein the general good and public safety are to be always provided for; and in extreme cases, in which alone it is to be exercised, the necessity of seizing on private property must, for the time, be judged of by the Government or its officers. The power rests on the imminent necessity of the case. I will not cite authorities here, for these principles are mentioned and stated by all the writers on political law. But gentlemen call for a previous special law to be passed. Now, sir, put the case to a committee, or to any member of this House, and either the one or the other will tell you, that, for exigencies so various, no previous law can provide. Therefore, when, under this eminent power, the property of an individual has been seized by this Government for the public safety and use, (as acknowledged,) let him not be told that he must go to the epauletted gentleman for his damages in trespass.

I will, sir, put one case : A private dwelling is on the point of being taken by an enemy, which might give him a dangerous foothold, and our army should find it essential to its safety to drive out the inhabitants—though free citizens—and occupy the building, or even for the salvation of the People from a conqueror, to raze it, with all its beautiful gardens and improvements, to the ground. The act is of direful necessity; but such like cases are put and recognized by the writers to whom I allude. And what, sir, distinguishes this of ours from other Governments, but the better security which is afforded by it to the liberties of the citizens? And will you take away from it a needful power—one essential to the protection of the People in a period of war and danger—because, possibly, at some period, it

may be abused? Shall we resign the essential means of the public safety, from a fear of the terrific ghosts of a Pompey or a Cæsar? Is it really expected, sir, that these shadows will alarm the minds of a free and enlightened Republican People? Who are we, sir, to whom these arguments are addressed? the Representatives of that People, presumed to know their rights, and to be always ready to guard them. And we are told that we must suffer the Government to be destroyed, or the People conquered, because there is no express provision in the Constitution for using private property for their safety, in case of great necessity; and that, because, perchance, in some future age, a tyrant may rise up amongst us, we must at once lop off the strongest arm of our security?

I will forbear further remark, and will only add, as to the many admonitions against an indulgence in warmth and feeling, that it unfortunately happens that all the cause for them is on one side, not on the other. Those who are interested immediately against the destruction of the individual rights in this species of property, are they who ought to speak and demand security for them. If the claim of this petitioner is supported by proper proof—which now is not denied—I humbly trust that the grounds and principles of the amendment will be recognized by a solemn vote of this House, and that we will not be turned away by a loose declamation, not applicable to the subject.

Mr. SUTHERLAND said, he would have been much better pleased with the gentleman from New York [Mr. STORRS] if he had not endeavored to shield himself from the effect of the arguments of gentlemen, by insisting that, as his remarks were made in committee, they could not be replied to in the House. He thought, however, notwithstanding the device of the honorable member, he might be able to debate the question. The speech of the gentleman was in this morning's Journal; he had read it, and it now belonged to the public. He therefore proposed making a few remarks upon its most prominent features. And he felt the more solicitous, because it contained sentiments that ought to be met, and refuted if possible.

The honorable member objected to the doctrine, that private property could be legally taken for public use, unless full compensation was made at the time. He contended that the literal import of the provision in the Constitution, implied payment when the property was to be taken. Mr. S. said, if that was the true construction, the Constitution could not have continued until this time. It would have been no compliment upon the intelligence or prudence of those who framed it, or those who adopted it. But what clearly illustrates the obvious intent and meaning of the provision about private property, is, that it is found in one of the amendments to the Constitution—prepared, says the gentleman from New York, to keep Government in check. If, however, it had been devised for the purpose of demanding compensation at the time private property was taken, why does not the provision embrace that idea in distinct and positive terms? Amendments are drawn up with the view of correcting some oversights or omissions in the original instrument to which they are supplementary. They are always prepared with great care, to meet the object contemplated by the individuals proposing them. And as that amendment is wholly silent as to paying for private property as soon as taken, and particularly when the framers were moulding a provision of caution against the Government, as the honorable member alleges, it is a matter of irresistible inference that his construction is erroneous.

How many cases had the gallant men witnessed, who had carried their country safely through the Revolution, that warned them, as men enlightened by the history of the times, to reject the notion entertained by the honor-

H. or R.]

Case of Marigny D'Aulerville.

[JAN. 18, 1828.]

able member. Nothing could have induced them to adopt such a clause. The payment for property in time of war must depend upon the circumstances of the case. In many instances the officer has no funds, or, if he should have funds, he cannot know how long he would wish to retain the property in his service—as in the instance of this slave.

Mr. S. said that he, therefore, felt emboldened in asserting, that, as the words about immediate payment were not to be found in the Constitution, it was right to take private property for the use of the Government, subject to valuation and future payment.

The next point in this case, Mr. S. said, referred to an imputation that had been indirectly cast upon another provision of the Constitution. The honorable member had censured Cicero for the following sentiment, which he had uttered on a certain memorable occasion: "*Inter arma silent leges*"—as eminently fraught with evil. He would have made the House believe, from his remarks, that the doctrine then advanced had never been heard of since, or recognized in any Government; that it had been exploded from that hour to the present—so alarming and dangerous was it in its nature. He contended that a People that favored such a doctrine were fit only to be slaves. Hear, however, what the sages of the Revolution, the fathers of the Republic—men ardently devoted to their country's prosperity, when deliberating upon this very point, decided. They resolved—and the People afterwards sanctioned their work—that the privilege of the writ of habeas corpus should not be suspended, unless in a case of rebellion, or invasion, the public safety might require it. Thus it is manifest, that this sentiment, odious as it may be to the gentleman from New York, was adopted by this body of freemen, with General Washington at their head, who had ascertained what powers were necessary for the safety of the Republic. In these piping times of peace, when prosperity surrounds us every where, when no one dreams of war, we talk most valiantly against military power. Our form of Government was however designed for war, as well as peace. The ship upon the tranquil ocean represents our Constitution in times of repose. But when the storm rages, and the sea threatens her with destruction—when her mariners are seen throwing part of her cargo overboard, then we have some conception of the Constitution, agitated by the perils of war. If pressing necessities require prompt and efficient means to save the nation, it would be highly criminal not to resort to them. That the honorable member should have omitted, or forgotten, what is thus sanctioned by our charter of freedom, is rather strange.

By the way he proves the cowardice of Cicero in rather an unusual manner, by shewing that he anxiously pressed forward to meet his fate.

[The SPEAKER here suggested to Mr. S. that he could not follow the honorable member into his debate in committee.]

Mr. S. then said, he would advance his reasons in favor of the amendment, making compensation for the loss of the slave, occurring from his working at the entrenchments at New Orleans. In the course of the argument, some gentlemen had urged the propriety of paying for the time the slave was in the service, but did not feel disposed to go any further. He was willing to pay the loss the master had sustained. And it was a matter of no consequence to him, so far as related to his vote, whether the man was impressed, or was voluntarily sent by his master. To pay the owner for the hire of this slave was not in his opinion, "full compensation." He said he would sustain the propriety of his argument from the fact, that, although a soldier receives his monthly pay, yet, if he should die in the service, a pension is allowed to his wife. This is a matter of reparation. It is intend-

ed to be in the nature of an equivalent for the loss of one's services, upon which the wife looked for support. He said, if we applied this principle to the owner of the slave, who has lost his services, there can be but little difficulty in coming to a correct conclusion upon this subject. And that in his opinion, would be by voting for the amendment before the House.

Mr. SILAS WOOD, of New York, stated, that he should not have taken any part in this debate, if doctrines had not been advanced, against which he felt himself bound to protest. The case before the House is an application for compensation for property impressed for public use. Some gentlemen, in order to support the claim, have thought it necessary to justify the act of the officer, performed without legislative authority, as a legal act, which the Government is, of course, bound to indemnify. They derive the authority from that power, which resides in every Government, to employ, in extreme cases, the whole of the resources of the country, for its preservation. It is conceded that such a power exists; but it is denied that the Executive, or any subordinate officer, can exercise this power, without the authority of a law. None of the powers of Government can be exercised without the violation of the Constitution, until the exercise of them is authorized and prescribed by law. To contend that the Executive, or a subordinate officer, has a right, without law, to exert this authority, is to clothe him with legislative power—is to delegate the highest exertion of legislative authority with which we are entrusted, to a subordinate military officer. The doctrine goes to legalize the acts of the officer, done in violation of the most sacred rights secured by the Constitution. He may take what property he pleases; his will is his rule; and, whatever may be the occasion of the impressment, or the amount in value, you will be bound to indemnify the sufferers without inquiry.

Sir, it is by small encroachments that liberty is endangered. Grant this to be a legitimate power, without its being prescribed by law, and you admit a principle which destroys the guards which have been provided to secure personal liberty, and private property, and subvert the Constitution. A prudent and patriotic General will only resort to impressment when it is necessary to secure the success of the expedition he conducts. An aspiring commander will go further—and so, one after another, each enlarging the extent of his usurpations, till the abuse terminates in a military despotism. There was no necessity to resort to this desperate doctrine to sustain the claim to indemnity in the case before the House. There are cases in almost every war, in which the commander of the forces is obliged to take something from the owners, for the use of the service, to ensure the success of an enterprise. He impresses the property, assumes the responsibility of accounting to the owner, and relies on the justice and magnanimity of his country to appreciate his motives, and to indemnify the sufferers, and, in all cases where it appears the officer acted with good faith, he will be saved harmless.

Every impressment, without law, is still a trespass. It is so considered by the 33d article of our Military Law. It is so considered by the act of April 9th, 1816. This act, made to compensate such whose property had been impressed for public use, required, that every person who received compensation for property which had been impressed, should, at the same time, execute a release of all claims against the officer who impressed the property. The courts, also, in which suits have been prosecuted by those whose property had been impressed, against the officers who impressed it, have uniformly considered the act a trespass, and have awarded damages against the officer. The cases in which a commanding officer may find the success of an expedition to require that private property should be taken for pub-

JAN. 18, 1828.]

*Case of Marigny D'Auterive.*

[H. OF R.]

lic service, may be reduced to two classes; 1st, cases of obvious occurrence, which might be provided for, but for which no legal provision has been made; 2d, contingent cases, which could not be foreseen or provided for. Our Military law makes no provision for impressment of property. The British Mutiny act provides for billeting, and for the impressment of teams for the transportation of the army on a march.

The Colony of New York during the French war, authorized and regulated the impressment of certain articles of private property, which they foresaw would be necessary to the seasonable march of their troops to the scenes of action. Cases must occur, under the limited provisions of our act, where additional means to those which are provided, will become necessary to the success of a military enterprise. This was the fact in the case before the House. The enemy were in the neighborhood; an important city was threatened with conquest and pillage—to ensure the vigor and despatch necessary to complete the works of defence, to convey the cannon, ammunition, and provisions, to the ground, and to get the army in readiness to repel the enemy, it was necessary to put the whole physical force of the country in requisition. The petitioner's property was taken, and one of the slaves received material injury in the public service. The impressment is presumed to have been made in good faith, and for the public good; others, in like circumstances, have received compensation, and, in my opinion, the petitioner ought to receive the same treatment. I would never consent to indemnify for a wanton or unnecessary exercise of authority. There is no pretence that that was the case in the present instance, and indeed such cases will very rarely occur. The liability of an officer to remunerate the owner in damages for the property impressed, and the hazard of being refused an indemnity by Congress, in case the act was not palpably necessary, will generally afford sufficient security against the abuse of power.

The only difficulty in this case is to fix on a satisfactory rule of damages, or mode of compensation. If a jury of the vicinity had passed on the case, I should adopt their verdict. If any correct estimate can be made of what that would probably be, it may be proper to adopt that sum. If the amount of damages can not be satisfactorily ascertained, I know of no other mode of compensation but to treat the slave as a volunteer militiaman, and place him upon the pension list, with a pension proportioned to the degree of his disability. If any more eligible mode of compensation can be suggested, I shall be willing to adopt it.

Mr. EVERETT observed, that he did not rise for the purpose of entering into a detailed discussion of the question before the House, but to express in the simplest form in his power, the view he had taken of the subject, and the considerations, which would govern him, in giving his vote in favor of the amendment. In the first place, continued Mr. E., in reply to the inquiry of the gentleman from New York, [Mr. WOOD,] which the gentleman from Louisiana [Mr. LIVINGSTON] professed himself unable fully to answer, I would observe, that it appears, from the original papers of the case, that the slave impressed sustained an injury from the fire of the enemy; that he was wounded in the left eye and left arm, deprived of his eye and permanently weakened in his limb; so that the injury suffered was the direct and not the consequential effect of the impressment. In answer to the other demand of the same gentleman, viz: for a measure of damages, I would farther observe, said Mr. E., that a tribunal, which I take to be the usual one in such cases, two or three neighbors, had testified that they conceived the owner of the slave to have suffered an injury, to the amount of the compensation now claimed. This testimony may be seen among the original pa-

pers of the case; which, though too long to be conveniently read, may be consulted by any gentleman, at the Clerk's table.

The real merits of the question, said Mr. E., may, in my opinion, be reduced to narrower limits than might be supposed, from the wide range of the discussion. The claim arises under that provision of the Constitution—that amendment of the Constitution—by which it is guaranteed that “private property shall not be taken for public use, without just compensation.” Now, sir, by rejecting this amendment, we virtually introduce into this provision of the Constitution, the qualification “excepting slaves.” We make it read, “nor shall private property, excepting slaves, be taken for the public use, without just compensation.” I am prepared to say, without scruple, that if, at the time of discussing and adopting this amendment to the Constitution, it had been proposed to insert such a qualification of it, it would have been fatal not merely to the amendment, but to the Constitution itself. I am willing to leave it to the candor and common sense of every gentleman, in the House, whether a proposition going, in effect, to say, that “private property, in slaves, might be taken for the public use, without just compensation,” would have been entertained for a moment, when the amendments to the Constitution were adopted.

There is, I own, continued Mr. E., one view of the matter, which struck me with some force, as an objection to the allowance of this claim. Admitting the principle, that property impressed into the public service is to be paid for, the measure of compensation is to be sought, in what would have been the terms of a contract, had the property been taken under contract with the owner and not impressed. Now it may be said, that no person hiring a slave, would insure his life, which we virtually do if we pay this claim. This objection, however, seems to me only plausible. Suppose the Mayor of New Orleans, instead of impressing a slave, had come to his owner, and proposed to hire him, would not the owner, in making his terms, have said, “this is no common case of service; you want the man, not to work in your garden or plantations, but on the lines, where he is to be exposed to the fire of the enemy, from morning to night. I cannot yield him, at the usual rate of wages; I must be paid according to the peculiarly dangerous nature of the service.” Such would be the language of the owner; and the least he would demand would be indemnity against the damage actually sustained; on the common principles of contracts, he ought to have more; he ought to be indemnified against the risk of the total loss of the slave. I therefore know of no better measure of the compensation, to which D'Auterive is now entitled, than that which is found in these documents—the judgment of the Physician—the opinion of the neighbors, that a loss to the amount claimed has been sustained: for it was sustained by the direct effect of exposure to danger, known to exist when the man was subjected to it, and against which his owner would have stipulated in a contract.

I cannot admit, said Mr. E., that the nature of the right of impressment, or, if you please, the quality of the act of impressment necessarily comes into discussion here. We are not now called to legalize (if I may use that word) the act, by which this property was impressed. We did that at the last session of Congress. We paid D'Auterive for his other property, taken at the same time. On the passage of the bill, making the appropriation for him, I do not find that a division took place. The Yeas and Nays do not appear to have been asked. I cannot find the name of either of my friends from New York [Messrs. WOOD and STORRS] on record against the allowance made to Marigny D'Auterive last Winter. It is therefore not now a question, whether we shall adopt

H. or R.]

Case of Marigny D'Auterive.

[JAN. 18, 1828.]

the act, by which this man's property was impressed into the public service; but whether, having paid him for a part of it, and with a report from the Committee of Claims in favor of another part, we shall refuse to pay this remaining portion. If we do refuse, it must be on strong grounds, applicable to this particular part of the property. The preliminary question has been settled.

Mr. E. said he should not enter into the consideration of the precedents. Among all, which had been cited, there appeared to be but one of an impressed slave, and that one was not a case fully in point; because the injury sustained, although probably the effect of the exposure, was not certainly so. Granting, however, that it were fully in point, it would still make but a single precedent hitherto produced, against such an allowance as is now asked: an insufficient ground certainly for refusing to pay for a part of the property, while you pay for the rest.

The argument against this claim drawn from the analogy with the case of minors and apprentices, who might die in the military service of the country, said Mr. E., I heard with some pain. There seems to me no resemblance, scarce a shadow of likeness, in the cases. What, sir, shall we adopt an analogy, which would make the free citizen of the country, because he lacks a year or two of the term of legal majority, the property of his master! The most that can be said, is, that his master or father has a qualified property in his services; and this is balanced by obligations essentially reducing the value of that property, in a pecuniary view. Besides this, the analogy supposes what cannot happen. The minor and apprentice cannot be impressed into the service of the country. If they enter it at all, it must be after an act has been passed by the supreme legislative authority of the country, emancipating the son from the *patria potestas*, making the apprentice *sui juris*, and thenceforward competent to form with the country the contract of military service. When he has thus entered by contract into the military service of the country, he is there for himself, for his own rights as a citizen. No doubt such a law is an invasion of the interest of the parent or master, in the minor's services. The law, which has been referred to, recognized this, in assigning them a part of the bounty money; but it is a kind of interest, which, if extended to a claim for an indemnity in money, for the loss of the life of a free citizen, would be in opposition to the spirit of all our institutions.

The case of the slave impressed is totally different. The analogy fails in the most important points. He does not enter into the military service of the country by contract. He cannot contract. His master has not contracted for his slave. On the contrary, at a moment when, by the Laws and Constitution of the country, he is the property of his owner, the Government comes by force, takes him away, and destroys him in the public service. To make the case parallel, we must suppose an act of the Government emancipating the slaves, and enabling them to enlist in the army. Would any Government think of passing a law simply emancipating the slaves of its citizens, without making any compensation to their owners? Such an act would indicate a tyranny, as absolute as any that ever oppressed a people. It had lately been objected, with justice, by Lord Howell, to the views of those benevolent persons in England, who were contemplating the abolition of slavery, that they looked too much to the condition of the slave, and too little to the rights of the master; and that the ideas of emancipation and compensation ought to go hand and hand.

With respect to the dangers to flow from sanctioning the act, by which the property of D'Auterive was impressed, it is not now a question. We have already sanctioned the act, by making compensation for a part of the property. It will not be averred, that the inte-

rest of the master in his slave is more sacred, than his interest in any other and all other kinds of property. This argument proves too much. When a necessity of impressment exists, I know of no species of property that can be protected. In the extreme need of the country, it must be defended by all its physical means. We have sanctioned the act, by which our officer went into D'Auterive's enclosure, and took his cart, his horse, and his wood. Is it less dangerous to sanction this invasion of property, than an invasion of that in a slave? I know the power of impressment is the most odious in the world. It rests on the most odious plea; that of necessity, which knows no law. I would do nothing to extend it. I would do every thing to restrain it. But how shall we best limit and bound it? How can we do so more effectually, than by imposing a rigid law of compensation? How can we better heal the violated law of property, than by making fair payment of the injury sustained.

Mr. E. observed, in conclusion, that he had looked into the original papers, and found what he regarded as evidence of the impressment; he had found proof, that the injury arose from the fire of the enemy; he had found satisfactory evidence of the extent of the injury; and having already agreed to pay D'Auterive for a part of his property, he could not now consistently refuse to pay him for the remainder.

Mr. ALLEN, of Massachusetts, said, he had not intended to say any thing in this case; but he owed it to himself to state his reasons, to sustain the vote he was about to give. But, after all the argument and eloquence they had heard on the subject, he would add but very little to the debate. He said, he considered that the right of the master in the slave was founded solely in the municipal law of the place, and he was bound to respect the right, as assured by the laws of the State where this relation is recognized, and disclaimed all right to interfere with it on the part of the General Government. The subject was exclusively within the competence of the States where slavery exists, and this Government has no authority or power over it. Still, there was a distinction between the right of the master in his slave, and that of the owner of other subjects of property. The right of the master rests solely in the municipal law of the place, and is limited to the jurisdiction of the State. If the slave, therefore, pass out of that jurisdiction, and into a Government which does not recognize this kind of property, the right of the master falls, there being no law to sustain it. Not so with other property. This is founded in a principle of universal law; and the right of the owner is recognized and protected in every civilized country. It was on account of this distinction that the holders of slaves thought an express provision necessary in the Federal Constitution, in order that they might reclaim them when found in States where the municipal law does not authorize this kind of property. If this property had rested on the same foundation as other property, no such provision would have been necessary. The owner might have taken it under the universal law, as he might other property, or might have found redress in the Courts in the like manner. It belongs to the municipal law to settle relations between individuals—to regulate the rights between private men. The right of the Government over the person, and to the property of the citizen, pertains to the public law, or, as it is sometimes called, the law of empire.

I am not prepared to say that it is not competent for this Government to provide by law for calling out this description of persons for the defence of the country. It pertains to all sovereignty to defend the territory and the people, and all the strength and resources of the country, are put at its disposal to enable it to fulfil this duty. Will any one say that it was not competent for

JAN. 18, 1828.]

*Case of Marigny, D'Auvergne.*

[H. OF R.]

these States, in case of imminent danger, before they became a party to the Federal Government, to call out this description of persons, and to form them into a military force for the public defence? I believe this expedient has been resorted to in great exigencies, in all countries where slavery has existed. If the defence of the country then has been devolved upon the Government of the United States, I am not prepared to say that it has not a strict right to resort to this kind of force for the necessary defence. It would be one of the last expedients, however, to which I would be willing to resort. But, suppose such a force brought into the field, would this Government be obliged to pay for all that might be killed in battle? I trust not. It would be beyond the resources of any country. A single regiment might create a burden upon the Treasury of a million of dollars. But, said Mr. A. the claim of the master is not sustained by any principle of law applicable to the case. When the slave is impressed into the public service, the relation created by the municipal law is suspended between him and his master, and he is brought under the public law which regards him as a person and not as property—subjects him to discipline, and makes him answerable for his acts, and punishable for his delinquencies. Government had at all times a direct and paramount right to the services of this description of persons. They owed this duty to Government, and the property of the master was always subject to it. The Government then is not bound to pay the master for his slave killed in battle, or for any injury he may receive. Mr. A. said, he would not deny to the Government the right of impressment, yet no provision could be made before-hand to vest any of its officers with a discretion in the exercise of it. But there were cases of extreme necessity, and this at New-Orleans was one of them, when the commanding officer of an army in some sense represents the whole Sovereignty, and might command all the resources in his power for the defence of the country. But this did not impart any strength to the master's claim for indemnity. It must stand on its own basis, and not on the character of the act by which the damage was occasioned.

If compensation were given in this case, it might form a dangerous precedent. The slave-holding States would be slow to recognize it. Suppose some commander of an army, from a different part of the Union, and, on that account, with less of their confidence in this particular, should resort to this expedient, and impress slaves into the military service, would it not create great sensibility in the Southern States? Would they consent to it? Mr. A. said he would wish to remunerate the sufferer for any loss he might sustain in the needful defence of the country, yet it would be hazardous to recognize the principle involved in this case: that it was not required by justice or policy, and might be dangerous to liberty and property.

Mr. HALE, in rising to offer a few remarks on this question, expressed his hope that no other apology would be deemed necessary, than the fact that he was the only Representative of a State which was deeply interested in the decision to which the House should come. It was natural, therefore, that he should feel some interest, and also, that his constituents should feel some anxiety while this discussion is progressing. It was natural, he said, from his local situation, that he should feel, and that his constituents should also feel, concerned in the principle involved in the amendment proposed. It was natural, too, that, as he was the only Representative from the State, his constituents should expect that he would, at least, utter, on this occasion, something of what he knew to be their feelings and wishes. It was his duty to convince this House, and his own constituents, that he was not regardless of the interest intrusted to his care. He rose principally for

the purpose of urging, at this late hour, a decision of the question, as he was satisfied in his own mind, that the opinion of every gentleman was made up; and that there are other and great interests to be consulted, that are now delayed by this protracted discussion. He would ask if any good result is expected to grow out of the discussion of matters, foreign to the question, and that have no reference to it? He remembered, that when the memorable Missouri question was agitated, and discussed, with all the excitement that grew out of it, that the hopes of the slaves for freedom were strongly excited—excited in some States even to rebellion, of which melancholy examples were the consequence. He would not say, that some of the language used and uttered in this debate might spread the same contagious influence abroad, even to that region of country, in whose peace and welfare he should always feel a lively interest. To avert a calamity like this, was his principal inducement for trespassing on the time of the House. Sir, the hopes of the slave for freedom may be inspired by gentlemen, without knowing that they only add another link to the chain that fetters this population; they only add to that quantum of misery that the People of the South have attempted to mitigate, by kindness.

No gentleman has, he believed, pretended to deny the validity, and the sacred and unqualified right, of the slave owner. This was admitted on all sides. But, in order to resist the claim, gentlemen say, and so do the Committee, that this "species of property" is not a fit subject for indemnity; and that the Government have never regarded slaves as property. I will not condescend to argue on such a proposition; I will not condescend to argue the fact, whether slaves are property to the master, or ever were regarded by the Government as such.

The only true question seemed to him to be, whether the officer, under the exigencies of a state of war, may not impress the private property of the citizen? I place slaves on the same footing as other property. You can make no distinction, and all the arguments in the world would not weaken this position—a right consecrated by the Constitution—protected and defined by the municipal laws of the several States. On this question, no reasonable man can hesitate for one moment. The right of impressment has been admitted by this House for many years, in the payment of various claims of individuals for property impressed. Will we stop to inquire into the motives that operated on the mind of a military commander, invested and clothed with all that power that springs from a state of danger and alarm—that power, that originates from necessity, that knows no law—will we stop to ask, at such a moment of danger as that, whether the impressment of property for the public service, to contribute to the general good, was justifiable or not? What! when that city, which is the key of all our Western States—I might say of this empire—was at stake, threatened with the most terrible evils from an invading foe, was it an hour to cavil about law? Necessity dictated laws for that occasion, and the result convinced the world, that the means employed were honorable.

Sir, said Mr. H., I will not go home and tell my constituents that I deemed their rights of property so precarious as to justify me in their defence. I would as soon discuss a question, whether the wool which grows on the sheep of our Northern brethren (about which we have lately heard so much, and shall soon hear more), belongs to the farmer who rears it. This right of property is sacred in every State. It cannot be touched by this House—it cannot be reached in its legislative capacity. It is beyond the jurisdiction not only of Congress, but of the Federal Government. It is a subject exclusively of municipal regulation—and if the State of Louisiana declares that slaves are property,

H. of R.]

Retrenchment.

[JAN. 19, 21, 22, 1828.]

this House must recognize them as such. If a Federal officer has seized upon the property for public use, the owner can demand compensation, under that clause of the Constitution which says, "private property shall not be taken for public use, without just compensation."

It has been said that there is no authority vested in any officer, that authorizes him to impress slaves; and that the officer who does so is a trespasser. He might be deemed so on any trivial occasion. But, sir, would you, under the circumstances in which this impressment was made in this case, consign your officer to the ignominy of a trial; and force the party aggrieved to seek redress and damages from the gallant defender of his country? A gentleman from New York [Mr. Wood] says, if the officer had been prosecuted by the civil authorities, and the damages ascertained by a jury, he would vote for the claim. Such a rule has never been required in any former case. Under the peculiar circumstances of this case, it would have been ungenerous to have turned the defender of his country over for trial, and perhaps have him mulcted in a heavy fine, and then throw him upon this House for indemnity and release from the judgment. I hope we will never imitate the ancients in their treatment of their benefactors. We have too much generosity to consign our deliverers to a prison, and leave them to the fate of Miltiades. He trusted such a principle would never be adopted by this House.

The interest, Mr. H. said, he felt on this occasion, is perfectly natural—it may result from his education, his habits of thought, and from his situation as the representative of a People who are deeply involved in the consequences of your decision. If this House is about to say that private property can be taken for public use without just compensation, then the People have mistaken the Constitution under which they live. I perfectly agree with the sentiment just expressed by the gentleman from Massachusetts, [Mr. EVERETT] that, if such an exception had been expressed, as the one contended for by the Committee of Claims, when the Constitution was presented for adoption, it never would have been ratified; and our voices would not have been heard to-day in this hall. He had too high a regard for the feelings and character of the House, and too much reliance on the integrity and justice of its members, to believe, for one moment, that they will sanction a distinction attempted to be made between the property of citizens of different sections of this Union. He did not believe we had reached this state of things at this time. He would never despair of the Republic until the attempt was really made to draw such a line of unjust and odious distinction—till the rights of one portion are sacrificed to the ambition or avarice of another. In conclusion, he would say, emphatically, that he would not despair, so long as the rights of his constituents were regarded, and preserved from any unhallowed grasp. For himself, he would undertake, on such a question—and the time may come, when he should feel himself justified to use the language of Hotspur—

"To cavil on the ninth part of a hair"—

and that, too, with arms in his hands.  
[Here the debate closed for to-day.]

SATURDAY, JANUARY 19, 1828.

As soon as the Journal of yesterday was read,

Mr. SWAN, of New Jersey, rose, and addressed the House to the following effect:

Mr. SPEAKER: It has become my painful duty to announce to the House the melancholy intelligence of the death of GEORGE HOLCOMBE, late a Representative from New Jersey.

To the Members of this House, and especially those who have had the satisfaction of a personal acquaintance with the deceased, no eulogium can be necessary from me.

Exhausted by the pressure of a protracted but anyielding disease, he sunk into the embrace of death, on the morning of the 14th instant.

To his family, sir, the loss is irreparable—the affectionate husband and the kind parent is no more.

Mr. S. then moved the following:

*Resolved*, That the members of the House of Representatives, from a sincere desire of showing every mark of respect due to the memory of the Hon. GEORGE HOLCOMBE, late a member thereof, will go into mourning one month, by the usual mode of wearing a crape round the left arm.

*Resolved*, That the Speaker of this House be directed to notify the Executive of New Jersey of the vacancy in the representation of that State, by the death of GEORGE HOLCOMBE.

The resolutions were unanimously adopted;  
And the House, thereupon, adjourned.

MONDAY, JANUARY 21, 1828.

No business, giving rise to debate, was transacted this day.

TUESDAY, JANUARY 22, 1828.

RETRENCHMENT.

Mr. CHILTON moved the following resolutions:

1. *Resolved*, That it is expedient to discharge the National debt, without unavoidable delay; to accomplish which desirable object, a resort to a general system of retrenchment is necessary. This, it is conceived, can only be effected by

First. A judicious reduction of the number of officers receiving salaries or pay from the General Government, and of the salaries of such as are necessarily retained in public service: avoiding, in each instance, the adoption of any measure which would be incompatible with our national dignity.

Second. By avoiding each and every appropriation or expenditure of public money which is not imperiously demanded by the justice of the claim, or the necessities of the Government, with a view to its efficient operation in a spirit of republican simplicity and economy.

2. *Resolved*, That the matters and things contained in the foregoing resolution be referred to the Committee of Ways and Means, with instructions to report to this House what offices, in their opinion, may be most advantageously discontinued, what salaries will reasonably bear reduction, and such other means of retrenchment as to them may seem necessary.

The resolutions having been read,

Mr. McDUFFIE (Chairman of the Committee of Ways and Means) said, that he should be glad to hear some specifications of the objects to which the mover of the resolution wished to direct the Committee's attention. He should be sorry if the Committee of Ways and Means should be obliged to revise the whole system of Government of the United States, the Civil Department, the Army and the Navy. The abstract propositions in the resolution were certainly just. It was very desirable that the unnecessary expense of Government should be reduced; that the public debt should be paid; and that economy in the public expenditures should be promoted. But really, as the resolution now stood, he should feel at a loss where to begin, or where to end. If the honorable gentleman wished to diminish the number of military officers, he ought to have directed an inquiry by the Committee on Military Affairs. If he was desirous of reducing the number of officers in the Navy, or rather, of

JAN. 22, 1828.]

*Retrenchment.*

[H. or R.]

preventing their unnecessary increase, the resolution ought to have been sent to the Committee on Naval Affairs; but it did not appertain to the Committee of Ways and Means, to say, whether the several branches of the public establishments were, or were not, too large.

Mr. CHILTON, in reply to Mr. McDuffrie's inquiry, and in support and explanation of his proposition, rose, and addressed the House as follows :

Mr. Speaker : The resolutions which I have just had the honor to submit, contemplate, in the first place, the establishment of one grand national truth—a truth, indeed, of axiomatic character, to wit : that a national debt is a national curse, and should, hence, be liquidated and discharged with all convenient despatch. This doctrine is, indeed, not only unlike, but the reverse of that which has been again and again contended for by some members of this community: and which, to some extent, it would seem, has received our sanction, by our conduct ; but experience, the most trusty of all monitors, has at last exploded the heresy, and the American People begin to look with fond concern to that shrine, upon which they will be able to proclaim themselves politically, civilly, religiously, and morally free.

The remainder of my proposition divides itself into three parts. The two first are mere specifications under the general maxim, first attempted to be established, and designed to designate the means by which its object can be accomplished. The third relates merely to the Committee of this House to which the whole subject-matter should be referred. To each of these considerations I shall attend ; but, Mr. Speaker, I am constrained, by a remark which fell from my honorable friend from South Carolina, [Mr. McDuffrie] to invert, to some extent, the order in which I should have considered them, and first to speak of the Committee to which the reference should be made. The gentleman has said, that the Committee of "Ways and Means" is already oppressed with business, and would have, perhaps, not sufficient time to devote to an undertaking so elaborate—one, indeed, which, from its character, furnishes neither a point at which to commence nor conclude the inquiry. Sir, I am conscious of the many difficulties which ever will attend this inquiry ; hence, I am bound to agree with my friend when he says that it will be a work of much time and great labor. Great will be the labor attending the investigation, but greater far the necessity which exists for it. I can assure the honorable Committee to whom I have proposed this reference, that, so far from designing to accumulate burdens upon them—and so far from my propositions being dictated by any unkind feeling towards them—it was designed and it should be considered one of the strongest marks and most conclusive proofs of my regard for its members, and confidence in their entire capability to prosecute so difficult, so unpleasant an inquiry, through all the mazes which will necessarily attend it. I would further remark, sir, that I have examined the rules of this House, and am satisfied that to one of two Committees the resolutions must be referred—for example to that named, or to the Committee on "the Public Expenditures." I have chosen the former without the slightest disposition to reflect on the latter, believing, in addition to what I have already urged, that the investigation or inquiry falls strictly within the pale of the authority of the first as defined and marked out by your rules. I have proposed a reference to a standing Committee, Sir, for another reason. It is that those Committees are generally made up of the most experienced and able members of the House—of such as are experimentally acquainted with the vast machine of Government, and can the more easily detect that part which fails to perform, or performs badly its duty ; or which operates as a detriment to the general scheme.

I, sir, from the remote distance at which I have been reared from the seat of Government—the seat of authority and patronage—could not be expected to comprehend, in all its parts and in all its minutia, a system so complicated. I have nevertheless, with the advantages of an humble education and but limited opportunities, been able to discern that public confidence is often abused, and public money incessantly squandered, by means, and in shapes, beyond my numbering.

Sir, I am conscious that, as a young man, and a new member of this honorable body, to its lenity alone I shall be indebted for the devotion of a few moments of its time to a view of this subject, which, when submitted by me, must stand or fall upon its intrinsic merits or demerits. A suggestion has been made, that, in submitting a resolution of this character, I should specifically name the officers whose services I would dispense with, the salaries I would reduce, and the expenses I would curtail. All this would I do : and more if in my power : But, sir, if I were able to do this—the necessity which exists for a reference at all, would be altogether superseded. I could then move on with a bill, directly embracing my views—but, in the present case I am situated as is the physician, who knows his patient to be diseased—yet knows not where the disease is located, nor the remedy which will heal it.

Mr. Speaker : In relation to that part of my resolution which supposes the existence of a greater number of officers, who are receiving pay or salaries from the Government, than are necessary to attend to its concerns, I am guided and influenced by the long list which is annually presented to this House. I am further influenced in the formation of my opinion, by information received from various sources, entitled to my confidence and to the confidence of the nation, that there are many sinecures in office; men, sir, who, to give the plain English of the matter, are feasting and fattening upon the Treasury : rendering, in the mean time, no services, nor, indeed, having any to render to the country. If gentlemen seek for specifications under this general remark, (as it may be considered,) I would observe, that I am informed our Navy list is crowded ; that, at West Point, perhaps, from thirty to fifty Cadets have been educated at the expense of the government, who are wholly destitute of employment; that a fifth auditor was appointed for a time which has of course passed away, and under circumstances which exist no more, nor longer require his intervention or aid ; and, indeed, that, in most of the public offices, more clerks are employed than are necessary to transact the business of them respectively—some receiving pay from public appropriations ; others from the "Contingent" Fund. If, upon these subjects, I am correctly informed, I cannot hesitate to say, that reform or ruin will constitute with us the closing scene. To satisfy my own mind, sir, unaided upon these subjects, is utterly out of my power. For, if my inquiries relative to them are answered by either persons or papers, I am bound to consider it a matter of courtesy rather than of right, having no official power to approach either. My object, then, can only be attained by instituting such an inquiry as this, and by a reference of it to some committee bold enough to encounter in the investigation a thunder storm of opposition, though its bolts should be hurled by even the Great Head of the Heads of Departments. As my object, Mr. Speaker, is to be entirely brief, my remarks already made, must suffice upon that branch of the subject noticed.

It, in the next place, becomes my duty to allude, at least, to salaries which, in my opinion, would reasonably bear reduction. Here, sir, though, I hope, with honest motives, I am situated differently from some of my friends upon this floor. They insist that they know not where to seek a beginning point, nor in what region to look for a salary upon which to commence the work of



H. OF R.]

*Case of Marigny D'Auterive.*

[JAN. 22, 1828.]

operation of reduction. I, on the other hand, know not what part of the body politic is most infected, and demands the most speedy remedy. If, however, sir, I am compelled to particularize, I present the long list of salaries as fit subjects for amputation. Amongst the rest, I must not neglect to bestow a more specific, though a passing notice, upon the pay received by Members of Congress, who are sitting here at their ease, receiving eight dollars per day for their services, and eight dollars for each twenty miles travelled, in reaching and returning from the seat of the General Government. This sir, is the last modification of the ever memorable "Compensation Law." Previous to the passage of that act, Members of Congress received, for their services, only six dollars per day. We had then councils as wise and dignified as at present; and I doubt not that we should again see our Legislative Halls filled with honorable and intelligent men if the compensation were reduced. A reason, and a strong one too—for this reduction, is found in the fact that our country is oppressed, and that the fruits of domestic industry, instead of price, command a mere pittance; not half so much as when aspirants for seats in Congress filled the ranks, as mere volunteers, without the formalities of a draft.

The only remaining branches of this subject which I am bound to notice, relate to the importance of avoiding unnecessary expenditures of public money, for our own accommodation, and to the necessity which exists for the exercise of caution and prudence, in making appropriations to meet the claims of others. If it be demanded of me to know, what departure from the rules of republican simplicity and economy I have witnessed here, and which I conceive to fall subject to the first of my two last divisions, by way of answer I can only request you, Mr. Speaker, to cast your eyes around this spacious Hall, each morning, upon entering it—see upwards of 200 tables piled with printed documents—private or local matters—interesting, perhaps, only to one solitary individual in the whole Union—a string of affidavits, certificates, letters, or depositions, accompanied by a report as long as the Moral law; yet all must be printed! This matter, which gentlemen may consider unimportant, is, to my mind, a crying evil. Members from the East, and North, and South, may, from the circumstance of their having been rocked in cradles of luxury and ease, think it a small matter to expend small sums of public money. But, sir, the Western People, particularly that portion of them whom I represent, have, upon the subject, but one voice; it is, so far as I understand it, that which I have spoken. They have liberally contributed to the support of your Government in peace—they have nobly defended it in war—and are, therefore, entitled to their weight upon this floor. I say, in their name, that we are gliding imperceptibly down the smooth and deceptive current of extravagance and prodigality, and steering, without a change of course, directly to the port of National Bankruptcy and ruin. This argument, sir, gentlemen may attempt to answer, by insisting that my picture is too gloomy—that we are prosperous—that universal peace prevails—that our nation is powerful—and that, therefore, we may indulge to some extent, in extravagance. Permit me, sir, to suggest, that industry and frugality, not indolence and prodigality, are the legitimate parents of national prosperity; and that financial ability preserves peace—and that the worst of all independent conditions, in either peace or war, is that in which a nation is placed, "having nothing to depend upon."

Mr. Speaker, I must close with but a few additional remarks. In the present condition of our national affairs, having all the advantages of revenue, derived from the duties upon imports and tonnage, as also from the sales of public lands, and other incidental sources of

revenue—we can just struggle on, gaining nothing upon the current, if it gains nothing upon us. But, sir, should the dark cloud of war gather over our heads, and begin to burst in loud thunders upon our happy country—particularly when our commerce shall, by its effects, be cut off, and our public lands exhausted—let me entreat gentlemen to inquire how, and where, they will obtain money to support the Government, seeing that we wade deep in time of peace and prosperity.

Sir, by the course which I have taken upon this occasion, I may expose myself to the censure of members upon this floor. If so, I shall greatly regret it: as my object is, to promote my country's happiness, not to injure even its humblest supporter. Upon this occasion, I have discharged a duty which I owe to my constituents—redeemed a pledge which I conscientiously gave them; and having so done, with the most grateful feelings to the House for its polite attention, I take my seat.

[The hour for the consideration of resolutions having expired, the House proceeded to the consideration of the orders of the day.]

#### CASE OF MARIGNY D'AUTERIVE.

The House then resumed the consideration of the bill for the relief of Marigny D'Auterive; and the question being on the amendment proposed by Mr. GURLEY—

Mr. INGERSOLL said it had not been his intention, originally, to take any part in this debate. But as the discussion had gone on, so many different views had been presented, and many of them so different from his own, that he was induced to ask the indulgence of the House for a few moments, while he submitted the reasons which would govern his vote. Notwithstanding all that he had heard—and he had listened attentively to most that had been said—he was unable to perceive that either the Constitution of the United States, or the angry question whether slaves are property or not, had any necessary bearing upon the case that we are called upon to decide. The Constitution had, indeed, declared, after providing that no man shall be deprived of life, liberty, or property, without due process of law, that private property shall not be taken for public use, without just compensation. Private property may be taken: by whom? Unquestionably by the Government, to whose use it is to be applied. But it is assuming the main point in dispute, to say that a military officer of this Government, who, from the very nature of his appointment, must, and he hoped always would be, held strictly subordinate to the civil power, can, at his discretion, appropriate the property of the citizen to the use of the army, until it can be shown that we have imparted to him this high attribute of sovereignty, which has been confided to the Federal Government. It is not enough to show that the power of converting private property to public use, is entrusted to this Government, you must go further, and show that the legislation of Congress has delegated to our officers the power which the States of this Union have placed within our control. You must not only show the existence of this power in the Constitution, but you must show that it has been exerted in the given case. Between the article in the Constitution, which has been so often alluded to, and the officer who assumes the power contained in it, there must be a connecting link, an act of Congress, or he cannot touch the property of a citizen, either in the emergencies of peace or war, without being a trespasser; he must forever remain alone responsible, unless we ratify and adopt as our own, what we have refused to authorize by previous legislation. The Judiciary Committee have already informed us, in a report now on our tables, that it is inexpedient to define by law how, when, and under what circumstances, property of a citizen may be taken for public use; and the

JAN. 22, 1828.]

*Case of Marigny D'Auvergne.*

[H. OF R.]

proceedings of Congress may be searched in vain to find any act confiding either to its military or any other agents, the alarming powers which have been contended for during this debate. Whenever Congress has acted on the subject, it has been always on the supposition that the seizure was a trespass; they have preferred that method of meeting different cases as they arise, rather than, by any general law, to place the property of the citizen at the discretion of a military commander. Why are we called upon to pass an act of indemnity now, but for the fact, that the seizure was unauthorized by any previous provision, and consequently a trespass?

But, further: The act of 1816, providing payment for property impressed into the public service, and lost during the war, in its very terms recognizes an impressment only as a violation of private right. The sixth section of the act declares, that, in all cases where a recovery has been had, against the officer, by the owner of the property impressed, the amount so recovered shall be paid to the officer, instead of the owner; and, in all other cases, the person whose property has been taken, before he is paid, shall execute a release to the officer. Why did that act presume that a recovery might be had, if the Constitution had already authorized every military officer under it, to take private property for public use?

If the article referred to had never been added to the Constitution, it is admitted on all sides that the seizure of property by an officer would constitute a trespass: and he had already shown, by the terms of the law of 1816, that similar acts were considered trespasses still. He felt, therefore, warranted in repeating what he had asserted at the outset, that this article of the Constitution had no necessary connexion with the case before us. The impressment—if it was an impressment—would have been a trespass, had this article never existed; and, in the absence of any legislation, this part of the Constitution, standing by itself, does not make that right which was previously wrong.

There may be, as there frequently had been, many cases of the impressment of property, in which it was highly expedient for us to interfere and grant relief; but our interference should always be governed by sound and safe principles of legislation, and not based upon the dangerous doctrines which had been pressed upon us, to induce us to interfere here. He would always protest against the principle that the seizure by a military officer, unless previously authorized by law, created a corresponding duty on our part to respond in damages for the injury suffered. When we make a grant for an individual injury thus sustained, we do it as a gratuity, not in payment of a debt.

There might be difficulty in determining how far Congress had hitherto felt disposed to go, in granting relief to those who had suffered in their property, by its being taken for the use of the army. But he believed he was safe in saying that Congress had never, since the existence of the Government, so far countenanced the propriety of impressing our slave population into the military service of the country, as to adopt as its own the act of any officer who had taken this responsibility upon himself. And he believed that the owners of slaves, generally, had themselves acted upon the supposition that the Federal Government, in the exercise of its functions, either in peace or war, could not interfere with slave property against the owners' consent, either for the defence of the country or otherwise. Certain it is, that, although slaves have frequently been employed by our officers, yet but six instances could be found where any application had been made to Congress to so far sanction the proceedings, as to pay for the loss sustained; and in every one of those cases we have refused to interfere. The fifth section of the act of 1816, to which he had before alluded, directed "that, where any property had

been impressed, or taken by public authority, for the use, or subsistence of the army, during the late war, and the same shall have been destroyed, lost, or consumed, the owner of such property shall be paid the value thereof," &c. It was notorious that many slaves were impressed for the use of the army, and lost or destroyed in the service, but he had never heard that their owners thought of applying to the commissioner appointed under that act, while it was in existence, for the value of their slaves thus lost. In 1819, (if he might be excused for alluding to what had taken place in the Senate,) although that honorable body had directed one of its committees to report in favor of one of the cases which was cited the other day by an honorable gentleman from Ohio, [Mr. WATTELESBY] yet, when a venerable Senator from North Carolina, at the same time, proposed that a committee should inquire into the expediency of paying for all slaves that had been impressed into the public service during the war, the Senate negatived the proposition, by a vote of 22 to 12; eight or nine of the majority thus refusing being from the slave-holding States. It was fairly to be inferred from these facts, that the practice had uniformly been against the use of slaves in the military operations of the country.

Unless he was greatly deceived, the principles advanced by the advocates of the present claim would, when carried to their full extent, be extremely troublesome to those who now seem to be the most anxious for their adoption. These principles imply that the Federal Government can separate the slave from the master, without the consent of the latter, upon paying such compensation as the Government itself may deem just. If slaves can thus be taken in time of war, they can in peace. When a proposition was submitted, some years ago, to the Senate, to appropriate a part of the public lands as a fund for the purchase of slaves, with the consent of the States in which they reside, we all recollect the excitement which the assertion of such a power created; and, yet, what was it more than a proposition to consent to what the Government might consider the public use of slave property, when paying a "just compensation?" It was then asserted in the public press, and in the halls of legislation, that the subject was one to which the power of the General Government did not extend. But, in the heat of this debate, we have again and again heard doctrines infinitely stronger and bolder in their consequences than those contained in the proposition to which he had alluded.

If, however, the precedents in similar cases should be so far reversed as to justify our paying for slaves when in the military service, there was no principle, even in regard to payments for other species of property, that would justify our allowing the present claim. The act of 1816, which was framed with great care, went as far as Congress ever had gone in remunerating individual loss. But that law provided only for property lost or destroyed, not injured. Let the practice be once admitted that we are to pay for property which becomes injured, but is restored to the owner, and there never will be a case where the property has been used, but the Government will be called upon to pay for extraordinary injuries. The act of 1816 was, therefore, positive in its provisions, that the property should be lost or destroyed. Unless, therefore, slave property is to be put on a more favorable footing than other property, this claim cannot be allowed. The true doctrine on this subject was, that we are to pay for the services we received—not for an injury which is incident to the employment. We do not become the insurers of the lives or the health of those whom we employ; the only obligation that can be created, is, to render a fair equivalent for their services; but, in no view of the case, could he see that we were bound to pay for this claim as now presented which is

H. or R.]

*Case of Marigny D'Auterive.*

[JAN. 22, 1838.]

not for the services, but for the injury received in the service.

MR. MARTINDALE said he had been in the habit of thinking that the objections to the amendment of the gentleman from Louisiana steered clear of all the consequences and alarming results so uniformly offensive to our Southern brethren. Sir, said Mr. M., there is no legitimate excitement in this subject. The question of slavery—of the right of property in persons—the nature and extent of that property—and the manner of using or abusing it, is not drawn into discussion; and does not, in the least affect the principles upon which this claim is refused. Slavery exists. We know it: It is a matter of fact; matter of history; and matter of law; and Congress has nothing to do with it. The Constitution has granted it no power over the subject. So service in other forms is a matter of fact and of law. There are other relations of persons besides that of owner and slave. There are those of master and servant, master and apprentice, guardian and ward, parent and child, husband and wife, all known to the laws of all the States, and constituting sacred and inviolable rights, and legal and valuable rights—rights which the laws defend, and maintain, and redress. But these are relations of persons—all of them—over which the Government of the United States has no control; can exercise no authority; and which it can neither regulate, control, nor alter: for the plain reason that there is no grant for that purpose; no authority has been conferred, and no one has ever thought of exercising any such authority, or desires to do so, until the Constitution shall confer the power. I repeat it, no one has ever contemplated exercising or usurping this power. The alarm, therefore, affected, or real, of Southern gentlemen, is wholly gratuitous, and their denunciations and intimidations are altogether causeless and misplaced, and, being so, are wholly without effect. They might as well protest against being deprived of their sons and daughters, servants and wards, and even their wives, as of their slaves, by the General Government. I protest most solemnly that I do not believe that any constitutional latitudinarian, from any department of this empire, has ever imagined for one moment that this Government had the power to regulate, alter, or change the ordinary and existing relations of persons, in whatever shape they may subsist, in any of the States. For any thing this Government can do, the parent has an absolute and uncontrollable power over his son; the master over his servant, his apprentice; the guardian over his ward; and the owner over his slave. And what then? There is no express grant of power to this Government, the legitimate exercise of which may necessarily interrupt and destroy all these tender, endearing, and valuable relations. The grant of the power to make war, and provide for the common defence, necessarily places at the disposal of this Government the whole moral and physical force of the country; in the use and selection of which it must exercise its sound discretion and wisdom. The parent—the master himself—is not exempt from the operation of this power: his personal services, and the imminent exposure of his life may be required of him: and it would be the height of absurdity to allow him to claim an exemption for his son, his ward, his servant, or his slave, which he could not claim for himself. Can this position be controverted? If it can be, I have not heard the principles stated upon which it can be resisted. I feel that I am based upon a sure foundation, when I assume that it cannot. The contrary principle must take up the dangerous assumption, that local legislation, municipal and State law, may so modify and change the condition, rights, and obligations of personal relations, as to strip the arm of Government of its entire military power. You assign to this Government the defence of the Nation; and, by the as-

signment, create the duty—sacred, imperative, inviolable—and wrest from it the means of discharging that duty. This will not be contended for. And yet this extraordinary exemption is claimed for slaves. On what principle I cannot comprehend, unless it be upon the ground that a right which we are at a loss how to defend, is of all others the most inviolable and unassailable. Its weakness is its strength. Its being an indefensible wrong, renders it an unquestionable right. These paradoxes will scarcely be assumed as the basis of a theory to be reduced to practice. Why, then, should this description of persons not be used by the Government for the purposes of defence? "They are slaves, say gentlemen; and we will not be found fighting with them. War is too honorable an occupation to be followed by slaves. We should be degraded by being associated with them." But you were associated with them. You availed yourselves of their services, and were glad of their assistance. If they did not bear arms, they raised defences for you, and brought you subsistence and the munitions of war. They encountered peril and danger, and some met death in the service assigned them; and yet, even in such company, you won victory, honor, and glory, and were no more disgraced by being associated with a slave in the perils of battle, than by the aid and company of the war horse which bore you into it. This point of honor does not seem to sustain the objection. I am disposed to think that some gentlemen have perverted an objection from inexpediency into an objection from want of power. But these objections are by no means convertible. It may be inexpedient to employ slaves in the national defence. I grant that it would be so, except in cases like the one which gave rise to this claim. But this does not affect the right or power to employ them. It is inexpedient to subject boys of sixteen, or old men of eighty, to military service—but none would question the right of the Government to do so. All things are lawful, but all things are not expedient. So, I contend that it is merely upon the ground of expediency, and not the extent and nature of the right of the master, that slaves are not enrolled in the militia, and enlisted into the army of the United States. The right to enlist or impress them, is as perfect as the right to enlist or impress the master, or his son, or apprentice. It seems to me a perfect absurdity to claim an exemption for the slave that you would not think of asking for the master or his son. And yet I would be the last man in the country to advocate the employment of this species of force as a part of the military defence of the nation. They are unfit, because they are unsafe. Their civil and political condition renders them unfit moral agents to be entrusted with arms in any considerable numbers. Instead of being relied upon for defence, they must always be defended against. Instead of being esteemed friends and allies, war will ever place them in the attitude of enemies; although, in great emergencies, like that of the invasion of New Orleans, they may be employed lawfully, rightfully, and safely, too, if not for actual fighting, at least for transportation and the erection of fortifications, breast-works, and redoubts. But if the great body of the slave population could, like their masters, appreciate the benefits of their condition, and a sense of gratitude for favors conferred by elevating them from the wretchedness of their native barbarism to slavery, the privileges of involuntary, compulsory service, would always insure their obedience and faithfulness. I cannot comprehend upon what mysterious abstraction they can be excepted from the operations of the military power of the Government. To call them property, does not define the right, either in nature or extent, which you hold in them. They cannot be more absolutely yours than you are your own; and you do not claim to be exempt. The supposed virtues which I have

JAN. 22, 1828.]

Case of *Marigny D'Auterive*.

[H. or R.]

imputed to them, would not render them less valuable to their owners, but would distinguish them as peculiarly adapted to the military service in the latitudes and climates where they mostly abound. The principle of self-government, too, devolves upon the People their own defence; and there can be no good reason for dispensing with the services of one-half of the population of any one district of the country. I come then to the conclusion, that there is nothing in the right of the master to his slave which can deprive the Government of his services; and it is only because the slave, from the very fact that he is so, is esteemed as a public enemy, that he cannot be trusted as an ally and a friend. I think, therefore, that this claim cannot be resisted upon the ground that the impressment of the slave was unauthorized, and that, therefore, the officer, and not the Government, is responsible for the act. The Government has incurred all the responsibility there is in the case, and is bound to pay whatever the master is entitled to from any one. This conclusion makes it necessary to enquire into the merits of the claim upon the Government. I begin my opposition to it, by showing that no such claim was ever made upon any Government on earth before. No Government ever paid for the life or limbs of its soldiers. Slavery has existed in all ages, and among all nations; and they have employed slaves in various capacities in the armies. They performed services there, and often times bore arms. The absolute right of the master to his slave, was as perfect then as it is now, and less controlled by law, and yet it was never heard that payment for the slave, as property, was ever made, or even thought of.

Slaves, or negroes who had been slaves, were enlisted as soldiers in the war of the Revolution; and I myself saw a battalion of them, as fine martial looking men as I ever saw, attached to the Northern Army in the last war, on its march from Plattsburgh to Sackett's Harbour.—Slaves seem to have been employed without scruple, in the defence of New-Orleans, and with perfect safety, too; and eight or ten years were suffered to elapse, before even these claims were thought of. And how came they now to be thought of? These facts show a progress of opinion on these subjects; an invention of new principles, partial and unjust in their application, and alarming and ruinous in their consequences: for it would not be difficult to show that the principles of this claim, allowed and established, would enable State and local legislation to place the whole military force of the country under the protection of State laws, and beyond the reach of the arm of the General Government. But this claim is actually *res judicata*. The principles of it have been repeatedly adjudged. The Claims Law of 1816 was enacted upon the exclusion of this claim. No provision was made for it; and though attempted, was expressly voted out, and by Southern votes too. The provision for compensation to deported slaves under the treaty of Ghent, a provision extended to no species of property lost, destroyed or captured by the enemy, for which this Government has ever held itself responsible to make compensation, virtually precludes the idea of the responsibility of this Government.

And what is there in the nature of this right in the person of a slave which is called property, which can distinguish it from the right involved in any other personal relation? It is a right of service: and that is all. This constitutes the whole value of the slave. It is all you can have of him; and this value is enhanced by the possession of those very qualities which fit him for the service of the Government. The services of the slave are valuable because they are the services of a rational being. It is his mind, his intellect, which gives him a value. Has not the master the same interest, the same in kind, if not in degree, in the services of his apprentice, or his hired servant? Has not the parent a legal

right to the services of his child? And is not this a valuable right, and one which the law will protect and defend? And shall this right be deemed less sacred and inviolable than the master's interest in the slave? And yet the father must yield up his son—in some instances his only son, the stay and the prop of his old age, his dependence for subsistence, it may be, and certainly for comfort and happiness—must yield up this son, whose value to him cannot be estimated, to the claims of his country upon his valour and strength for her defence. He dies by disease in the camp, or is slain in battle, fighting the enemy. But no father ever claimed of you pay for his son, for his life, his blood, or his limbs. You could not remunerate him. You could not make up his loss. You could indeed give him an equivalent for his labor, his services, of which he has been deprived. So far as property was concerned, you could substitute the treasury of the country. But you have never done so. You have never been requested to do so. No nation has ever done so, or ever can. And had the subject of this claim been a son instead of a slave, a free servant instead of a slave, or the master himself, this claim would never have been heard of. But he was a slave; and the nature of the service, and the value of the service is changed, and greatly enhanced. Had the service been performed by the master or his son, or his free servant, the rate of compensation would have been less, the obligations and responsibilities of the Government much less. But the service was performed by a slave; the service is the same, no more; but the price, the cost, much greater, on the principles of the claim. In the case of the freeman, the father, master, son, or free servant, the Government does not ensure the life or the limbs; but it is a slave, and the Government is called on to warrant both. It is a principle of law, that, what a man does by another, he does by himself; and the claims and liabilities are the same in one case as the other. But in the case before the House, a requisition was made upon the master, for so much transportation. He sends his slaves; on the principles of law and justice, he performs the service himself, by his slaves: but, on what principles of law or justice is he entitled to a different rate of compensation than he would have been, had he actually performed the service himself? There are none. It is preposterous to suppose any. This is the true view of this subject; and in this view of it, the claim cannot be sustained for one moment. The claim of the Government is upon the master, for services to be performed. The right to make the claim and to enforce it is admitted. He performs the service in the manner, and by the means that suit him best. He sends his slaves. The Government calls upon him, and not upon his slaves. The master renders the service, and is entitled to the compensation; but certainly to no more, when he performs it by an agent, than when he performs it by himself. This appears to me as clear and satisfactory as that things equal to one and the same thing are equal to one other. The service of the slave is equal to the same service performed by the master, and no greater. This principle places the Government upon the footing of perfect equality, in its relations to every citizen. The claim upon the Government is thus re-assured by the service rendered, and not by the condition of the agent rendering it. This is the basis of equality and justice. It is the only basis upon which the Government can stand. The service is the same to the Government as though performed by the master—the same as performed by a freeman, father or son, master or apprentice. It is the service which forms the basis of the claim, and the condition of the agent cannot change it. Upon this principle it is, that the liability of the Government is no greater when it takes the apprentice, than when it demands the master, or when it takes the son, than when it takes the father. It is for the be-

H. or R.]

*Case of Marigny D'Aulivie.*

[JAN. 22, 1828.]

nefit received for which the Government pays, and nothing more. For nothing more should it pay—for nothing more can it pay. And so, when the service is performed by the slave, the master is entitled to the same compensation as though he had performed it himself, and no more. That the condition of the agent does not change the nature of the service, is sufficiently illustrated, by the case of the minor and the apprentice. The privileges or legal rights, or the value of interest in the parent or master, or the obligations, disabilities or qualifications, of the child or apprentice, do not affect the rights of the Government. The Government may, nevertheless, command the services of all or either, and the compensation would be the same in either case. So the condition of the slave does not change the rights of the Government, nor the claim of the master. The question is, not what are the disabilities, disqualifications, and privations of the slave, but what are the rights of the master, and what the rights of the Government? And here it will be perceived, at once, that the Northern parent, and the Southern master, are placed upon a footing of perfect equality. The analogy is perfect; the comparison holds most strictly. I challenge the most subtle discrimination to take a distinction. The parent has a legal, valuable interest in his son, and is entitled to his custody and to his services. The laws of all the States will protect this interest. The Southern slave-holder can claim no more. The analogy between the citizen, apprentice and child, and the Southern slave, which gave the gentleman from Massachusetts so much pain, has not been instituted, cannot be instituted, does not exist—and I am not called upon to make it. The analogy is not there; it is between the masters. The master makes the claim; and the question is, what are his rights, and not what the wrongs or disabilities of the slave. The master cannot urge the latter to enhance the value of the former.

And here, I think, lies the error into which honorable gentlemen have fallen, who advocate this claim. They have been in the habit of urging the entire want of all privileges in the slave, as a reason for preferring superior claims for the master, as well as extraordinary exemptions for both. The slave has no civil privileges, and therefore owes no political obligations. The master has engrossed them all, and therefore he owes no political obligations on the slave's account. But these conclusions are not warranted by the assumptions. The powers and rights of the Government correspond with its obligations, and the duties of the citizen are as extensive as his power. But the slave has rights—one, certainly, which is unalienable—his life is his own, and he may defend it even against his master's assaults. The Government is bound to protect that life, as well as the property of the master. The slave owes a corresponding obligation, as well as the master. The slave may, therefore, be called upon on his own account, as well as the master on account of his interest in the slave. The Government is not bound to inquire into the extent and variety of the rights and immunities of the moral and physical agents under its protection. Protection alone furnishes a sufficient claim on the services of the protected, for defending the country and the Government. On this principle, aliens and foreigners are liable to be called upon to defend the country in which they enjoy a temporary residence and protection for their persons and property. The principle applies, with equal strength and force, to the slave and the master; and it is not the nature and extent of the right of the master in his slave that exempts him from the public service, but the unfitness of the slave himself for the purposes of the Government.

But slaves are property, say honorable gentlemen who support this claim; and to establish this point they speak of the manner in which they treat them. They sell them and buy them; and in the next moment they tell

you that this is so by municipal law, the law of the State; and the next moment protest, what every body admits, that this Government has no control over those laws, and can neither alter or abolish them. It seems to be idle to be always protesting against the exercise of a power never claimed. But, if slaves are bought and sold by State laws, State laws may prohibit their sale, and would they be any the less property? Certainly not. The right of the master to the possession and services of his slave would still be the same. This circumstance, therefore, does not constitute them property. But if they are property, they are so by State laws, and all right to personal service may be constituted property by those laws, and there is no power in this Government to prevent it. But I think I have already shown that these laws cannot diminish the power or rights of this Government. But if slaves are property by State laws, (and I presume there is no formal enactment of any State declaring them so,) they are also persons. God has created them persons, and they are declared to be so by the Constitution, as often as it has declared any thing about them—technical legal persons—in the legal sense of the term, as distinguished from property. Strictly, and legally speaking, therefore, I deny that slaves are property. The quality of property is not predicable of persons, even by the laws of the slave-holding States. Personal services are not, strictly speaking, property. It is a legal right truly, and a valuable interest, defended by law, and to be compensated for by property. But they are the means of acquiring things or property, rather than property itself. Can we call the right we possess in our own services our property? Certainly not. But they are as much property as any other personal services. But if personal services can by any construction of terms be distorted into property in one form, they are so in all the forms in which they can exist. This view of the subject does not in the least lessen the right or the value of the interest of the master in his slave, but merely goes to the legal definition of that right. The term property has been wrongfully applied to that right; and has probably given rise to this novel claim, and is the sole cause of this protracted discussion. I believe that it has not been contended, indeed it cannot be pretended, that the master possesses, or can possess, any other right in his slave than to his personal services. He can make no other use of him. He can neither eat his flesh nor drink his blood; for he cannot take his life without being guilty of murder. This view of the subject disposes of the argument derived from that clause of the amendments of the United States' Constitution which provides that private property shall not be taken for public use, without just compensation. The Constitution did not refer to slaves. It did not in that clause refer to persons of any description; they had already been provided for in the preceding part of the same amendment; and in every place where claims have been in any way referred to, they had always been designated as persons. But it was urged the other day, by the honorable gentleman from Massachusetts, that this clause of the Constitution settled the question, and that the rejection of the claim would be a virtual interpolation of the amendment in the question, with this exception—"except slaves;" and asks, with great confidence, if it can be supposed that the Constitution would have been adopted with that clause. With all deference, I beg permission to say that I think there is a fallacy in the supposition put by the honorable gentleman; and it consists in not presenting the case under consideration—in putting the services of slaves for slaves themselves. The gentleman's supposition should have presented this exception—"except the personal services of such persons whose migration or importation any of the States, now existing, shall think proper to admit, which shall not be prohibi-

JAN. 22, 1828.]

Case of Marigny D'Auvergne.

[H. or R.]

ted by Congress prior to the year one thousand eight hundred and eight, who may be occasionally employed in great emergencies, in time of war, for the purpose of defending themselves and their masters from capture and destruction by the enemy, in such services as they may fitly and with safety to the public execute and perform—when, and in such case, their masters shall be paid the same rate of compensation as are awarded for similar services to minors and apprentices, or their parents or masters, and no other or greater.” Will the honorable gentleman suppose that such a clause would have formed any obstacle to the adoption of the Constitution? And yet this is the case presented by this claim, and this the interpretation which its rejection gives to the Constitution, and no other. But the honorable gentleman might have gone on with other suppositions, and have concluded with a similar question. I will put some for him. “One rate of compensation shall be awarded for services rendered by all freemen, minors, and apprentices, and a two fold rate for the same services when performed by slaves,” “Minors and apprentices, and all freemen, may be compelled to perform military service, to dig in the entrenchments, and erect fortifications and military defences: but slaves, on account of the inviolable and sacred nature of this kind of property in their masters, shall be wholly exempt from the performance of any such services; but if, by the operation of the eminent domain, and the law of necessity, any of them shall by possibility be forced into such service, and shall be killed, the master shall be paid the full value of such slave, in addition to the compensation for his services rendered, but no compensation shall be made for the life of a minor or apprentice destroyed in the performance of the same services.” Would such a constitution have been adopted? Would any such Constitution have been proposed at the time the Constitution was adopted?

It does appear to me, sir, that the argument from the Constitution is abundantly disposed of. The Constitution never thought of providing for this case.

One other remark of the honorable gentleman from Massachusetts, pronounced with some emphasis, struck me as somewhat extraordinary, and as deserving some comment, although I admit that I do not perceive its connexion with the merits of this claim. Speaking of the rights of masters to their slaves, and the obligations of justice to them, he put the question, if any State could undertake to manumit the slaves without making adequate compensation to their masters for their value? The gentleman is no doubt aware, that our sense of justice is somewhat a matter of fashion, and is liable to be influenced very much by custom and habit—and that what has been repeatedly done without shocking our moral sense, is in no great danger of violating our sense of justice; and, *a priori*, in no great danger of being considered unjust. Several States in this Union have successively manumitted their slaves, and it has escaped my observation and research, if, in any one instance, remuneration to the master has been provided by the State Government. Massachusetts, at a very early day, in 1780, if I mistake not, by one sweeping act, manumitted her slaves, absolutely and unconditionally, without awarding any compensation to their former masters. Other States followed in succession, in what order is not material and no compensation in any case was provided or paid. The number of slaves in Massachusetts amounted to about ten thousand. But I have never heard that the moral sense of the citizens of that Commonwealth was shocked by their manumission. The act was sanctioned by the judgment of the whole community. Even the owners themselves were silent under the convictions of the urgent justice of the law of emancipation. If any complaints existed, they were smothered in the bosoms of those who entertained them, or were confined within

the limits of the domestic circle, and were not permitted to escape the walls of the household.

The process of emancipation commenced with Massachusetts, and, progressing through the Northern States in what succession I do not pretend to state, has continued its march as far south, I believe, as the Southern border of Pennsylvania. Slavery has existed to a greater or less extent in all the old thirteen States. Seven of them have abolished and annihilated that moral and political curse, but without acknowledging the obligation to provide any remuneration to slave holders for the consequences to them of this act of justice and obedience to nature and nature's God. It ought here to be observed, that it is not the amount or the quantity of the consequences of any particular act, that constitutes its injustice. It is the nature of the act, the violation of moral principle, and the outrage committed upon individual and private right. The principle is the same whether one citizen or all the citizens of a State hold slaves, or whether each claims the possession of a hundred, of fifty, of ten, or one of this species of property—persons, I should say, sir. The injustice of emancipation—if injustice is contained in it—is the same in degree, though different in extent; and the moral sense of the community should be as much shocked by violence to the rights, and an outrage upon the person or property of an individual, as of a million. Several years have passed, sir, since the State of New York commenced a series of enactments for the gradual abolition of slavery in that State. The results of those enactments were consummated on the Fourth of July last. Since when, and from thenceforth and forever slavery has not existed, and cannot exist, in that State. And so far were the Legislature of that State from making any provision for compensating by law the numerous individuals whom they thus deprived of their property—according to the principles of this claim—that they actually imposed upon them additional and extraordinary obligations. They required the owner to prepare his slave for the enjoyment of liberty, by a process incurring a very considerable expense, by imparting to him, so much literary instruction as at least to enable him to read the Bible, thereby imbuing him with the principles of our holy and blessed religion, at the same moment that they conferred upon him the appropriate and twin blessing of civil liberty. And this was done under no less a penalty than their forfeiture of their right in the slave at a much earlier day.

If slaves are property, then property, private property, was thus taken away, absolutely annihilated, by public authority, without, not adequate, but any compensation. But this great moral and political event—for it was a great and important event sir—was effected without doing violence to the moral feelings, or sense of justice, of any portion of the community of that great State. So far from this, sir, this event has been our boast, our pride; it has been commemorated and celebrated, and has been and is, esteemed almost as great an improvement in our moral and political condition, as any other great and contemporaneous work has been to the internal prosperity and resources of the State. And now, sir, does any one suppose that this great example of New York, would not be followed by Southern gentlemen themselves, by the States of Virginia and Maryland, for instance, if the measure could be esteemed safe; if the magnitude of the evil did not discourage them from grappling with the monster. If the slave population of the State of Virginia did not exceed what that of New York was, who doubts that they would forthwith emancipate them? Even Southern sensibility, I apprehend, would not revolt at the injustice thus perpetrated upon private right. It is not because it would be unjust to individuals, but unsafe to the community, to enact universal and absolute emancipation. And yet it is manifest that the extent and magnitude of the



H. OF R.]

*Case of Marigny D'Auterive.*

[JAN. 17, 22, 1828.]

evil which would be thus abolished, the multiplicity of the slave-holders, and the multiplicity of their slaves, would not make this great political and civil change unjust in Virginia, which a more limited extent rendered just in New York.

Mr. SPEAKER, I have not entirely satisfied myself on one part of my argument, in the remarks which I have submitted to the House. I refer to that branch of it which touches upon the extent of the right of the master to his slave. I will take the liberty of repeating, sir, that that right is limited to the personal services of the slave; and when they are paid for, it is all the master can claim from the Government. It is all the master has been deprived of, and all the Government has received; and this, sir, settles the question, and ends the argument.

Mr. BRYAN, of North Carolina, rose and said: Coming as I do, from a State, much of the wealth of whose citizens consists of the kind of property, the nature and extent of which is now under the consideration of the House, I should feel myself negligent, if not culpable, were I to permit the question to be taken without endeavouring to vindicate and establish what I deem to be the rights of my constituents—rights which cannot be impugned without a violation of the rights of the States, and the sacred injunctions of our Federal Constitution.

From a very early period of the history of America, we find the rights of property recognized and used over these persons—nay, sir, from the earliest records, both sacred and profane, we find a state of slavery established and sanctioned. By the usages of ancient warfare, the vanquished in battle became the slaves of the victors, and their right of even putting them to death, was admitted, and too often practised. The institution of slavery may even be said to have mitigated the horrors of war, and by arraying the avarice of the conqueror against the appetite of revenge, to have often staid the fatal blow. We find, sir, in confirmation of this position, that, among the aborigines of this country, where the practice of enslaving their captives did not prevail, that they were very generally put to death, by the most cruel tortures. But, Mr. Speaker, I will not detain the House with an idle display of research into ages that have long gone by, but will confine myself more strictly to the state of slavery, as existing among us.

Its origin may be imputed to the cupidity of the mother country, who, looking upon her colonies, more as the means of enriching herself, than of contributing to the happiness of mankind, introduced those persons into her colonies, as an article of traffic. It was urged as an argument in justification of the measure, that it was an act of humanity to these unfortunate beings, as they had been taken captive by more powerful tribes, in their own land, and that their conquerors would put them to death, unless they could be sold, and thus more advantageously disposed of. I have no doubt, Mr. Speaker, that this argument was well-founded in numerous instances. We learn from the authentic narratives of early travellers, that those native tribes of Africa were highly savage and ferocious, delighting in blood—they still are so—and I do not hesitate to avow, as my firm belief, that the negro slaves of the State I have the honor in part to represent, are much more happy—more blessed with intellectual and natural advantages—more amply furnished with all that makes this life happy—and more especially sir, (and this should go very far towards reconciling their real friends to their situation) infinitely better provided with the means of Christian instruction and education, than the descendants of their African progenitors who have remained in the land of their fathers. But, sir, be their situation what it may, our country, the United States, are innocent partakers with them, of the disadvantages of their condition.

It is matter, sir, of historical fact, that the Colonial legislatures passed acts to prevent the iniquitous traffic which brought them to our shores. During our Colonial dependence, these acts had not the force of laws till sanctioned by the King of England—that sanction was refused, inasmuch as it would deprive his subjects of a gainful traffic. Do we not know, sir, that Great Britain also actually insisted upon being permitted to supply the Spanish Colonies with slaves, and that this right was guaranteed to her by the solemnities of treaty stipulations? What was the conduct, on the other hand, of this country, as soon as she was emancipated from British dominion? Among our first acts, were those prohibiting the further introduction of slaves; and the Federal Constitution itself, that imperishable monument of human wisdom, contains an article empowering Congress to abolish this odious traffic. This power has been liberally exercised, and America has earnestly engaged in the noble contest of extirpating those wretches who can quaff with exultation the tears of human misery. Congress has declared all engaged in it to be pirates—the enemies of the human race; and condemned its perpetrators to an ignominious death. Britain, though, now stands forth the champion of freedom. There would be much more justice in her charity, as is more than insinuated by one of her most eminent jurists, [Lord Stowell,] if she bore the expense also of being charitable. It has always been, Mr. Speaker, an easy matter to raise a hue and cry about charities of various kinds, but there is a sad falling off in the number of the shouters when they have to pay for it.

Having thus briefly endeavoured to dispose of the general subject, and to wipe off from the American escutcheon the unjust stigma of originating or perpetuating this state of society, I shall advert to the case immediately before us.

The report of the Committee states, that the slave, horse, and cart, of this man [Marigny D'Auterive] were impressed by the Commander of the American forces, to aid in throwing up breastworks for the defence of New Orleans, and that the necessity was so urgent as to justify the act; that the slave lost an arm and an eye from the fire of the enemy, and whilst engaged in the service of the United States. They report a bill making compensation for the horse and cart, and the time of the slave; but it is contended that the master is not entitled to remuneration for the damage done to his slave—done in the manner and to the extent I have stated.

The General Government is invested by the Constitution with the power of making war—this is a high and mighty—a sovereign power. In its exercise they have a right to employ the intellectual and physical resources of the country, to the extent necessary for the defence and protection of the persons and property of the citizens; for this duty of the Government is the correlative of its right to the allegiance of its citizens, and is most emphatically the great object of all Governments. In the exercise of this power and duty, it has been the universal practice upon emergencies similar to that stated in the report, for the Government to exercise its right of eminent domain by impressing private property for public use, upon the admitted principle that a part may be sacrificed for the preservation of the whole, which is the same principle, sir, that justifies the throwing goods overboard from a ship, for the preservation of the lives of the crew. The Constitution of the United States sanctions this principle, if indeed it needed any sanction, by providing that private property shall not be taken for public use without just compensation.

But, say gentlemen opposed to this claim, slaves are not to be regarded altogether as other property—in this case the slave is to be regarded as a person—and the owner is no more entitled to be compensated for his injury, and consequential loss of service, than would a Northern



JAN. 22, 1828.]

*Case of Marigny D'Austerlie.*

[H. or R.]

master be for the loss of the service of his apprentice under similar circumstances. And the honorable gentleman from New York, [Mr. MARTINDALE] who has just taken his seat, has defied any Southern gentleman to point out a distinction between the two cases. Sir, to my mind, and I think to the mind of any reasonable man, the distinction is most obvious. The apprentice is a freeman—a citizen—he owes allegiance to the Government—is a member of the body politic, and as such, the Government is bound to protect him. These propositions are not true of the slave. The apprentice is simply bound, by contract, to serve his master; the law enables him, or others in his behalf, to enter into this contract of service; but he is still liable, in almost all the States, to do military duty before the age of twenty one years. The sovereign has a right to his services, on account of his being a citizen; and, as was well observed by my honorable friend from Massachusetts, [Mr. EVERETT] the act of Congress renders him competent to make the contract of enlistment simply by removing the disability of infancy. But, Sir, a slave has far greater disabilities than those of infancy or apprenticeship—he labors under a total want of capacity to contract; and this Government cannot confer upon him that power, because that would be conferring upon him one of the most important social rights of freemen. The gentleman from New York has farther contended, that this slave was employed as a person in throwing up entrenchments, which was military duty—and so, Sir was the horse employed in transporting the earth, which was just as much military duty as throwing it up; and this, according to the argument of the honorable gentleman, would make the horse a military person, and perhaps capable of enlistment.

The honorable gentleman strongly contends that slaves are not property, because the owner cannot do as he pleases with them. He cannot, says he, take away their lives—the slave has a right, says he, to his life; and this is urged as a triumphant distinction between him and mere property, which is said to be the mere creature of the owner's will, to do as he pleases with it. Sir, this argument is really almost ludicrous, and better suited to a County Court than to this grave deliberative assembly. Let us pursue it, Sir, to some of its consequences. Does the gentleman need to be told, that, in England, and in some States of the American Union, excessive cruelty to animals, to horses for instance, is punishable by indictment at common law? I suppose, according to the honorable gentleman's doctrine, because the law there would restrain the owner from cutting his horse's throat in the street, out of sheer malignity, therefore, he could have no property in him. This is the legitimate deduction from his premises. Property, Sir, as has been said by the honorable gentleman from Virginia, [Mr. RANDOLPH] is the creature of the law; whether of the natural or social law, is not material here to be ascertained—its enjoyment therefore may be modified by law. I will not do my constituents, Mr. Speaker, the injustice to argue, as an abstract question, whether slaves are property—powers far superior to mine in argument, would only shake the firm foundation upon which this right is based, by attempting to fortify it. I will only refer, Sir, as matter of history, to several eminent instances in which it has been clearly recognised by Federal authority. The other day, Sir, in looking over the secret Journal of Domestic Affairs, of the Continental Congress, I discovered a report, and resolutions accompanying it, which seem to me to be perfectly conclusive upon this question. The report was made on the 29th March, 1779. It will be recollected, Sir, that, during the war of the Revolution, the British enlisted slaves as troops—and that the period I have mentioned, was one of great gloom and despondency in the South; and then, if ever, as the enemy were enlisting the slaves of the Southern planter, the

Continental Congress might have found strong arguments for combating him with the same species of force—especially, as, by refraining from doing so, the slaves were not only lost to the owner, but were added to the military force of the enemy. The proceedings of Congress on this occasion, display that combination of wisdom and prudence, for which that body was so justly renowned. The report states that the delegation of South Carolina, in Congress, had represented the distressed state of the country, the desertion of the negroes to the enemy, and that those who still remained, were exposed to their artifices and temptations; that, if they were embodied, this desertion might be prevented, and they might be rendered formidable to the enemy, &c. Whereupon, "Resolved, That it be recommended to the States of South Carolina and Georgia, if they shall think the same expedient, to take measures" for raising a force of this description. By another resolution, it was declared that "Congress will make provision for paying the proprietors of such negroes, &c. a full compensation for the property, &c."—Secret Journal, pages 107—8. I do not know, Sir, whether the recommendation of Congress was adopted. I presume not. It is not at all material to the purpose for which I have quoted the Journal, to ascertain that fact. The report and resolutions show conclusively the sense of the Continental Congress—that the slaves, even with the example of the enemy justifying, I might say enforcing it, were not to be employed without the consent of the local authorities—and if employed with that consent, that the owners were to receive full compensation for the property—thus evincing the caution and the justice of the Congress of that day, deciding, as I contend, Sir, the very principle of compensation now before the House. It is indeed a much stronger case than the one now under consideration; for it might be contended, with much more force, that the slaves would, in that case, have been employed as persons.

Pursuing these historical illustrations, Sir, we find in the British Treaty of 1783, which closed the war of independence, provision is made by the 7th article against "the destruction or carrying away of any negroes, or other property of the American inhabitants." In the secret debates of the convention of 1787, which framed the present Constitution of the United States, slaves were unequivocally admitted to be property, and objections were made, on that precise ground, to their being enumerated in the population of the Southern States, and estimated in the ratio of representation at three-fifths of their actual number; a distinguished member of the Convention from Massachusetts contending, that the cattle of New England might be represented with as much propriety. In the convention of Massachusetts which adopted the Constitution the same objection was also made. If we consult the history of the legislation of this Government, it will appear no less clearly that they are regarded as mere property; they are, as such, subjected to the direct tax; their assessment and valuation are provided for—and they are sold as property under the laws and the judicial proceedings of the United States. When a burden is to be borne by the property of the citizens, gentlemen are willing to consider them as property; when they are to be paid for, having been seized and injured in the public service, then it is most convenient to call them persons.

The honorable gentleman from New York is entitled to credit for having discovered "a new thing," when he contends that slaves are not property, because their owners are only entitled to their services; or, in his own language, that they are to be regarded as the "means of acquiring property, and not as property." I would be glad to know, Sir, in what consists the value of any kind of property, if it is not in being the means of acquiring property; that, Sir, is its great and most ordi-

II. OF R.]

Retrenchment.

[JAN. 23, 1828.]

nary use. If this argument be true, a man is not entitled to his own ideas, because they are often used as the means of acquiring property; and intellect, the noblest and most peculiar kind of property, must no longer be regarded by its possessor as his own. As slaves have never been considered as military persons, so, Mr. Speaker, have they never been considered as civil persons, if I may use the phrase. I will ask any gentleman from a Southern State, if he has ever known them called out to assist the civil authority, as a part of the posse comitatus? Has a sheriff ever been known to summon his neighbor's slaves to assist him in the execution of process? Can he go upon a plantation where the owner's negroes are at work, and command them to attend and aid him in the execution of his official duty? No, Sir, this is too monstrous to be thought of; and yet the argument of the honorable gentleman, if followed, leads inevitably to this conclusion. I am happy, Sir, to be able to say, that the honorable gentleman from New York is the only member of this House who has contended that slaves are not property. I do not believe that he can find a second on this floor; and I, with cheerfulness, add my testimony to that of the honorable gentleman from South Carolina, [Mr. M'DUFFRE] and the honorable gentleman from Virginia, [Mr. ARCHER] in favor of the just and liberal views of our Northern brethren. Their sentiments, as frankly avowed in this debate, must have a powerful tendency to repress any improper emotions in the bosoms of those who are afflicted with this kind of property, and to quell any spirit of insubordination in the slaves themselves.

When this debate originated, Mr. Speaker, I confess I felt much regret, believing that it would create much unnecessary excitement and waste of time. I have endeavored to discuss the question, Sir, with calmness. I am, Sir, no advocate for slavery in the abstract. I agree entirely with my honorable friend from South Carolina, [Mr. DRAYTON]; that it is great evil; and I believe, too, Sir, that the owner is rather more to be pitied than the slave. I must do my constituents the justice, and it is mere justice, to say that their slaves are treated with a degree of mildness, and attention to their wants, much more indicative of good and generous feeling than that of a desire to make the most of their property. The slave, Sir, is generally happier than the master; while his owner is "spinning his brains" for the support of his family, or torturing his ingenuity, and tossing his aching head upon his pillow to provide "ways and means" for the payment of his debts, or performance of his contracts, the slave, released from all these cares, well fed, well clothed, and performing moderate labor, enjoys the tranquility of mind, and health of body, which form very important items in the sum of human happiness.

If the Southern States are to be purified from this moral pestilence, it will not, it cannot be by fulminating edicts, or mawkish harangues, against their right of property. Passion and enthusiasm have rarely given good counsel. There are many intelligent and patriotic citizens of the South, who would be willing to adopt a system for the cure of this malady, provided wholesome medicine, suited to the Constitution, be used. The consent of the owner, and the emigration of the freed-man, should be, and must be, indispensable in any system. Sir, several of my constituents have shown the most earnest and sincere zeal in promoting the objects of the Colonization Society; and, sir, how have they shown it? Not by clamor and intemperance; but by good deeds—by being charitable at their own costs. They have emancipated their slaves, and provided the means of transporting them out of the Union. This is what may be called an actuating faith. I have been anticipated, Mr. Speaker, in several arguments which had occurred to me, and which I should have offered, had I been more fortunate in my efforts to obtain the floor. They have been pre-

sented, sir, by honorable gentlemen, much more forcibly and eloquently than my lips could have uttered them. I know too well, I trust, sir, how much is due from me to the courtesy of the House, to weary it with an elaborate argument upon a subject which has already been so much canvassed. I had declined troubling the House with any remarks of mine upon this question, but was called up by the novel and extraordinary doctrines of the gentleman from New York, which, as a faithful representative of my constituents, I could not permit to pass without protest, and an attempt to refute them. As to the other question which has been raised in this case, whether the damage done to the slave was direct or consequential, I really do consider that to be a mere law quibble, and am reminded by it, sir, of the learned and astute Shibboleth so gravely uttered in Courts—'yclep'd Courts of Justice—when they are engaged in ascertaining, not whether a suitor has suffered injustice from his neighbor, but whether he should have brought an action of trespass or case. I rejoice, sir, that here, at least, we can do substantial justice. D'Auterville's property has been forcibly taken for public use—it has been injured in the public service. Reason, Justice, and the Constitution, unite in saying, "that private property shall not be taken for public use, without just compensation." They all say, pay him what is just—and so I hope we shall say. I feel no difficulty about my vote, sir. I have arrived at my conclusion without passion, and I shall adhere to it with quite as much firmness and inflexibility as if I had invoked the furies of discord and disunion, or endeavored to array before this House the distorted spectres of fancy.

I am admonished, Mr. Speaker, by the lateness of the hour, that I have sufficiently imposed upon the patience of the House. I conclude, sir, by expressing my lively gratitude for the attention which the House has been pleased to bestow upon my remarks, (undeserving as they have been.)

[Here the debate closed for this day.]

WEDNESDAY, JANUARY 23, 1828.

#### RETRENCHMENT.

The House resumed the consideration of the resolutions moved by Mr. CHILTON, yesterday, which were under consideration when the House passed to the orders of the day.

Mr. BARNEY desired not to be considered as wanting in courtesy to the honorable member from Kentucky, when rising in opposition to the reference of the resolutions to the Committee of Ways and Means, inasmuch as the Chairman of that Committee had expressed his unwillingness that they should be thus referred, and their merits could be tested by the discussion which would be thus elicited.

He was unwilling that the House should, by its deliberate vote, sanction a belief that the purity of our Republican Institutions were contaminated by prodigal and wasteful expenditures of the public money, calling loudly for reform in the Administration of our Government; and he would here disclaim all intention of provoking unnecessary discussion, by introducing the term administration in a political sense, his impressions having uniformly been that that administration was best, which was best administered. If we sanction this reference, it cannot fail to confirm an impression attempted to be made by a lascivious poet, who passed a few weeks in making a rapid tour through our country, and remaining three or four days in the Capital—certainly not as long as the honorable member from Kentucky has been in his seat—on his return to his native land thus describes us—

"Even now, in dawn of life, her early breath  
Burns with the taint of Empires near their death;  
And, like the Nymphs of her own withering clime,  
She is old in youth, she is blasted in her prime."

JAN. 23, 1828.]

Retrenchment.

[H. OF R.]

This, sir, was the language of poetry and of fiction, and the libeller received the price of his slanders; but when we adopt those resolutions, we become the assailants of the fair fame of our country, and our act confirms the charges as matter of fact and of history. The printing for this House is the first item in the list of extravagancies. I grant you, sir, that it does involve a large expenditure; but how is it to be corrected? How regulated? Shall a purveyor of public printing be employed, especially charged with the duty of designating what shall and what shall not be consigned to the press? The task would be as invidious as it would become irksome and arduous, and could not fail to result in disappointment and dissatisfaction. Sir, I hesitate not to say that every printed document submitted to this House, voluminous as they are, are interesting to, and read by, some of its members, and many of their constituents. They are indispensable to a general and correct knowledge of each particular case. In the British Parliament, where no compensation is allowed, the most liberal policy prevails in diffusing information, for I have seen among their items of expenditures £120,000 sterling, or half a million of dollars, charged in one session for printing and stationery—an account much larger than the whole appropriation for our extravagant per diem of eight dollars per day, contingent expenses of printing, &c. included. The Treasury estimates for the present year amount to about nine millions of dollars; and on reference to them, it will be seen that the favorite maxim, in peace prepare for war, has received most respectful consideration. Fortifications, ordnance, armories, dry docks, timber for the future use of the Navy, equipping and organizing the militia, amount to near four millions, leaving something more than one million sterling, the amount appropriated for supporting the royal dignity of the King of England, to sustain our Government, its Executive, Legislative, and Judiciary Department, Army and Navy; and yet we are to convict ourselves of extravagance and prodigality.

The Fifth Auditor was alluded to as having been created for a special object, and under particular circumstances, which do not now exist; consequently, his services may be dispensed with. I find that, by the act of 1817, an additional Comptroller, and four additional Auditors were created by "An act to provide for the prompt settlement of public accounts," and the necessity still exists for its continuance. It is contended that the salaries should be reduced. Whenever Congress is satisfied that more is allowed than is sufficient for a mere subsistence, then such a proposition may find favor. If the Government desire the services of faithful and intelligent men, they can only obtain them by allowing such compensation as will enable them to live free from the apprehension that the wants of to-morrow may be unprovided for. While gripping penury stares them in the face, and a helpless family are destitute of the ordinary comforts of life, the energies of neither mind nor body can be devoted to the public weal. A cursory glance at the operations of the Sinking Fund, will satisfy the gentleman that the public debt is amply provided for. Probably, before he retires from public life, and certainly before the expiration of another Presidential term, it will not exist even in name.

Thirty or forty officers are supposed to be at this time unemployed at the Military Academy at West Point. The bill from the Military Committee, now on our tables, authorizing the appointment of additional professors, does not sanction this idea. Having recently enjoyed an opportunity of becoming intimately acquainted with this invaluable institution in all its details, I can safely affirm that there are neither supernumeraries nor idlers connected with it. Presenting a most interesting spectacle of strict order, and high state of discipline; every duty,

whether of the soldier or the student, is performed at its appointed time, without the least confusion, and every hour, from reveille to tattoo has its appropriate employments. No American can view such a scene without strong emotions of pride and gratification—he beholds the germ of future greatness to his country; for those whose capacity and diligence enable them to attain the proud eminence to which they all aspire—present themselves to the world the adopted children of their country, qualified to be useful in any situation in life, either civil or military. The impartial and equal administration of justice is one of the brightest attributes in its Republican character; for, while the son of a Sergeant has received its highest honors, the descendants of Governors, Members of Congress, and other prominent men, are sent home with a diploma of incapacity.

A portion of our revenues are credited to the sale of Public Lands, and an apprehension expressed that, when they are exhausted, there will be a difficulty in replenishing the Treasury. It is a mere figment of fancy to imagine that one dollar has ever been derived from the Public Lands. It would be considered rash to predict that nothing ever will be. While, Mr. Speaker, the present enlightened and liberal policy shall prevail, of ameliorating the condition of the Indians by annuities, donations, removals to a greater distance from our settlements, we shall continue to be the mere tenants in possession for the benefit of the original proprietors, the aborigines of our country, and the whole proceeds appropriated for their benefit.

The Public Lands cost	\$ 32,911,813
Amount received from purchasers	31,345,968

Balance due the Treasury	\$ 1,565,845
--------------------------	--------------

This source, however unproductive, is far from being exhausted

The United States held	258,377,667
Sold	19,259,412
Donations to Colleges, &c.	7,708,066
Military Bounties	21,155,089
	48,093,567

Unsold	210,274,160
--------	-------------

If, in fifty years, which have elapsed since the Declaration of Independence, we have been enabled to dispose of but nineteen millions of acres, we have a fund left to draw upon for the next five hundred years, at all events. But, in addition to these, add fifty-five millions acres of unceded lands within the present limits of the States and Territories, and seven hundred and fifty millions North and West of the States and Territories, but within the limits of the United States; and, regarding the provisions of the Constitution, which forbid any other than the Government becoming the original purchasers, then our resources look into futurity two thousand years; probably as long as this Republic shall endure. No; God forbid. May it, as was piously exclaimed by the soldiers of the Revolution, *live forever*.

And now, sir, last, not least, I come to our noble selves. Our compensation, surely not greater than our deserts, must be reduced. I can approach this subject with a clear conscience, and hold up at the bar of this House a pure and spotless right hand, when declaring, that, during many years a public servant, not one dollar of the People's money has enriched my private coffers. The average pay of a member of Congress is about \$1,100 a year, out of which must be defrayed all expenses here and elsewhere. In the Western and Southern States, the People require to know personally the candidate who asks their confidence; hence it becomes his duty to make a tour through his District; and, for at least three months previous to an election, he is employed in

H. OF R.]

Retrenchment.

[JAN. 23, 1828.]

riding his circuit cultivating their good will; it is to me a source of pleasure and recreation: so industriously have I pursued it, that there are but few persons to whom I am unknown; and I verily believe that a good old horse, who has accompanied me in two campaigns, would, if a saddle bag was fixed on his back, and the whip occasionally applied, present himself in regular succession, at every farmer's door in Baltimore County. In a large double district, the cost of about 100,000 tickets forms a considerable item of expense; for which it is indispensable that seven or eight thousand votes should find their way into the ballot boxes to secure a seat here: a large allowance must be made for wear and tear, for many are literally torn up. The benign spirit of universal religious toleration prevails throughout this happy land, and numerous temples of worship to the Great Supreme, rearing their modest heads, even in the wilderness, proclaim the increase of piety and religion. To these, contributions are liberally made; for charity, like mercy, covereth a multitude of sins, and the Lord loves a cheerful giver. Thus, the People's money is returned to the People; and as pecuniary emolument never entered into my consideration when seeking the honor of a seat in this House, I have not desired to enrich myself by compensation. And there are many members, living more remote than myself, whose happiness is intimately connected with their domestic circle, who are induced not to assent to a separation from their families, and expend here thousands more than they receive. Once convinced that the exigencies of the nation do require that our per diem be reduced, and I pledge myself to go farther than is proposed by the gentleman from Kentucky—I will vote for a bill which shall deprive us of all compensation, from this day to the expiration of my term; but will never give my assent to a resolution pronouncing sentence of condemnation, until proof shall be adduced that prodigality and extravagance have existence in our Republic.

Mr. KREMER said, that it had been with pride and pleasure that he heard this resolution when it was first offered. He had rejoiced that at length a member had risen in his place, and, from a sense of duty, had presented such a resolution. He had himself, for three years past, urged it upon those who were better qualified than himself for the task, to bring forward such a proposition. It was with no small surprise, he said, that he heard this proposition now assailed. What was the question? The whole amount of it might be contained in the compass of a nut-shell. The Committee of Ways and Means are, by this resolution, called to inquire whether a retrenchment may not be made in the expenditures of this Government, without detriment to the public good. If they inquire and report to the House that no retrenchment can be made, be it so. But the impression has gone abroad, that we old fashioned Republicans are getting corrupt, and are extravagant. I want to know whether any evil can result from ordering such an inquiry as this. Who are we? We are but men; and the most exalted of our species are stamped with imperfection and frailty. It is well known that unlawful longings too frequently mark the character of men in power. Does any one doubt that the public expenses may be too great, when they look at the march of private extravagance? When they consider the evils that are exhibited in these ten miles square. I feel regret that such an example should be set at the seat of Government. If it were confined to the ten miles square, he should not so much regret it, but the force of example, in this Representative Republic, was most pernicious. Members of this House witness continually the extravagance which is engendered here—they insensibly imbibe it, and carry it home to their own neighborhoods. A Republican Government may be

safe, so long as its main stream is kept in purity. But when the main stream is corrupted, all the tributary streams partake of its pollution till at length it spreads like an incubus over the whole land. We are told that the salaries of our public officers are not too high. I wish to see them reduced, and I want that the officers themselves should be obliged to attend to their duty within their offices. I don't want to furnish them with cash to travel through the land and make dinner speeches. I would give them what is fair and reasonable, but would encourage no extravagance. I, for one, trust that the resolution will at least go to the Committee of Ways and Means, and that we shall have the report of that Committee as to what officers can have their salaries curtailed; and then, I trust that there will be virtue and firmness enough in the House to reduce the salaries of all to what it ought to be.

Mr. BUCHANAN said, he could not concur in opinion with the gentleman from Maryland [Mr. BARNETT] that no necessity for reform existed at the present time. On the contrary, I believe it is necessary that all the public expenditures should be subjected to a most rigid examination. That abuses do exist, which ought to be remedied, I do not entertain a particle of doubt. While this is my deliberate conviction, I entirely concur with the gentleman from Virginia [Mr. RANDOLPH] that this is not the proper period for reform. Our duty at present, is to transact the necessary public business of the country, and to go home as soon as we can. I will say, however, to the gentleman from Kentucky [Mr. CHILTON] that whoever shall undertake the work of reform, cannot accomplish his purpose by such a resolution as that now before the House. He must go to work systematically. He must patiently and laboriously ferret out one abuse after the other, himself, instead of imposing that labor upon others. Such a task cannot be performed by referring a general—an unlimited and undefined resolution to the Committee of Ways and Means, at this period, when, I trust, half the session has elapsed.

I should not have risen, upon the present occasion, to say one word, did I not believe that the duty which I owe to the Fifth Auditor of the Treasury imperiously demands of me to make an explanation of the duties which that officer performs. The gentleman from Kentucky [Mr. CHILTON] never could have investigated the subject, when he informed the House, that office had been created for purposes which no longer exist. This office was created in March, 1817. Its duties originally consisted in auditing and settling all the accounts connected with the Department of State. These duties embraced all the accounts relating to our intercourse with foreign nations. Since this office was created, those duties must have been doubled. The independence of South America has since given birth to a new swarm of Foreign Ministers, Diplomatic Agents, and Consuls along the shores both of the Southern Atlantic and Pacific ocean. Their accounts must all be audited by this officer.

The same observation is applicable to the accounts of the Post Office Department. This officer is the Auditor of all the accounts of all the Post Masters, and all the Mail Contractors, in the United States. The new energy infused into this Department, by the excellent officer now at its head, has greatly extended the duties of the Fifth Auditor. This, however, is far from being the aggregate of his services. He has been made a kind of residuary legatee, of all the duties which other officers of the Government could not conveniently perform. When the office of Commissioner of the Revenue was abolished, in 1819, the Fifth Auditor was designated by the Secretary of the Treasury to perform the duties of that office. Although, since that time, there have been no internal taxes to collect, yet those gentlemen

JAN. 23, 1828.]

*Georgia and Florida Boundary Line.*

[H. OF R.]

who know how difficult it is to wind up an old concern, will readily believe that the duties imposed upon this officer have been nearly as arduous as they would have been, had internal taxation continued. This branch of his business has entailed upon him an extensive correspondence with all the Collectors in the United States, who have not finally closed their accounts—and the number of such, even at this day, is not small. But the most extraordinary of all the duties which has been imposed upon this officer, is that which the President of the United States devolved upon him in 1821. Although never bred to the laws, yet he was appointed to discharge duties which strictly and properly belong to the office of Attorney General of the United States. Ever since that time, he has directed and superintended all the law suits, throughout the Union, in which the Government have been concerned; and, at the present moment, the United States have upwards three thousand law suits depending.

To show the extent and the arduous nature of this duty, I would remark, that the then Secretary of the Treasury, who was never suspected of a want of proper economy—an officer upon the purity and wisdom of whose official conduct the People of this country have passed, and who is now revered in his retirement by every patriot, recommended that a person should be appointed for the sole purpose of attending to these suits, with a salary of \$2,500 per annum.

If, therefore, there be any one officer in this Government, whom the gentleman from Kentucky ought not to have designated as useless, that officer is the Fifth Auditor of the Treasury. I am just now reminded by gentlemen around me, that this officer, in addition to other burdens imposed upon him, has the charge of all the light houses in the United States.

I have a word to say to the gentleman from Maryland [Mr. BARNEY] before I take my seat. I am prepared at this time, and at all times, to act upon the subject of reducing our own pay. In relation to this question, I formed a deliberate opinion six years ago, which my experience ever since has served to strengthen and confirm, that the per diem allowance of members of Congress ought to be reduced. As a compensation for our loss of time, it is at present wholly inadequate. There is no gentleman fit to be in Congress, who pursues any active business at home, who does not sustain a clear loss by his attendance here. If we consider our pay, with reference to our necessary individual expenses, it is too much. It is more than sufficient to cover our expenses. I believe that the best interests of the country require that it should be reduced to a sum no more than sufficient to enable us to live comfortably whilst we are here. For my own part, I do not, like the gentleman from Maryland [Mr. BARNEY] give away to my constituents my per diem allowance. I receive it, and use it for my own benefit. It seems that gentleman uses the surplus of his pay, in displaying his liberality to his constituents; by making donations to churches and charitable institutions at the public expense. In this manner he may use it most effectually for his own advantage; but still I am inclined to believe, his constituents, as well as mine, would be quite as well satisfied, if the surplus were allowed to remain in the Treasury, for the benefit of the Nation. If the Government of this country should ever want to employ almoners to distribute their bounty, the last men whom the People should desire to employ in this office, would be members of Congress. It might be dangerous to trust them with the performance of such a duty.

Upon the whole I scarcely know how to vote upon the present question. If the Chairman, or any gentleman upon the Committee of Ways and Means, to whom this resolution is directed, will say there is any prospect

that it may be productive of good, during the present session, I shall vote in the affirmative. If not, I shall vote in the negative. When we commence the work of reform, I wish to enter upon it seriously. I wish the House to be prepared to act with wisdom and with energy, in cutting off the useless branches of public expenditure. Until that time shall arrive, I do not wish to encourage hopes which cannot be realized.

Mr. M'DUFFIE, Chairman of the Committee of Ways and Means, said, that with regard to the propriety of retrenchment, as a member of that Committee, he felt wholly incompetent to express any definite opinion, but he would suggest to the mover of the resolution that, if he desired to effect any really beneficial object in relation to this matter, the proper course would be to introduce a series of resolutions applying systematically to the various retrenchments he wished to effect, and have them referred to the appropriate Committees. The Committee of Ways and Means were already incumbered with business, and it would be out of the question for them to do any thing like justice to such an inquiry, which, indeed, he did not consider as appropriate to that Committee. Should the resolution pass in its present form, it would send the Committee of Ways and Means on a voyage of discovery, without chart or compass. It was out of the question to expect that that Committee are to go severally to the different Departments, and there make minute investigations as to the duties and salaries of all the officers of the Government.

He would suggest to the honorable gentleman to subdivide his resolution, and would for the present, move to lay it upon the table; but was willing to withdraw the motion, if that gentleman wished to say any thing farther in explanation or defence of it.

Mr. STEWART, of Pennsylvania, requested Mr. McDUFFIE to withdraw the motion; but he said he could not do so, unless at the request of the mover.

Mr. CHILTON (the mover) having made with success, a similar request, was proceeding to explain the object of the resolution, when

The SPEAKER announced that the hour allotted to resolutions had now expired.

Mr. BARNEY moved to postpone the orders of the day, for the purpose of proceeding with the present discussion; but the motion was negatived.

#### GEORGIA AND FLORIDA BOUNDARY LINE.

The following message was received from the President of the United States; which was read.

*To the Senate and House of Representatives of the United States.*

WASHINGTON, 22d JAN. 1828.

By the report of the Secretary of War, and the documents from that Department, exhibited to Congress at the commencement of their present session, they were advised of the measures taken for carrying into execution the act of 4th May, 1826, to authorize the President of the United States to run and mark a line dividing the Territory of Florida from the State of Georgia; and of their unsuccessful result. I now transmit to Congress copies of communications received from the Governor of Georgia, relating to that subject.

JOHN QUINCY ADAMS.

Mr. HAYNES, of Geo. moved to refer it to the Committee on the Judiciary.

Mr. WHITE, of Florida, said that the question submitted to Congress in the message of the President just referred to, was one of great importance to the United States, and of still greater to the Territory of Florida. It involved a question of boundary which they supposed had been settled long since, and never expected to see revived again. Since it was introduced here, however, it must be disposed of, and under the rules of the House

H. or R.]

Georgia and Florida Boundary Line.

[JAN. 23, 1852.]

it was difficult to say what committee had, appropriately, the cognizance of it. The Committee on the Judiciary, in the learning, ability, and integrity of which he had the utmost confidence, were charged with the consideration of all questions involving judicial proceedings. It was obvious, said Mr. W. that there was no question of that nature involved in this matter. The questions to be investigated had arisen under three treaties, that of 1783—of 1795, between Spain and the United States, and that of the 22d of February, 1819; and although there was now no question immediately in reference to our foreign relations, it nevertheless referred itself to the negotiations and relations of this Government, at the respective periods of the ratifications of these treaties, and the rights of each party growing out of them, naturally involved such inquiries as were generally made by the Committee of Foreign Affairs. That Committee have less business before them, and are entirely competent to present an enlightened and satisfactory view of the subject. He should not, however, move a reference to either of the Standing Committees, for two reasons: First, because it did not legitimately, by the rules of the House, belong to either, and, secondly, because they were so much occupied by subjects previously referred to them, that it would be impossible to obtain a report as early as it was desirable. He preferred that it should go to a select committee, and he thought that the magnitude of the object justified such a disposition of it. The claim of Georgia, now set up in the communications of the Executive of that State, and transmitted by the President, embraces a tract of country South of Ellicot's line including fifteen hundred thousand acres, claimed by the United States, as a part of the territory acquired by the treaty of 1819 with Spain: about eight hundred square miles of which has been surveyed and sold by the United States, and the money deposited in the public Treasury. The amount of property, the subject of jurisdiction, the uncertainty of titles, and the suspension of the sales, all unite to render it desirable that the question should be speedily settled. The bill which passed at the last Session was referred to the Committee of Public Lands. Mr. W. expressed his satisfaction that, in moving for a Select Committee, he was not animated by any desire to obtain any garbled or one-sided view of it. It was known he could not, and, if he could, would not, sit upon it. If it was the pleasure of the House to send it to the Judiciary Committee, he did not doubt but that the rights of Florida and the United States would be ably, faithfully, and impartially investigated, and to whatever Committee referred, he should be satisfied.

Mr. WILDE said, he should always trouble the House with great reluctance, and his reluctance was increased, in consequence of being obliged to differ from the gentleman from Florida, in relation to the propriety of the proposed reference. Such subjects, he believed, had usually been referred to the Committee on the Judiciary. A question or similar character took that course during the last session. He was sure the gentleman from Florida desired only what he himself and the People of the State of Georgia also desired, that this question should be fully, patiently, and impartially examined, and justly decided. Their feelings were all in favor of the prosperity of Florida; their interests led them to wish her early admission into the Union at the earliest period. In any event, the titles acquired by individuals from either Government, within the disputed territory, would, he presumed, be respected, and jurisdiction alone, though a relinquishment of it was forbidden by State pride, of which he had as much as any one else, would not be insisted on, if not shewn to be the right of Georgia. She took more pride, he trusted, in her justice, than in her jurisdiction.

With regard to the proposed reference to the Committee of Foreign Relations, he would observe, that, in all questions of this description, it is not only important that justice should be done, but that those who are interested should believe it has been done. In that view of the subject, he felt bound to oppose a reference to that Committee. A report from that quarter, upon another matter, did not satisfy the People of Georgia, nor increase their disposition to submit any question connected with their interest to that Committee.

He did not propose now to inquire how far their distrust was well or ill founded—it was enough for his purpose that it existed. As to a reference to a Select Committee, he considered objectionable such a motion, when the conflict was between a State and the Union, it was suspicious. It was like a motion for a special jury, in a cause where the Crown was concerned. He had the most entire confidence that no advantage in the selection of a Committee was sought by the gentleman from Florida. He was sure none would, in any event, be obtained, as none was desired on either side. The subject came, he considered, within the proper duties of the Judiciary Committee. Their zeal, ability, industry, and impartiality, commanded entire confidence, and neither required nor admitted of eulogium from him. Why, then, should this inquiry be withdrawn from them?

Mr. W. concluded by expressing his hope that the motion of his colleague [Mr. HAYNES] would prevail.

Mr. WHITE said, he was not unwilling the matter should go to the Judiciary Committee, but three days since that Committee had at their own request, been discharged from the consideration of a question involving the boundary between Michigan and Illinois. Mr. W. had considered the question as virtually settled last year when it had gone to the Committee on the Public Lands. He could not be suspected of wishing to be placed at the head of the Select Committee, because, as a Delegate from a Territory, he was precluded from sitting on any Committee.

Mr. P. P. BARBOUR (Chairman of the Committee on the Judiciary) made some statements in reference to the business before that Committee being already sufficiently onerous; when

Mr. GILBERT advocated at some length the reference of the message to that Committee. There was no necessity for any hurry in the case, and it might turn out that the ultimate question would go at all events to that Committee. He deprecated any but the usual course in this affair—denied that the subject had any relation to our correspondence with Foreign Nations, and insisted on the propriety of avoiding every thing that might excite suspicion of any partiality in the course which should be taken on this memorial. It was very well known, he said, that much excitement had grown out of the relations between the United States and the State of Georgia for several years past. This very circumstance made it the more important that any business in which the State of Georgia was interested should take the usual course in this House. He was opposed to any reference but to a Standing Committee, and to any partial operation which might be produced upon the decision of the subject by its reference to a Select Committee.

Mr. HAYNES remarked that, although the question embraced by this controversy did arise, as stated, out of the Treaty between the United States and Spain, yet the United States now occupy, as to Georgia, the position, in reference to this question, which Spain formerly did: and there was, therefore, no sort of propriety in giving the subject, as now presented, a direction to the Committee of Foreign Relations.

The question was then taken on referring the message to the Committee on the Judiciary, and decided in the affirmative without a division.



JAN. 23, 1828.]

*Case of Marigny D'Auterive.*

[H. OF R.]

## CASE OF MARIGNY D'AUTERIVE.

The House then resumed the consideration of the bill for the relief of Marigny D'Auterive.

Mr. BURGESS said that in ordinary cases of private claims, to hear patiently, and to decide justly, comprehended the whole duty of a member of this House; for the report of the committee, with the explanations of the gentleman who made it, and the discussions of those representatives whose constituents may be immediately interested in the claim, furnished all the facts and principles necessary for a correct decision. Under this impression, it was my intention, said Mr. B., to have been silent in this debate; nor should I have departed from that intention, had not the amendment offered by the gentleman from Louisiana, [Mr. GURLEY] introduced into the question a new set of facts, and new and extraordinary principles. If the amount only of the claim be regarded, it is, indeed small and inconsiderable; but if we look at the principles on which this claim is made, they will furnish abundant apology for any gentleman choosing to impugn them by a critical examination of their nature and tendency. Parts of this discussion have furnished instances of constitutional construction too dangerous to the rights and liberties of the People of this country to be heard in this hall, and passed over in silence by any man nursed in the freedom and schooled in the principles of the Revolution. It is said, too, that our debates here have created excitement in the Southern parts of the Union. They have learned with astonishment that men on this floor, debating this amendment, have questioned and denied the legality of their claim to such persons as are by the laws of those States held to service or labor. These excitements must have been produced by merely vain imaginings; and utter misapprehensions; for all who hear me will bear testimony to the fact, that no such opinion has been uttered in this hall. The question itself, as it is now brought into this debate, has assumed a serious aspect, and merits a serious discussion. It is not now a demand for services performed, or for goods delivered: it is for deterioration of a slave, produced by an accident, which happened to him while doing ordinary labor at the shovel or spade, for the United States. No freeman ever received a compensation, or made a claim for any such injury. This is the first of a numerous class of claims of a similar character; and all of which will be pressed forward or withdrawn, just as this shall succeed in this House.

Sir, before any further consideration of this question, permit me to solicit your attention to some examination of some of the things which have been pressed into this debate, and associated with it. Every person who hears what I say now, and every person who may hear what I have said in this debate, and who has any interest in the kind of property connected with this claim, is, by the Constitution of the United States, and by the laws of the several States where he resides, entitled to be fully quieted in the possession of that interest. No gentleman who has spoken here, has questioned their rights, or intimated a wish to disturb their possession, or call into discussion their title. No man here has claimed, for the Congress of the United States, the constitutional right to legislate concerning the nature, the acquisition, the tenure, transfer, or evidence, of any kind of property, in any one of the several States. I pray of you, sir, to let me be at pains, and task the patience of this House, while I endeavor to show the utter absurdity of any attempt at any such kind of legislation. All property in any one of these United States, is comprehended in either things real or things personal. Things real are those legal relations existing between lands and the owners of them. The fee simple is the highest order of this relation. Different, complex, and conditional relations of this class, require

no description. Other relations are freehold, and less than freehold, for a greater or less number of years. To these may be added estates in possession or in expectancy, and as well those owned by a single as a greater number of tenants. The tenure by which several relations to lands are holden, the title by which they may be claimed, and the manner in which title shall be proved, are each large departments of jurisprudence, and have exercised the best skill and most profound wisdom of legislation in other countries, and in each of these United States. Property in things personal, is that estate which, in this country, we may have in any thing other than land. It is either in possession or in action. You either have it in your own hands, or in the hands of those to whom you have entrusted it. Your goods, wares, and merchandise; your flocks, herds, and the fruits of your lands; the instruments of your agricultural, mechanic, manufacturing, or commercial industry—in short, the avails of your land, the results of your capital, the proceeds of your labor, are one great portion of individual wealth, called property in things personal. Another great portion of it consists in the infinite variety of claims which men have on other men, for money, goods, or labor, either by force of contracts, or by enactments or adjudications of law. Among these are notes, bills, bonds, records, together with the infinite variety of legal implications, by which labor, goods, or money, are due from one man to another. To these should be added the labor and service due by any one person to any other person, either by contract or for a limited time, or by law, and for time unlimited.

Now, sir, which class of all these various descriptions of property, in either things real or things personal, falls within the legislative jurisdiction of this Congress? Concerning which one class of them all, or what article in any one of them, can we enact any law, in any degree or respect altering its nature, or tenure, or title; the manner of acquiring or transferring, or the evidence whereby it shall be secured in possession of one person, or reclaimed and recovered, when in the possession of another? Where are our statutes concerning tenures, and title deeds, descents, and devises, and distributions? Where those of contracts, either parol or in writing, whether simple or sealed? Where, in fine, are those codes of laws, under which persons are bound to labor or service, in any one of the several States of this Union? All these laws are found, and sufficiently numerous, for all the exigencies of property or persons, in each of all these States, either in the pure civil, common, or canon law—or as the same may, for greater convenience, have been, from time to time, altered by any of the respective legislatures of these States. In the statute, and other books of legal learning of these States, and not in the statute books of the United States, are such laws to be found. Truly, sir, why should they be found in the statute books of the United States, when it is clear as the light that all these matters and things are of the several States, and not of the United States' legislative jurisdiction?

What gentleman, sir, on this floor, has claimed for the Congress of the United States the right to enact any such laws? Not one. All must disclaim all such right. For good reason, too, because the Constitution has given us no such right. Except concerning the exclusive jurisdiction of ceded territory, the legislative power of Congress seems confined to raising and disbursing revenue, for common defence, and general welfare; together with the legislation incidental and auxiliary to those great objects. Who, then, sir, will contend—who has contended—that Congress can make any law altering, or impugning, or invalidating, those laws of any of the States creating that legal relation called property, between any of the good people of those States and any person, matter, or thing? Why, then, this excitement? All men may sit



H. or R.]

*Case of Marigny D'Auterive.*

[JAN. 23, 1828.]

quietly, in all and each of the States, under the protection of their laws; for one kind of property is as perfectly secure to its owner as another. If, however, any jealousy of Northern people still exists in the minds of Southern people, be in patience with me—I will make one effort more to remove all cause for such feeling. It is true, laws cannot always protect, because they cannot always control. Morals, manners, habits, interest, make men what they are; and, when these are known, men are known, and, in any given state of events, their actions may become, with certainty and safety, a subject of calculations. Laws, indeed, may slumber; morals are vigilant as consciousness; interest watchful as the principle of self-preservation. For the purposes of what I would now say, the whole Northern communities may be regarded in one or another of three descriptions of persons. To neither of these classes can any motive, inconsistent with fair integrity, be objected. The first class is least numerous. They, of all men, think and act the least consequentially. If the thing they would have done be, by itself, honest and desirable, their mental vision never comprehends those eternal adjuncts of all human events, the things which must go before, and the things which must follow after them. They have, indeed, zeal—unbounded zeal—but they are entirely without that knowledge and wisdom indispensable to the accomplishment of any great enterprise. Slavery they regard as an evil, and freedom as a good—indeed, as all wise, good, and prudent men, in our country regard them. Immediate and universal emancipation is their only remedy for every case and condition of slavery. They say nothing, and think nothing, of the legal rights of masters thus at once extinguished, nor ask what condition of servitude could equal the wretchedness of a million and a half of slaves at once thrown out of the employment and the support, the protection and control of their masters. We need not be detained by a consideration of what this class of men would do; because they can do nothing. Their number is small, their wisdom small, and their influence still more inconsiderable. A few of these men may be found in the North; but I believe they are more numerous in the Southern parts of the Union.

The second class should be denominated philanthropists. They would give freedom to all men; but they would violate the rights of none. They are the Howards of our country. As he did not make the pilgrimage of Europe to break gaols and liberate prisoners, but to make prisons the abodes of humanity, so would they not violate the rights of masters, but ameliorate the condition of slaves. Whatever they do, they will do it with justice to all men: now would they purchase what they so much desire, the freedom of all, at the expense of those higher and more desirable objects, the principles of morals and religion? The Colonization Societies of our country are of this class. I know men, who, though they may not be united with these societies, yet are they laboring in the same great cause. They are called Friends; and well do they merit the denomination. Their charities, like their devotions, though silent, are fervent and sincere. The slaves which they liberate are purchased with their own money, and sent, with all needful aid, to colonize their native land. Indeed, this great class of philanthropists look forward to the gradual and entire relief of our country from slavery, and the gradual peopling of Africa with freemen. The great moral debt of our nation will thus be paid. The children of Africa will carry back to their native land, arts, civilization, freedom, and Christianity. The toil and bondage of millions who are dead will be rewarded by the wealth and liberty of millions alive; and the Angels of Justice and Mercy, looking down on our world, may rejoice to behold the long lamented delinquency of one age so fully expiated by the transcend-

ant remuneration of another. From this class of men—from these genuine philanthropists—numerous and influential as they may be, Southern men have nothing to fear.

A third class in the great community of the free States, equally regard law, justice and the rights of others; but they look on the connexion of master and slave with the eye of the mere politician. Their interests and habits of thinking, call them to a consideration of States and Nations as communities of People capable of wealth or poverty, imbecility or power. They make themselves acquainted with the statistics of different States, and compare one with another, to the intent that they may find which are most probable to excel in that mystery—in some degree the mystery of all men—the great trade and mystery of bettering their condition. Many important questions are involved in their theory; not only what kind of land and what kind of machinery, but what kind of labor, may be rendered most productive. Is it that of freemen, or is it that of slaves? The keen investigation of this class of men in our country, and of the like class of men in other countries, has finished and solved this great question. What was a problem in the civilized world one century ago, has now become an axiom in political science. It is now believed by this whole class of politicians in the North, that slave labor is much less productive than the labor of freemen. It is believed that such as labor for themselves, and who, by superior industry, skill, and faithfulness, may better their own condition, will more probably have and exercise these qualities for the benefit of themselves and their employers, than slaves, who cannot, by any exertions, in any considerable degree, improve their own condition, or, in any event, relieve themselves from bondage, or servitude. Hope is the animating principle of free, fear the fatiguing motive of slave labor. The reward of hope quickens, the fear of punishment paralyzes, exertion. The free laborer consumes with economy; and, with that care and parsimony which are the greatest cause of national accumulation, lays by a part of that portion of production belonging to himself, wherewith to build the foundation of a little capital of his own. Inconsiderable as these savings may individually be, in any one year, yet, when united, they make a great part of the sum total of the savings of any nation; and are not unfrequently the origin of immense private fortunes. In slave labored States, such parsimony and such accumulation cannot be expected, nor is it ever found. Why should the slave spare in consumption, when he can neither accumulate for himself or for his children? All these things are known to this race of politicians—these men of worldly wisdom. They are pleased with their own condition, because they know that condition is more conducive to prosperity than that of slave holding States. These Northern men will never disturb the tenure by which Southern men hold this evil. No, sir, so long as this class of men understand their own interest, are mindful of it, and desirous to outstrip the holders of slaves in bettering their own condition, so long will the master and slave be held to the present relations, according to all the provisions of the Constitution.

From neither of these classes, therefore, have Southern men any thing to apprehend, or to produce any excitement. The enthusiasts will not disturb them, for they have not the power to do it. The philanthropists will not do it; for they will not, for any supposed good, violate even the legal rights of others. From the politicians they have nothing to apprehend; because they will not only not break through the laws of their country for any purpose whatever, or better the condition of any man against his own will, but because they will not diminish the political weight and influence of themselves,

JAN. 23, 1828.]

*Case of Marigny D'Auvergne.*

[H. OR R.]

and their own States, for any purpose of augmenting that of other men, or other States. No; be ye assured, throughout all the regions of the South, the philanthropist will never unjustly relieve the slave from his master; the politician will never illegally relieve the master from the slave. I have thus far labored to quiet all this Southern excitement, by endeavoring to demonstrate, that Congress have no constitutional right to legislate on the property relation of master and slave; and that Northern men, by their principles of morality and religion, their habits of thinking, and the attachments they continually feel for their own interest, can have no disposition, either unjustly or illegally, to interrupt, or call in question, this relation. Suffer me to say, Sir, that every gentleman of the South on this floor, has from me a high pledge of my candor and sincerity in this debate. I have a brother, dearer to me than almost any other man, who lives in one of the most Southern States, and is there a planter to no inconsiderable extent. Believe me, for the reasons I have given you; if not, believe me for my fraternal feelings. Be assured, I would neither overthrow his rights, nor interrupt his repose.

One thing, of a different nature, has been said in the course of this debate, which to me, seems peculiarly of a kind to produce, either here or elsewhere, some degree of excitement. It has been alleged by the gentleman from Massachusetts, [Mr. EVERETT] that the opposers of this amendment, if they sustain their opposition at all, must sustain it by what, as he says, virtually amounts to an interpolation of the Constitution. He contends that they must read the last clause of the 5th article of the amendment; "Nor shall private property (unless it be property in slaves,) be taken for public use, without just compensation." Has any gentleman on this floor expressed any such opinion? Has any gentleman contended that property in slaves should be taken for public use, without just compensation? I have not heard it; nor do I believe any gentleman who will vote against this amendment, will vote against it for any such reason. Could I, Sir, so debase the Constitution of my country, I should feel my principles degraded below the level of that very ordinary kind of morality, found indispensable in keeping together communities, least of all scrupulous in rule, or the character of their actions. Could that line (unless it be property in slaves,) be placed in our great national charter, and placed there with all the solemnities of a constitutional amendment, and placed there, too, by a single, and a silent wish, I do believe, Sir, that man is not in this House, who would make the wish. Should the People believe we hold such doctrines here, I should cease to be surprised at the excitement of the South; should be utterly astonished at the quietude of the North. Those who sent me here, have a due regard for their property; and just, indeed, it is, and very natural that they should; for that property is the reward of their toil, enterprise, and perseverance. Nevertheless, no portion of it which I might by advocating such a measure, save to them, could ever redeem me from their just contempt, could I so aid in corrupting the pure text of the Constitution.

No, Sir, the opposers of this amendment direct their opposition by the great principles of the Constitution, and of all free Republics. As their fathers did not purchase, so they will not defend, their independence by the blood of slaves. Nor is this doctrine at all impugned by the resolution of the Continental Congress, passed March 29, 1779, as quoted from their Secret Journal by the honorable gentleman from North Carolina, [Mr. BRYAN.] For, although that resolution authorized South Carolina and Georgia to raise an Army of 3,000 black men, yet, the very next resolution, and on the same day,

provided for the purchase of them by the United States, before they were sent into the Army—and for their emancipation, and a bounty of fifty dollars to each who should faithfully perform the duty of a soldier. Rhode Island was governed by the same principle, and acted up to the very letter of it. At the commencement of the Revolutionary war, she had a number of this description of People. A regiment of them was enlisted into the continental service; and no braver men met the enemy in battle; but not one was permitted to be a soldier, until he had first been made a free man. From that day to this, the same principle has prevailed; and slaves not only have not been impressed, but they have never been suffered to be enlisted by their masters into the Army.

Those, Sir, who oppose this amendment, do indeed contend for an alteration in the 5th article of the amendment to the Constitution; but, it is an alteration, according to this great principle. They would have it read thus: "Nor shall private property be taken for public use, without just compensation"—nor shall any property in slaves ever be so taken. State our object as it is, and our reading of the Constitution as we read it, and both will be found fair, honorable and patriotic. State them as they are not, but as it is contended by the gentleman from Massachusetts they may be stated, and I know not what condition of humanity would not feel degraded by any attempt to sustain them.

[Mr. EVERETT rose to explain. The gentleman entirely misconceived his remark. I stated not that those who opposed the amendment wished to introduce a qualification into the clause of the Constitution in question, but that such was the operation of a rejection of the amendment. Mr. E. expressly said, that he knew and felt that no one could wish to introduce the qualification.]

It has been contended in this debate, that the right to impress is, in the commanding General of an Army, a perfect right. He has the full power of the sovereignty; he can take all; take all for the common defence; all persons, all property; the master and slave, the father and son; and he has the same power over what comes under his command by impressment, as he has over what comes there by contract. He is endowed with the eminent domain; the transcendental power of the sovereignty. This question does not call for any support from such principles. Why they are advanced at this time, and in the present condition of our country, may, for all purposes of this discussion, be very safely left to the determination of those gentlemen who have, as sound doctrines, introduced them, I believe, for the first time, into a debate in any Congress of these United States. Yes, Sir, for the first time this House, the hallowed temple of liberty, the sanctuary of freedom, has been profaned by the publication of doctrines, odious to the ear of slavery itself; and never uttered aloud, and in the pure light of day, even by the most absolute despotism. Against these, I beg leave to bear my humble testimony, and freely to express the most unqualified execration of them. A very short examination of the nature of our Government will demonstrate the utter absurdity of all such principles.

[Mr. McDUFFIE said, I rise, Mr. Speaker, to make a question of order: And in order that we may decide the question correctly, I ask the gentleman from Rhode Island to state, who is that member of this House who contended that a military officer has a right to impress a citizen? And if it shall turn out, as I believe it will, that no gentleman has maintained such a doctrine, I contend that it is not in order for the gentleman from Rhode Island to go into a formal argument against a right to impress freemen, upon a proposition to indemnify an individual for the impressment of a negro slave.]

H. or R.]

*Case of Marigny D'Auterive.*

[JAN. 23, 1838.]

Mr. REED stated that the gentleman from New York [Mr. MARTINDALE] had contended yesterday, that a military officer had a right to impress a citizen.

Then, said Mr. McDUFFIE, the gentleman from New York and the gentleman from Rhode Island may settle that question between themselves.]

A commanding general [said Mr. BURGESS] can have no more power than Congress has: for he receives all his power from them; and they cannot communicate to others what has not been given to them. We cannot fairly reason from the powers of European Governments, to shew the powers of our own. The Governments of Europe have all the power, not wrested from them by the People; while our Government has no more power than has been given to them by the People. In this country, the great residuary power is with the People; in that, it is with the Government. All the Governments of Europe had a feudal origin. The Roman power, that iron despotism which had, for six centuries, set its foot on the neck of all civilized nations, was, after years of conflict, broken in pieces, by numerous armies of martial barbarians. These were led on to the conquest by numerous warlike chieftains. When the victory was achieved, they divided their plunder, according to their rude notions of justice. When this was done, they formed a number of Military Governments, being the only system of polity which such men were capable of conceiving, or keeping in operation when formed. The lands were parcelled out to their subordinate officers, as their great feudatories; and on the condition, among others, of aiding the chieftain with military service in his wars. The duration of their military service was stipulated in the grant. Nearly all the present Governments of Europe originated in this manner; and are derived from those Military Governments. Even then, the chieftain could call his feudatory into the field, for only a certain and limited number of days. He could neither impress him, or any of his immediate retainers; nor take from him one of his servants or slaves. When the Sovereigns of Europe changed this military system, the tenure of lands, by chivalry, was abolished. Armies were formed by mercenaries or volunteers. Men holding lands under him, could no longer be called on, as of right, by the Sovereign, to do military service. In England the whole tenure, by which lands were holden, was, in the reign of Charles the Second, changed to that of free and common socage. Since that time, no King of England can exact personal military services; and George the Fourth, wearing the crowns of three Kingdoms, with the titular sovereignty of France in addition, cannot impress into his armies the poorest and most defenceless man in his dominions. Let me ask, sir, has the Congress of the United States more power over the citizens of the several States, than the King of Great Britain has over his own subjects? Why, sir, the first settlers of this country, who came from England brought with them "all and singular the rights and liberties of Englishmen." Their charters were, that of Rhode Island I know was, "to have and to hold their lands by the tenure of free and common socage." How does it then come to pass that Englishmen cannot be impressed into the army by the military officers of their King; while the People of the United States, both "master and servant, father and son" may be impressed by their own military officers into their own armies? Did we indeed lose the liberty of freeborn English subjects, when we achieved the independence of the American States? Even in feudal days, in England, the ranks of war were filled more by a gallant spirit of knighthood, the glorious patriotism of chivalry, than by the exercise of any legal power in the Sovereign. Would to God, sir, that ancient valor of soul, that high enthusiasm of patriotic spirit had redeemed our country from this public avowal of the right

or the necessity of military impressment. Sir, the press-gang of England, to man their Navy, is an engine of power, sanctioned by no law, or ever justified by any English lawyer; and he who resists the exercise of it upon himself, even unto blood, will find a perfect justification in the laws of his country.

Congress, Sir, have power by the Constitution to raise armies. This may be done by either enlistment, or by hiring auxiliaries, or by calling out the militia, to aid in the execution of the laws, to suppress insurrection, or to repel the invasion of any State or Territory. Can this Congress raise armies in any other manner? Can they enact a law, whereby any person in the United States may be impressed, and thereby fill up the ranks of the Army? This law, to have any effect, must find some portion of the People whereon to be put in legal execution. Can it be executed on the militia? By the Constitution, Congress can organize the militia. They may, as they have done, form all able bodied, free white citizens into companies, battalions, regiments, brigades, and divisions. These are equipped, accoutered, and officered; for all this is expressed or implied in the Constitutional power of organization. The militia may be called out for any constitutional purpose, and during any length of time provided by law: but they can be called out as militia only; for they must, says the Constitution, be commanded by their own officers appointed by their own States. How, then, sir, can Congress make a law, whereby the militia may be impressed; picked out, man by man, from the ranks of their own regiments, taken from the command of their own officers, and placed in the ranks of the Army, and under the command of the officers of the United States? No, sir, the militia cannot, not a man of them, be impressed; nor could any one, after enrolment, enlist into the army of the United States, had not the law for organizing the militia, expressly reserved to them the right so to enlist. Your law, for raising an army by impressment, must, sir, if it operate at all, operate on People other than the militia of your country. You cannot, from that constitutional bulwark of our nation, pick down so much as one stone, brick, or bit of fractured cement, by any minion of military despotism, acting under any law ever enacted, or to be enacted by this Congress. Your law of impressment must, then, be executed on those exempted from service, under the organization of the militia. These are all such as, by condition, or by age, being too young, or too old, or by employment, or office, are exempted from military service, in war or in peace. The whole mass of slaves in our country are, by their condition, exempted and excluded from military service. Both sides of the House will agree to this proposition. Policy does not permit their masters to place them in the ranks of the army; nor does justice authorize the United States to impress and send them there. No man can justly be received, or compelled to fight for liberty, without first being made legally capable of enjoying it. You will, therefore, make no law to raise Armies, by authorizing the impressment of slaves. Will you enact a law to conscribe, and, and take by violence, from the nurture, education, and instruction, of parental care, guardianship, and affection, the whole childhood of your country; and fill the rough ranks of war with the tender and unseasoned limbs of infancy? If there were not a physical impossibility interposed between any such law and the object of it; yet are the high moral principles of filial and parental relation, so paramount in the heart of every man, woman, and child, of this nation, that such a law could never outlive the hour of its enactment.

Will you impress those exempted by their advanced age, and send your fathers and grand fathers to fight your battles, because their more prudent sons refuse to

JAN. 23, 1828.]

*Case of Marigny D'Auterie.*

[H. OF R.]

join the army by enlistment? These men have purchased their exemption by military service, already performed. You have received the consideration; can you take back that for which they have fully paid you? Not, sir, with justice; and what you cannot do with justice, you cannot constitutionally do. Indeed, sir, I believe our nation has, and ever will have, enough of Spartan courtesy, if not of Spartan valor, to revere the character, and hold inviolate the venerable rights of age. Other persons are exempted by their employments. Will you extinguish the lights on your coast, that you may place their keepers in your armies, or profit by the salvage of shipwreck on your shores? Will you abolish commerce, that you may impress sailors? or give up revenue, for the sake of placing custom-house officers under military command? The transmission of public and private intelligence employs, in the direction and conveyance, a large number of men: Will you impress all these into the ranks of war, and leave all knowledge of passing events to be transported from one place or one person to another, by special messengers—or “to be blown about by the viewless couriers of the air?” In each of the several States, and in the United States, is a numerous, learned, and highly respected body of Judges. These are all exempted from duty in the organized militia of the several States. Will you make a law authorizing their impressment? Do, sir, let it be so enacted, that the recruiting officers of some military chief, high in command, may, by that power which can “take all,” bring forward from each State in the Union each venerable bench, and place them under review in front of this Hall. When this is done, send at least a corporal and file of soldiers to the other end of this building. Let “the pure ermine of justice” be contaminated by the touch of military violence. Bring out the venerable Chief Justice, and his learned associates. We shall reduce to fact what was once a mere sarcastic fiction; you will really have “an army of Judges.” The streams of justice will indeed be cut off at the fountain; her sanctuary will be profaned in the very persons of her consecrated priesthood. But, what then? The judicial will merely be rendered subordinate to the legislative, and all to the military power; and “law will then be silent amidst arms.” Congress will but have to add one section more to their law of impressment, and comprehend the Legislatures of the several States in the sweeping provisions of it: for it is presumed no Congress will ever make a law rendering themselves liable to the exercise of this “eminent domain,” this transcendent military power, which “has a perfect right to take all.” No, sir; a law of impressment to “raise armies” cannot be made: for you cannot impress those exempted from the militia; because they are so exempted by laws paramount to the Constitution. And you cannot impress the militia, because they are exempted by the Constitution.

This doctrine of impressing freemen involves a moral absurdity. All power is given to Congress by the will of the People; but all impressment is the exercise of power against the will of the People. How, then, can it flow from their voluntary grant? All impressment is the exercise of despotic power—a power uncontrolled by any thing other than the will of him who exercises it; but all granted power must be limited and exercised according to the will of him who grants it. Despotic power, like slavery, can never originate in compact.—Liberty is unalienable. How can a man sell himself to be a slave, since the very consideration he may receive for his liberty, will, the moment he becomes a slave, revert to his master, and thereby, for want of consideration, render the contract nugatory?

Wisdom is ever schooled by experience—let us examine her lessons: We have had two wars; the first long, dangerous, and difficult; the second not so long, attend-

ed with less danger, but with some difficulties. Neither the Continental Congress, nor the Congress of the United States, ever exercised, or contended that they could exercise, the power to enact any law of impressment, either to raise or recruit their armies. If, therefore, Congress can have no such power, how can commanding Generals, acting under the laws of Congress, have any such power? Did Washington ever exercise, or claim such power? No, sir; much as he was almost adored by the People of this country, any attempt at impressment, would have brought him down to the level of mere ordinary humanity. Shall any General, since his time, in this country, exercise, and be justified in exercising, this odious power? Who in this House would have suffered the exercise, upon himself or his sons, of it? Shall we believe that the poorest freeman in the country has less of the spirit of freedom and generous manhood than the wealthiest and proudest man in the nation? It was once nobly said, “The poor man’s house is his castle. The winds of Heaven may blow through it—but the King dares not enter.” In this country, shall the Congress, or the Commanding General, dare to enter? It may be rude and unfinished, but his fire-side is the home of his comforts, the altar of his devotion, the sanctuary of his wife and children; and shall the unhallowed foot of violence profane his threshold? What man of you all, who now hear me, would endure the paltry minion of a military despot to rudely enter your dwelling, and choose between yourself and your son, which he would drag to the recruiting house, there to be measured and mustered for the ranks of the army?

Let me ask, why should this power to raise armies by impressment have been given to Congress? Will not the People know, quite as well as their public servants here, when a war is necessary? When they believe it to be so, it will be popular with them. When they want a war, they will enlist, volunteer, run to the battle field, as was done in the Revolutionary war. The Constitution, which gives Congress all the power they can of right exercise, was formed by those men, and formed not long after they had achieved our independence. Did they not remember the valor wherewith that war had been conducted? Did they forebode the degeneracy of their race, and therefore provide this constitutional cure for cowardice? And lest, peradventure, their sons and descendants should not voluntarily defend their liberty and independence, gave power to Congress to provide for having them dragged into the ranks of their own armies? No, sir; this Constitution, by providing that “no man shall be deprived of liberty, but by due course of law,” provides that no innocent man shall ever be deprived of liberty; nor even the guilty, until accused, tried, convicted, and sentenced to a loss of it, by imprisonment. Sir, not until martial law shall become the law of the land, and the whole country shall be formed into one vast camp, need we fear impressment, either without law, or by force of any legislative enactment.

Cannot property be taken for public use, by the Commanding General? It can be taken no otherwise, by him, than it can be taken by Congress. They are told by the Constitution, “Nor shall private property be taken for public use, without just compensation.” Just compensation has reference to the value of the consideration paid, as well as to the time of payment. He who takes property, unless he contracts to pay at a future day, does not make just compensation, unless he pays when he receives the property. Notwithstanding the assertion of the gentleman from Pennsylvania, [Mr. SUTHERLAND] a mere promise to pay is no compensation; especially if made by the United States, against which you can have no compulsory process. The United States are continually making contracts, and receiving the lands of individuals, either for light-houses, for-

H. OF R.]

*Case of Marigny D'Auterive.*

[JAN. 23, 1828.]

tifications, or other purposes. They cannot seize and confiscate these lands. An appropriation is made by Congress, to make payment, upon receiving the conveyance. The owner makes a deed of the land to the United States, and, if he be wise, he will not deliver this deed to the agent until he receives his money. I do not know of any other, nor have I ever heard of any other method, in this country, of obtaining specific private property for public use. The great sources of ways and means, by which Congress can raise a revenue, are imposts, duties, excises, taxes, and loans. By these they provide for the general defence, and not by impressment and military exaction. What, sir, can a General take, when he cannot take the lodging of a single soldier, in any man's house, even in time of war, unless a law be first made regulating the manner in which it may be done? Who, then, will contend that a General may plunder the People he is sent to protect; stripping the very beds from under their children, and carrying away the whole food of their households? Why, sir, the very compensation law of the 9th of April, 1816, giving remuneration to such persons as had suffered from such impressments, by the military officers in the late war, demonstrates that Congress considered them all illegal. For it provides that all, who have recovered compensation of such officers, shall receive none of Congress, and all who have not, and who claim it here, shall, before receiving the amount of their claim allowed, execute a release to the officer who made the impressment.

It has been said, necessity will justify taking any thing. Necessity, sir, is named the tyrant's plea. What kind of necessity justifies any act? It is that which takes away law. Where necessity may be the rule of action, law cannot be the rule. Law ends where necessity begins: for necessity has no law. You throw overboard the cargo, to save the ship; the owner of the goods is not wronged, because, had you not done this, both ship and cargo would have been lost. Two men, escaping from a wreck, succeed in getting on the same plank; it can float but one of them; in the struggle for self-preservation, one is pushed off and drowned; the other reaches the shore. No wrong has been done: for, if one had not, both must have perished. Ten men are all the survivors in a foundered ship; they have no provisions; they agree to a decimation by lot. The death of one preserves the rest, till some pilgrim traveller of the ocean relieves them. His death was a calamity, not a wrong: for all must have died, if the death of one had not saved the other nine. In a burning city, a house, adjoining one already in flames, is blown up, to stop the progress of the fire. The owner of that house has suffered no injury: for his house would have been consumed by the fire, if it had not been destroyed to stop the progress of it. In a beleaguered city, cut off from all aid and succour from the country, every thing is brought forth to aid in the defence; the very women carry out their own food and that of their children, to refresh the men fighting on the walls. When a practicable breach is made by the enemy, houses are seen to have been demolished, and another wall is already erected within. No injury is done to the owners by this mode of defence; because, if the enemy had succeeded, he would have deprived them of all they possessed. So it is in re-capturing a city; and so where the armies of the country meet to repulse the invading enemy: whatever is destroyed by the march or conflict, would have been taken or destroyed by the enemy, if it had not been so destroyed on the field of battle. These are cases of necessity.

Now, sir, did any such necessity exist in the defence of New Orleans? The condition of that city has, in this debate, been placed before us, and colored by a description of all the calamities of a beleaguered town, cut off from all possibility of aid, to be derived from the Go-

vernment or surrounding country. The fact was not so. New Orleans was open to the populous and wealthy States of the West. Were they slow in sending succours? No, sir; every wave of their own mighty rivers rolled down, freighted with the strength, the arms, and the valor, of those patriotic regions. Contemporaneous prejudice may for a time triumph over truth, but history, impartial history, will do justice to that People; nor leave to the FUTURE ORATOR in this House a shadow of claim to declare, "that New Orleans could not have been defended without impressing" master and slave, father and son. Nor will I believe, sir, that the gallant people of that devoted city waited to be impressed into their own defence. The blood of the Goth, the Frank, and the Saxon, mingles in their veins; and when was either race known to go back from the face of danger? No, sir: all property was ready, and tendered to the public service; all persons stood to their arms, and waited only for the command. There was no treachery, no disaffection, no skulking to escape danger. It has been said, sir, the invading foe promised to his soldiery all the rewards of a licentious brutality: gold to the avaricious, beauty to the profligate. I would to God, for the honor of the English name, it were not so; but so it has been told, and so it is believed. Was this watchword echoed through the streets of Orleans, and was there a husband, a father, a brother, who did not fly to the defence? Why, sir, the timorous sheep will stamp, and menace the howling and ferocious wolf, in defence of her lamb; and the tame and spiritless hen screams and flies at the descending hawk, to protect her little brood. The very slave will die, with his best blood, the threshold, to guard his master's house from pollution. Who, then, can say, that men, brave men, the valor and chivalry of New Orleans, did, or could, on that day, wait to be compelled into defence—I do not say of their city, their wealth, their houses, their firesides—but of the cherished honor, the pure loveliness, of their sisters, and wives, and daughters? The very surmise is a foul and tainting calumny. Whoever has put it on paper, has, sir, uttered and published a libel against our nation and our race. I dare aver the very slave in question was proud to be at "camp" on the first of January, 1815; and though an attempt be now made to coin his wound into money, yet Warwick did then, and will, to the day of his death, boast, that he received it at the defence of New Orleans.

What, then, is this case, or what would it have been, had not gentlemen thought proper to press into the discussion principles perilous to the repose and the liberties of their country? Marigny D'Auterive claims of the United States \$1094. Of this sum \$755 have been allowed, and the balance of it was rejected by your Committee of Claims. Twenty-four dollars of this balance is the amount of a private Surgeon's bill for attending and curing the claimant's slave, Warwick, who was wounded while working in the trenches before New Orleans, on the 1st of January, 1815. The second item of this balance is \$15, for lost time, being one month, while Warwick was under the care of the Surgeon: \$200, the last item in the account, is claimed, because the slave is made so much less valuable by his wounds. The Surgeon's bill was rejected by your committee, because all persons wounded in the service, if carried to the army hospitals, are attended and cured, if they can be cured, be regular Surgeons, without any private expense; but all who choose not to go there, when in their power, must be attended and cured at their own charge. From this rule the Committee of Claims have never departed. The other items are rejected, because such persons have never been considered as property, in such cases, to be paid by the United States. This amendment, now offered by the gentleman from Louisiana, [Mr. GUALTIER] restores these disallowed items to the account. The sum

JAN. 23, 1828.]

*Case of Marigny D'Auterive.*

[H. of R.]

in question is indeed small, but the principles directly involved, and those brought into the debate, are truly great and alarming. If we vote against this amendment, we leave the question of property in slaves just as it ever has been, and is now. If we vote in favor of the amendment, we must first vote that such persons are property, and then, that they are, in such cases, to be paid for by the United States. Important reasons seem to urge us to reject this amendment.

I will pass over the fact, that this claim originated thirteen years ago, and that it was never presented here until the last Congress. Though indeed a stale claim, it may not, for that reason, be unjust. The owner may have thought it advisable to wait until, in the course of things, claims of this description could be introduced into Congress, under the expectation of more favorable auspices. Be all that as it may be.

This does not come within any description of claims contained in the statute of April 9th, 1816, called the compensation law. That provides, 1st. For all saddle-horses of the militia, either killed, dying of their wounds, or for want of forage. 2d. For all loss by the destruction or capture of beasts of draught, as horses, mules, or oxen, or of vehicles of conveyance, as wagons, carts, boats, sleighs, and harness. 3d. All loss of arms and accoutrements, by capture or destruction. 4th. All loss by property impressed or taken for the use or subsistence of the Army, whether lost, destroyed, or consumed. 5th. All loss by destruction, by the enemy, of any house, or building, used by the United States as a place of military deposite. This statute was for two years executed by Commissioners; and though it then expired, yet has it ever since been the chart by which the Committee of Claims have directed their course. This claim comes within no description of claim provided for in that statute. All claims under that law must be for destruction of the thing of which the value is claimed. Whether arms, accoutrements, provisions, animals, vehicles, or buildings, they must have been destroyed. No damage is given for any diminution of value. Horses or mules may be foundered, oxen lamed, wagons and carts impaired, but the owners of them must, in all these cases, as in all labor for private men, keep their cattle and implements in working condition at their own proper expense, and lose their time, during which they are making these repairs, and not in the service of their employers. This claim is for lost time, and for diminished value, not for time while in the service, but while under the hand of the Surgeon. He went to the camp the 31st of December, he was wounded the 1st of January. The claim to be paid for time, is not time while in service, but lost time. His claim for damage, is not for the destruction of the slave, but because he is lame, and cannot do so much work, or will not sell for so much money. This statute, therefore, had it extended to the case of slaves, would not have extended to this case; because it provides for loss by the destruction of property, and not for loss by its diminished value.

Claims of this description have been made since the last war. We are told by the Committee on Claims, that they have been uniformly rejected. The gentleman from Ohio, [Mr. WHITTLESBY] who reported this bill, has stated and discussed a number of such cases. We have, sir, on this subject, what is most desirable on all legal subjects, a body of precedents for our direction. Depart from these, and you will soon perceive the consequences. This claim is but the vidette, the pioneer of an army of the same class. Suffer this to make a lodgement in this House, and there will follow a host, the numerous and unsatisfied reserve of all your Southern war. If we consider the nature of the public military service, we shall perceive the importance of this rule. In the Army there is, to each regiment of five hundred men,

about fifty waiters. Each Commissioned or Staff Officer is entitled to one, and four are allowed to a General of Division. An Army of 10,000 fighting men must, of necessity, and may, by law, have at least 1000 such servants. One half of these are slaves, or may be such; the other are, or may be, free men, either white or colored. They are paid monthly wages, at the same rate as the infantry are paid. As the law now stands, under our present course of adjudication on claims, these army servants all fare alike. Vote this amendment, and you change the whole system. For the waiter, who is a slave, if damaged by disease, or wounds, the master will claim and receive compensation. The waiter, who is a free man, may suffer the same disasters, but he can have no other remedy than to leave the service, and go upon the parish.

The rule of decision pursued by the Committee of Claims, in this case, is of older date than the last war. Under the Confederation, and during the Revolutionary war, as it has been asserted, and cannot be denied, such claims were never admitted by the Continental Congress. At the commencement of that war, slaves were found in every State of the whole thirteen. Many of them, as servants, doubtless followed their masters into the Army. No inconsiderable number of these became, by disease or wounds, of little value to their owners; many perished under the hardships of the camp. What master claimed of the United States, and was allowed, damage by them for either the diminished value, or the entire loss of his slaves in the war? This question has been at rest for more than fifty years, for almost "time whereof the memory of man runneth not to the contrary." It may be fairly considered as the settled common law of the United States.

Another view of this case will shew, how inadmissible we ought to consider such claims. Though the statute of compensation regards all impressment as illegal, and every such act as a trespass, yet it does presume impressments of certain kinds of property would have been made during the last war; for it provides in such cases a remedy for those who had suffered by the trespass, and a relief for those who had committed it. On the contrary, this law has provided no remedy and no relief for the impressment of slaves. What then? Did the law disregard the rights of masters? Not in the least. It does not touch that question. It was intended thereby to cut off every doubt, as to the right, either by the master or by the Congress, of using slaves, in any event, to recruit the Army. It gave no remedy for such impressment, and, therefore, left not even an implication that it might, in any event, be done. If, sir, slaves may be taken for any purpose, what shall hinder the commanding general from using them for any purpose he may choose? If he may impress one hundred, he may one thousand, or any greater number. If he can put in their hands the pick-axe and the spade, and send them to "fore-run a camp and trench a field," he can put arms in their hands, and draw them up in companies, battalions, regiments, to defend the field they have fortified. Nay, what hinders his marching them, and marshalling them on any other field? To avoid the possibility of such a result, the law forbore to hold out even the shadow of excuse for the impressment of slaves. The independence of our country was purchased by the blood of freemen; and, as the proud current, swelled from age to age by the streams poured out in its defence, shall pass down to our descendants, let us, like our fathers, scorn to contaminate its purity by one drop drawn from the veins of the slave.

It is true, minors were, in the last war, empowered to enlist into the armies of the United States. This was done, as was justly observed by the gentleman from New York, [Mr. TAYLOR] from the pressure of the times. What remedy, as the same gentleman demanded, has



II. or R.]

Case of Marigny D'Auterive.

[JAN. 23, 1828.]

ever been provided, for those interested in their labor? It is true, the law gave a part of the bounty to those interested in the minor. To what did this amount? Not to so much as ten dollars. Why, sir, the last three years of the apprenticeship of a faithful, skilful, industrious young man, with any of our enterprising Northern mechanics, who have faithfully instructed those committed to their charge, whether sons or apprentices, is worth \$600. This was swept away by enlistment. Has the compensation law provided any remedy? None. And none has ever been claimed. God forbid that I should place the relation of father and son, instructor, and apprentice, of our freeborn Northern men, on a footing with that of master and slave. The first is the bond of reciprocal aid and kindness, and the charities of nature, and would exist if there were no human laws on earth; the last is, I grant you, strong; for it is the iron chain, forged by the powerful hand of municipal regulation. It cannot be reached, it is allowed, by Congress; for it is entirely of State jurisdiction. Are not the laws of apprenticeship, and of sonship, equally of State jurisdiction? The gentleman from Massachusetts [Mr. EVERTS] has said the law of the United States took away the power of the father over the son, and, by carrying him forward out of his minority, three years earlier than he otherwise would have been, rendered him capable of contracting to serve his country. I have, sir, no belief that the United States have any authority to abrogate the parental power, even if it existed only in the laws of State jurisdiction. It has a higher sanction; the unchangeable relations of nature; the laws of God, paramount to all human legislation. Its object is the perfect education of the son. It begins with the cradle, it ends in his entire mandood; the maturity of his body and mind. During its whole course, it is a reciprocation of benefits. At first they are, indeed, nothing to the father, but the smile, the caress, and the joyous gratitude of infancy; at last, relief, assistance, and substantial remuneration. Can the son forget, and shall laws be formed to make him forget, that his father cared for him, and labored for him, while he slept on his mother's bosom? Let every man read his own heart; he will find the laws of this relationship indelibly written there. I beg leave to say, sir, if there be any memory of my own past life, which comes back to me with feelings not to be touched by time or discolored by any condition of existence, it is the grateful recollection that I wrought out the full term of my legal minority, under the power of my father, in aiding him to cultivate his fields. No, sir, the law of filial obligation, of paternal authority, cannot be abrogated by civil enactments. Sparta took children from their parents; but the State became the parent. The Lacedemonians were not a commonwealth of citizens. They were an army; their city was a camp; and they were mere warriors. The Hebrew paternal power, like the Roman, was great, and was confirmed by all the sanctions of the decalogue. Men were, however, found in that nation who could advocate its abrogation. The traditions of the Sanhedrim, and the lectures of the Synagogue, subverted this law of Moses; and he who would devote his services on the altar, and pronounce it "a gift," was released from the law of his parents, and thereby became capable of serving the State. This was the tradition of the Corban, and such as taught its doctrines were denounced by the Saviour of the World, as those who "made void the laws of God by the commands of men."

We have been told by the gentleman from Virginia, [Mr. P. P. BARBOUR] that the minor may be compelled to serve, because he is a member of the body politic. The slave cannot be so compelled, because he is not a member. What, sir, constitutes this membership of the body politic? Not a want of perfect understanding; for then would all young children be excluded;—no: a

privation of the right of suffrage: else all minors, all women, and all destitute of legal property qualifications, would cease to be parts of the nation. Nor can a condition of labor work this political privation. Are not all natural persons, who are within the protection of the law, members of the body politic? What is the great legal bond, uniting all parts of that body? It is allegiance. Whoever owes allegiance to any nation, must be one of that nation, at least so far as that nation can claim his allegiance. Allegiance and protection are reciprocal. Whoever owes allegiance is entitled to protection; and whoever is entitled to protection owes allegiance. Is not the slave entitled to protection? Can any man beat, or maim, or kill him, and not be punished for the trespass, or the homicide, just as if he had committed these offences on the body of a free man? "The gentleman says the United States cannot punish, because the slave belongs to the State jurisdiction." What if the murder be done in a fort, or arsenal? Will the offender go unpunished? For it is manifest he cannot be tried in any State for any act done within the exclusive jurisdiction of the United States. No; the United States alone, in such cases, can try, and punish. If the slave commit a crime, will he escape punishment as an ox or a horse would, because he is not a member of the body politic? What if he levy war, or carry aid and comfort to the enemy—would the plea of slavery exempt him from punishment? No, sir, the slave, equally with the minor, is a member of the body politic. Base indeed must be that law which would give a compensation for the value of the slave, so far as diminished by the accidents of military service, and, at the same time, abolishing the rights and the obligations of minority, send your free-born sons to have their limbs shred away in battle, and give their fathers no title to relief.

If it be true that all laws, creating the relation called property, are laws of State jurisdiction, how can we here decide the great question of slavery? How often have we been told that we cannot decide it? That the decision would cost our constitution. We do every thing here by enactment. Before we can adopt the amendment we must first enact that persons may be property; and then, that the man Warwick was the property of the claimant. In the States, such persons may be property, or not, just as State laws enact: for we have no jurisdiction over the question. In this Legislature, gentlemen represent them as persons: and he, who comes here, because they are persons, cannot, under that Constitution, which pronounces them such, vote that they are mere property. Our Constitution admits no representation of property; persons alone are represented. He, therefore, who votes that his constituents are property, votes to vacate his own seat on this floor; and if this amendment prevail, and this House vote that such persons are property, they in effect vote that the Representatives of one million and a half of "such persons" ought to vacate their seats. We can, therefore, by the Constitution, consider "such persons" as "Warwick" in no other light than persons; and so not to be in such cases "paid for by the United States." Should it be said, that three-fifths only of such persons are represented, it does not follow that the other two-fifths are property. Take the objection in the liberal manner of the maker of it, and allow that three-fifths only of each of "such persons" are represented, and in that case, the man having three-fifths, has evidently therein a fair majority over the beast. To be serious, the ratio of representation is different only, between persons, and "such other persons" as are alluded to in the Constitution. Three of the first, and five of the last, have an equality in representation; or 40,000 white men, and 66,666 colored men, are entitled each to but one representative. To compensate this seeming inequality, the 40,000 pay the same



JAN. 23, 1828.]

*Case of Marigny D'Auterive.*

[H. OF R.]

amount of tax as the 66,666. The mystery of this difference is explained by the history of the country. When the Constitution was formed, it was then believed, that direct taxes would be the principal source of revenue to the United States, both for the support of the Government, and the payment of the national debt. If five are represented as three, so, also, are five taxed as three persons. The conclusion still returns upon us, that, as the Constitution considers them as persons only, so can we, constitutionally, consider them as persons only, and not as property.

This amendment involves a very remarkable principle of injustice. In all cases of claim arising from the circumstances of the last war, the United States have been called upon to pay, and they have paid, in cases of loss by destruction, either by the army, or the enemy. No damage sustained, either in cattle or vehicles of transportation, has been claimed or allowed. This is a new claim; it is for deterioration; and made because the slave is of less value now than when he went into the service. How many wagons, carts, boats, sleighs, and harnesses; how many horses, mules, and oxen, were deteriorated in the service, and thereby reduced to less than half their value. This was inevitable, from the nature of the service.—None of these have received any compensation; and neither ought this man, by the same rule of justice, to receive any.

Great reliance has been placed on the manner of bringing this man in the service. D'Auterive's man Warwick was taken into the service, either by impressment, and against the will of his master, or by contract, and with the consent and agreement of the master. Gentlemen may take which side of the alternative they like best. Was he impressed against the will of the master? Then was the impressment either legal or illegal. Those gentlemen who have contended for the rights of the commanding General to impress all, must say that the impressment, if made, was legal. It was, therefore, no trespass; and so no damages for a trespass can be claimed, or are to be paid. The claim is on an implied contract for the value of the labor while in service. If, however, he were impressed, I do not allow he was legally taken. No, Sir, not for the sake of the argument, or even to carry the question, would I for a moment grant it. If, therefore, Warwick had been impressed, he was illegally taken. The act of taking was a trespass in the man who impressed him into the service. Why then, may not D'Auterive recover the value of the injury done to his man, as damages for the trespass? So he might, if he should choose to bring his action against him. It appears, by a receipt in the papers, dated December 31, 1814, that Warwick was received of D'Auterive on that day, by one of the Syndics of the city of New Orleans, and for the purpose of sending him into service at the camp. If this were impressment, he might recover his whole claim of this Syndic. Why then refuse it here? This is a question of some importance, but the answer is easily made. The United States were no party to the trespass; no, not by the remotest implication. Can there be any law authorizing a trespass? The United States can act only by a law. If, therefore, there were a trespass, it could not be done by the United States. Can even a corporation be guilty of a trespass? If the directors of a bank vote, at one of their meetings to burn a house, each of them may be punished for the arson; but the innocent corporation could neither be indicted nor punished. The United States, therefore, if a trespass were committed, were no parties to it, and are not answerable for it, or for any more than the labor of Warwick while in their service. If, however the fact would make any difference, it is out of the case: for it appears that Warwick was sent to the service by the consent of D'Auterive, his master. This is presumable from all the circumstances of

the case, and it is proved by the papers translated, and laid on the table of every gentleman of the House. General Jackson sent an order to the Mayor of New Orleans, for a number of men to work at the trenches. One of the Syndics received, as he says, Warwick, for that purpose. No man in this House will, or can say he was received or sent against the will of the claimant. He was in the service on contract, and for a compensation to be paid for his services. He went to the works, December 31st. He was wounded and went home the next day, January 1st. For these two days, D'Auterive is entitled to be paid, unless he has been paid already. He cannot, in justice, claim any thing for the diminished value of his man. He was in the service, just as if a commanding General, or a Canal Commissioner, had advertised for five hundred carts to work at the entrenchment, or the excavation. At the end of the week, they are called to be paid off. Each man presents one bill for his week's work, and another for the repairs of carts, fendered legs, dislocated shoulders, and put-out eyes of men and horses. What man, in his senses, would pretend that one single man of them would be, by any rule of justice, entitled to a single cent for the diminished value of a single cart, horse, or driver?

The gentleman from Massachusetts [Mr. EVERETT] has contended, that Warwick was in this service at the risk of the United States, and not of the claimant. In answer to this, let it be remembered, that he was sent to the works by the consent and by the agreement of the claimant. At whose risk are all the lives, limbs, and property, in any country? Why, truly, at the risk of those who are the owners of them. This will ever be the case, until the owner makes a contract with some other person to take the risk, and ensure for him his life, or all, or any other part of his property. This is universally true of all trades and employments. In some few cases of carrying or keeping, the law, for specific reasons, has put the property at the risk of the carrier, or keeper. This contract of insurance, must, from the nature of it, be express, and in terms, and is never implied by law. Did D'Auterive make any such contract with the Syndic of New Orleans, when he agreed to send Warwick to work at the camp? It is not pretended, or attempted to be proved. The man was, therefore, at the risk of the master, and, if lessened in value, if deteriorated, he has no claim to be put in a better condition, than the property or the limbs of other men.

I want words, sir, to express my regret that such a question, and for such an amount, should have been brought into debate on this floor—that such principles, and such terms, should have been pressed into the discussion. Why urge the question of slavery upon us, and, at the same time, declare that we dare not decide it? We have no right—we claim no right—we wish for no right—to decide the question of slavery. Men from the free States have already decided the question for themselves, within their own State jurisdiction; and such men, to decide it here for other States, must first be renegade from the Constitution, or oblivious of its high and controlling principles. When has this question been raised, and not by men interested in its eternal slumber? The Missouri Question was, as it has truly been said on this floor, no triumph. It was no triumph of policy; it was no triumph of humanity. To contract, and not extend the theatre of it, is the true policy of every statesman, as well in the slave-holding as in those States uncursed by this moral and political mischief. On this matter of slavery, singular and ominous political events have, within the last forty years, transpired in the great community of the New World. What another half century will exhibit, is known to Him only who holds in his hands the destiny of nations. This kind of population is rapidly increasing; and, should any large and united number of them make a desperate struggle for emancipation, it will then be

H. or R.]

Case of *Marigny D'Auterive*.

[JAN. 23, 1828.]

found, that the policy which had placed aid and relief at any greater distance, was cruelly and fatally unwise. Humanity surely did not triumph in that decision. It widened the mart of slavery. Southern men have nobly aided in driving from the ocean a traffic which had long dishonored our country, and outraged the best feelings of our nature. The foreign slave trade is now piracy. Would to God the domestic might, like his barbarous brother of the seas, be made an outlaw of the land, and punished on the same gibbet.

The Constitution, we know, does not permit one class of the States to legislate on the nature or condition of the property of the other class. Why tell us, for we already know, that neither our religion or our humanity can reach or release that condition. Humanity could once bathe the fevered forehead of Lazarus—she could not bring to his comfort so much as a crumb from the sumptuous and profuse table of Dives. Religion may weep, as the Saviour of the World wept over the proud city of Herod; but her tears will fall like the rain-drops on the burning plough share, and serve only to render the stubborn material more obdurate.

We are called and pressed to decide this question, and yet threatened, that the decision will dissolve the Union. "The discussion and the Constitution will terminate together." "Southern gentlemen will, in that event, leave this Hall." Who makes this menace, and against whom? It cannot be a war cry; can it be a mere party watch-word? On what event of immeasurable moment are we thus adjured? In a paltry claim of 200 and 9 and "30" pieces of silver, shall we, who have in this Hall, lifted the hand, or "kissed" the hallowed gospel of God, in testimonial of high devotion to its requirements, shall we now, in the same place, "deliver up" this our great national charter? This event, sir, cannot come with safety to our country, and wisdom would admonish us to enquire what concomitants may attend it; and whom they will visit most disastrously? Must we be schooled on the benefits of the Union? It were wise for such scholars to take some lessons on the evils of separation. The Hebrew, when fed by the bread of Heaven, murmured at his God; looked over sea, and pined for the luxurious slavery of Egypt. Is it a vain imagining, or may there be a charm in foreign alliance, more potent than the plain simplicity of domestic independence? England can, indeed, make Lords! The United States can make none. She, too, can, and has, in the last century, made more slaves than all other nations, Paynim or Christian.

We are surrounded, protected, and secured by our Constitution. By this we are in safety from the power and violence of the world; as some wealthy regions are, by their own barriers, sheltered from the ravages of the ocean. Do not forget, for they never forget, that a small insidious persevering reptile may, unseen, bore through the broadest and loftiest mound. The water follows his path, silently and imperceptibly at first, but the rock itself is worn away by the continual attrition of a perpetually running stream. A ravine—a breach is made—and the ocean rushing in, flocks and herds, and men, and the labors of men, are swept away by the deluge. Pause before you peril such a country; pause before you place in jeopardy so much wealth, and life, and intellect, and loveliness. Those of us, whose sun is far in the West, may hope to be housed before the storm. Be not deceived. Sparse and blanched as are our hairs, they may be defiled in the blood of our sons; and to you, who, in the pride of manhood, feel the warm blood dancing at your hearts, while you stand joyous in the blooming circle of household loveliness, the day may come, unless the all merciful God pours into the bosom of this nation the hallowed and healing spirit of mutual confidence and mutual conciliation—to

you the tremendous day may come, when you shall sigh for the sad consolation of him, and envy his utter desolation of heart, who, before that hour, shall have sheltered his very last daughter in the sanctuary of the tomb. Do not understand me as I do not mean to be understood. Those who would avert the events of that catastrophe, do not stand here in mercy, or to menace, or to deprecate. They stand here amidst all the muniments of the Constitution. They will not desert the ship, leave her who may; they will perform the voyage, and to the very letter and in the full spirit of all and singular the shipping articles; and they, too, will, by the blessing of God, perform it without fear—prosperously as they trust, and with triumphant success.

Mr. WEEMS said, that, after such a flood of eloquence as had just been poured upon this House, it might appal any one, especially at so late an hour, to attempt to address the House. It had been his intention to answer all the gentlemen who had taken side against the amendment; but as he had been so late in obtaining the floor, he should confine himself to the gentleman behind him, [Mr. BURGESS] and if he could succeed in answering his arguments, he should consider himself as having virtually replied to all the rest. He thought he could do this—he hoped he should not be accused of egotism if he said that he believed himself able to convince even the gentleman himself—and that from the arguments he had himself advanced—and especially from the very authority the gentleman had quoted in such a powerful and impressive a manner. He would remind him, in the language of the same sacred volume, "let him that thinketh he knoweth all things, remember that he knoweth nothing yet as he ought to know." The gentleman had erected a beautiful edifice, it was poked over the foundation to the dome with the utmost care—but it was erected on a sand bank. His whole argument had been built on the supposition that slaveholders rest their claim upon the ground that it is lawful to impress. Now, said Mr. W., we deny this utterly: we hold that there is no law for it—that it results only from necessity, and necessity has no law, either for or against it. The gentleman told us that he feared there was still a longing among some members of the House for the fleshpots of Egypt. If the gentleman meant this for me, I throw back the imputation with disdain. Would to God—

[Here the SPEAKER interposed and said that the gentleman from Rhode Island had not been understood by him as making any personal allusions, and no such matter now be made—the gentleman from Maryland was out of order.]

The gentlemen said further, that he would to God, for the sake of England and the English character, that no such facts as those we have all heard in respect to the attack on New Orleans, had ever happened, and intimated his belief that they were not as has been represented. Sir, we have been assured that these facts did happen—that the watchword of booty and beauty was given, and this is the first time I ever heard it doubted. The gentleman, however, wishes to God, for the sake of the British character, that the accounts are not true—he wishes that we might lose the glory of having conquered the invincibles of the old world, rather than the British character should be tarnished. He tells us that we have all kissed the book to support the Constitution, and that by that Constitution we are the Representatives of those whom we wish to call property. The gentleman shakes his head. I certainly do not wish to misrepresent him, but I so understood him, and I believe he did say so. If not, will he be pleased to state what he did say?

[Mr. BURGESS here said, I protest against any quotation, made by that gentleman, being considered as what I said.]

JAN. 23, 1828.]

Case of *Marigny D'Auterive*.

[H. or R.]

Well, sir, in return for the gentleman's courtesy, I tell him that I care as little for his protest, as he can do for my quotations. From the beginning to the end of the declamatory harangue with which we have been entertained, the gentleman has gone on contradicting himself. He acknowledges that slaves are property, and then he argues to prove they cannot be property. He allows that property may be taken for the public use, and then goes on to argue that it can in no case be so taken, and, that no case of necessity has ever existed.

My object in rising, and in the few remarks I shall submit, was principally confined to the policy of adopting the amendment. We have been told that it would be very impolitic to adopt it, and that the precedent would be highly dangerous, if we shall thereby acknowledge that persons can be property. Now, on this precise point, of the policy of that measure, we are directly at issue. I say, that, to reject the amendment will be calculated to have a far worse consequence: it is calculated to make tories of patriotic citizens. If I prove this, I shall gain the object I had in view. I will put a case: suppose that, on the occasion of the recent attack on this Capitol by the British troops, a commander had been present who had sufficient foresight to anticipate such an attack, and to prevent its success by throwing up a breastwork, for the defence of this city; and for this purpose had issued an order to the slave-holders in the vicinity to furnish two thousand slaves to aid in that work. These orders, I say, would have amounted to an impressment of the slaves—but, according to the gentleman's doctrine, such a conjuncture would have presented no case of necessity to justify impressment. I ask if there is another gentleman on this floor, besides himself, who, if this step has been taken, and in consequence a dozen slaves had been killed by a shot from the enemy, would deny it to be fair, to be just, to be patriotic, to be honorable, that we compensate the owners for their loss? The salvation of this Capitol, and with it, of the character of the country, resulting from their employment, should we not pay for them if they fell! Now, take the opposite side—refuse to make payment—send forth your determination that you will never pay in such cases—that you do not consider such circumstances as presenting a case of necessity—and what will be the consequence? Should your Capitol ever be placed in such danger again, where is the farmer who will not feel it to be his policy rather to get his slaves out of the way of the Government? Nay, of rather sending them over to the enemy? For, according to the treaty of Ghent, they would then be paid for in the end. Sir, though I may be willing to risk my life for the defence of my country, I might not be willing to risk all that on which I must rely to save my wife and children from beggary. I say, therefore, that this doctrine is calculated to make tories rather than patriots. I agree that there is no law for impressment: but I hope our military officers will be left to act under their own discretion and responsibility, and that the People will decide whether there was or was not sufficient necessity to warrant their acts. There is our security—we may pay the individual for the loss of his property, but we hold the officer responsible. To me it is most clear, that policy, if nothing else, requires that we shall recognize the right of the master over his slave. By passing the amendment, we shall do this, provided the evidence of the facts is sufficient to establish the case. For myself, I am perfectly satisfied that it is sufficient—there is enough evidence to shew that the slave in this case was put in requisition under an order from the commanding General.

I am willing to admit, with the gentleman from Rhode Island, that those who think differently from me are divided into two classes—one of these includes persons, who, from the best feelings of the heart, do sincerely

believe that a person cannot be property—and that it is cruel and unjust to treat them as such; and they cannot consider a man as walking humbly, doing justly, and loving mercy, who holds his fellow man in bondage. To a certain extent I agree with them in opinion; unless the holder of a slave believes it conscientiously to be his duty to hold him, he is worse than a pirate. But such as do, good as they are at heart, I would refer to the good advice of a good man in ancient times, "when I was a child, I thought as a child, I felt as a child; but now I put away childish things." There is another class, who admit that slaves are property; but hold that, as philanthropists and patriots, it is incumbent on them to make a timely provision to relieve the country of this evil, by opening a sewer and draining it off by a gradual process of colonization. These persons are willing to allow to slave holders all their just rights; I trust they will shew this on the present occasion, by voting for the amendment—let them shew their principles by their actions. I, Sir, am one of those plain men who desire to shew their faith by their works.

It has been contended by one gentleman that, although this slave is to be considered as the lawful property of the claimant, yet that he was property hired out on a contract. Sir, there is not a particle of evidence in the documents of any such thing. As gentlemen have made this assertion, let them show us the proof—the *onus probandi* is certainly on them: for the contrary is in evidence before us. Sir, D'Auterive would not have been entitled to one cent, if he had hired out this slave by his own voluntary act—he would, in that case, have been the insurer of his own servant; but can it be pretended that, under the Constitution, my property may be taken without my consent, and yet I am not to receive a just compensation for it? This slave was either taken by authority, or hired upon contract. If he was taken by authority, the officer who took him performed a patriotic act, and ought to be commended, and his owner ought to be paid for his loss or injury. It is not necessary to prove actual violence—a positive order from a Military Commander in authority is an impressment to all intents and purposes. If the impressment was not an act of necessity, let the officer be censured or punished; but surely the owner is still to be paid.

Mr. HAMILTON, of South Carolina, said, that, after all which had been said in this debate, it was very foreign from his purpose to fatigue the House with a set speech: he was not even disposed to notice some very extraordinary portions of the speech of the gentleman from Rhode Island [Mr. BROWN] who had just sat down, whose luxuriance of imagination had instructed some, and had entertained many who had heard him. In deprecating the evils of slavery, this gentleman had said, that it was to be regretted, that the decision of the Missouri Question had not, in effect, narrowed the spread of these evils. All this may be perfectly true; but the gentleman may give a domestic locality to his regrets: for it happens that the State he represents, small as it is, has done more to extend these evils, than any State in this Confederacy, in proportion to her numbers. If this argument was pushed to its ultimate consequences, and an injury to slaves in the public use was not to be indemnified, he [Mr. H.] presumed that every species of property, the result of slave labor, or purchased by the importation of slaves, would share the same fate. In which case, if property was destroyed in the public use by the hand of an enemy, in one of the most beautiful towns in the State from which the gentleman came, it ought not to be indemnified: for he believed that the town of Bristol had been, in a measure, built up, and owed a great portion of its prosperity to, the profits of the slave trade. He would not, however, discuss what might prove a thorny subject; he would, therefore, leave the gentleman in the undisturb-

H. of R.]

Case of Marigny D'Aulverie.

[JAN. 23, 1828.]

ed possession of the enjoyment which his eloquence was no doubt so well calculated to confer. I rose for another purpose—not to present to the House my poor thoughts, but to give them something infinitely more valuable. On referring to the Congressional Register of the second session of the Eighteenth Congress, I find that there was in that Congress a very distinguished gentleman, of the name of the honorable Mr. STORRS, of New York, at that time considered as remarkably and accurately conversant with municipal and international law. In the debate on the bill for compensating the inhabitants on the Niagara frontier, for the injury done to their property by the enemy, whilst in the public use, he held this language, and employed these conclusive arguments: "What, then, is the Government bound to do? To say to the individual so circumstanced—As you have rendered up your property for our use, we are your insurers: after you have placed yourself out of the protection of the law of nations, you shall not suffer by having done so? This, said Mr. S. is what I call a perfect obligation—a perfect moral obligation." [Here Mr. STORRS came and took his seat near that of Mr. H. Mr. HAMILTON said, that, although he could not "call spirits from the vasty deep," yet he was happy to find that his extracts were extracting something more tangible in size and shape.] This gentleman goes on to say: "The question for indemnity for losses sustained under such circumstances is a question not of charity but of absolute right; the whole of it turning on the principle, that the party has, for your use, exposed his property to destruction, lawfully, by the enemy. It is unjust, morally, that one who has thus surrendered up, and exposed to destruction his property, on account of the public, should himself suffer that loss thereby, which the public ought to bear. When you take the property of a citizen for public use, during war, you become the insurer of it against every act of the enemy—lawful or unlawful."

In another part of the debate, this gentleman holds this language: "Mr. STORRS maintained that this was not a proper point to be inquired into; the only point material, in the case was, whether a citizen, by surrendering his property to the use and occupation of his Government, had divested it of its private character: and whether, under such circumstances, it has been destroyed. If these two facts were shown, the Government, was bound to make up the loss; but the moment you go a step beyond this you meet an artificial difficulty of your own creating. Where private property, indeed, retaining its private character, becomes the subject of depredation by the enemy, as when the vessel of a merchant is unlawfully captured, or his goods wasted and destroyed, the case, though a hard one, gives no claim on the Government for indemnity. It comes under the general case of losses in war, and must be borne as it may. But as soon as he, by his voluntary act, gives up his property to the public use, it becomes as much an instrument of war as a cannon is. It is a part of the materiel of war, and the enemy may inflict upon it what injuries he will, lawful or unlawful: he may even destroy it in sport." This gentleman, at the close of the debate, goes on to say: "As to the objection of the act of 1816, [Mr. STORRS said,] it was one which he hardly knew in what way he ought to attempt to answer. The gentleman [Mr. FORSYTH, of Georgia,] had been opposed to that act, as he had himself informed the House—and it could hardly be expected, therefore, that he should be in favor of the present bill. But, said Mr. S., let us see what he himself proposes respecting slaves. He would have the Government pay for all the slaves impressed during the last war, and afterwards lost. [Mr. FORSYTH explained, that he did not refer to all who were impressed but to all who were impressed lawfully.] As to the lawfulness of the acts of the officers of the Government

being requisite before the Government will pay or make reparation for them, Mr. S. said there are precedents in abundance, on our statute books, which contradict such a doctrine." [Mr. RANDOLPH here inquired of Mr. HAMILTON whether Mr. STORRS or Mr. FORSYTH had made this declaration. Mr. HAMILTON said it was Mr. STORRS—and that it would seem, from the whole context of that gentleman's argument in the debate, that he had thought with Mr. FORSYTH, that the act of 1816 had not gone far enough.]

Mr. HAMILTON resumed. He would conclude the extracts he proposed reading, by exhibiting a somewhat different commentary and version, than those which have been recently presented, of the case of Major Austin. "Here Mr. STORRS referred to the case of indemnity to Major Austin, for damages obtained against him for acts done in the discharge of an official duty, and to several other cases. It had been the invariable practice of the American Government, he said, when any of its officers incurred responsibility in the honest discharge of what he believed to be his official duty by violating the private rights of the citizens, to indemnify him."

Mr. H. said, having fulfilled the purpose for which he rose, which was to offer an argument in favor of the claim which was better than any he could present of his own, he would no longer detain the House.

Mr. WHITTLESEY said, he should occupy the attention of the House but a few moments, as he knew his patience was exhausted by this protracted debate. When this report was drawn and presented to the House, it was not in the contemplation of any one member of the committee that a discussion of two or three weeks would have been necessary to resist or explain any principle contained in it. The committee do not now perceive that this discussion has been called for by any thing contained in the report. Gentlemen have sought for matter in the resources of their own imaginations, whereon to base their arguments, and have, in some instances, lost sight of the report altogether. The gentlemen who have advocated the amendment, with the exception of the gentleman from Maryland, [Mr. DORSEY] and the gentleman from Virginia, [Mr. ARCHER] have assumed, as the basis of their argument, that the Committee have denied that slaves are property. There is nothing in the report which will justify this assumption. The gentlemen who first spoke in favor of the amendment, could not have read the report with attention; if they had, Mr. W. said, he was confident that they would have come to a very different conclusion from the one they seemed now to have arrived at. He said the committee had some right to complain of the liberty which some gentleman had taken, to read part of a sentence, and then triumphantly to ask if the committee had not stated that slaves were not property? The gentleman from Maryland, [Mr. KEAR] read thus far, "as slaves have not been put on the footing of property," when if he had read the sentence through, he would have perceived that the position of the committee is, that slaves are property, but not paid for when lost to the owner in the public service. The gentleman from Louisiana, [Mr. LIVINGSTON] thinks he is warranted in saying that the Committee do not believe that slaves are property, from the circumstance that they have not made use of the term "slave," but have substituted that of "servant." This is about as reasonable a conclusion as any that has been drawn, but it so happens in this case, that the claimant has not made use of the term "slave," and if the conclusion be correct, as to the committee, it must also be correct as to the claimant, and then he does not believe slaves to be property, or, as this property can be described by no other term than that of slave, then the claimant has not had his property injured while in the service, and presents no good claim for indemnity.

JAN. 23, 1828.]

*Case of Marigny D'Autorise.*

[H. OF R.]

If gentlemen will take up the report and read it dispassionately, they will find that the committee do consider that slaves are property, but of that kind, which, heretofore, it has not been deemed to be the policy of the Government to pay for. In support of this principle, the committee have referred to several precedents, which they considered applicable; gentlemen, however, have thought otherwise, in all the cases, except that of Purkill; and for this reason, that in all of the other cases, the slaves were taken into the service by the consent of the master. The committee state a negative fact; and if it can be disproved, it is for those who wish to adopt a new principle to bring forward their precedents, and prove that the committee are incorrect. We say slaves have not been paid for when lost or injured in the service; if they have been, we have overlooked the cases, and it is incumbent on the gentlemen to produce them. We believe that no such case exists; and, if it does not, the committee should have been spared the imputation of having introduced here a proposition calculated to excite heat and ill nature. If the dissolution of the Union shall be consequent to the investigation of this case, the fault will be elsewhere than with the committee. They searched through all the reports and found no case, nor the recognition of any principle which would justify them in submitting a proposition to grant relief; and they now ask of the House calmly to reflect, and look to the consequences which must follow, if the amendment is adopted. Slaves will be liable to be impressed into the service, and the condition of both master and slave will be comparatively perilous. Gentlemen have said, that they will not consent to have arms put into the hands of their slaves, but that they are willing, in times of great danger, that their slaves should be put into the trenches. They say they are peculiarly adapted to this kind of employment, and that they are willing they should be put to that servitude which will increase the physical strength of the country in time of invasion. If the principle is once admitted, that slaves may be impressed, what guarantee has the master that arms will not be put into their hands? And if they are to be put to the employment to which they are adapted, may they not as well man the lines as the trenches? I was not aware that the slave's pillow was that of thorns, or that the master's midnight slumbers were disturbed by his apprehensions of being assassinated, as has been so feelingly depicted by the gentleman from South Carolina, [MR. DRAYTON.]

The committee took for their guide, in drawing the report, the law of April 9th, 1816. Some gentlemen say, that the case is brought within the provisions of that law, and within either the 3d or 5th sections of it. Mr. W. said he thought a moment's examination would satisfy them of their error, and he would endeavor to shew that it was not embraced by either of the sections. He said, that two rules for construing statutes should be borne in mind; the first was, that "a statute which treats of things or persons of an inferior rank cannot, by any general words, be extended those of a superior." The second rule was, that "one part of a statute must be so construed by another, that the whole may, if possible, stand."

He said that that part of the third section which it was necessary for him to cite, was, "That any person who, in the late war, aforesaid, has sustained damage by the loss, capture, or destruction, by an enemy, of any horse, mule, or wagon, cart, boat, sleigh, or harness, while such property, was in the military service of the United States, either by impressment or contract," &c. Applying the rule referred to, to this section, and all animals, and all vehicles not enumerated, are excluded, and the case now before us is not within the purview of the section.

The 5th section is, "That, where any property has been impressed, or taken by public authority, for the use or subsistence of the army during the late war, and the same shall have been destroyed, lost, or consumed, the owner of such property shall be paid the value thereof, deducting therefrom the amount which has been paid, or may be claimed, for the use and risk of the same, while in the service aforesaid."

This section includes all articles for the use and subsistence of the Army, and under it may be included, all materials for building huts, barracks, fortifications, and camp equipage. It embraces the first item in the account, and those cases referred to by the gentleman from South Carolina, [MR. MITCHELL.] Under the term subsistence, is included all eatables and drinkables necessary for provisioning the Army; but no one has ever supposed until now, that a slave was included in either of the sections. If there is no restriction by the provisions of the third section, the two sections cannot be reconciled, and both of them cannot stand; and, if the construction which has been given to the fifth section be correct, there was no necessity of enacting the third section.

The Committee could have had no other motive in making a decision in this case, than what governs them in all cases—an ardent desire to discharge their duty faithfully, according to the principles established by the law of 1816, and the uniform decisions of the House. We believed the claimant by these principles and decisions to be without a remedy, and proposed that the same provision should be made for his relief, that is adopted in the case of a militia-man who is wounded in the service; and this recommendation is arraigned against us, as proof that we did not believe slaves were property. The Committee did think that the slaveholders would be willing, if their slaves had been injured in the public service, to receive a compensation equal to what is given to a militia-man; but if it is the pleasure of the House to adopt a new principle and pay for slaves it ought to require the same proof in support of this claim that it has in other cases. In all instances where other property has been impressed, it has been the practice to require that a copy of the order be produced, authorizing the impressment, if an order issued, and if not, that there was a necessity for the article taken, and this fact to be proven by the Commanding Officer. If the Commanding Officer was in the service at the time of giving his certificate, it has been received without oath; but if not, his oath is as necessary as that of any person who appears as a witness. In this case, notwithstanding the respect the Committee entertained for the character of Gen. Carroll, they required that his statement, in relation to the first item of the account, should be sworn to, before they would receive it as evidence. If this slave is to be paid for, we hope the wholesome rules which have been adopted in other cases, and necessarily so to prevent fraud and imposition, will not now be violated. If the testimony is examined, it will be found, that there is no proof that the slave ever was impressed. The Commanding General directed the Mayor of New Orleans to hold in requisition a certain number of hands. This order was transmitted to the Syndic of the Parish; but whether the men furnished was by impressment or contract, is not proven by the papers. The same mode was observed in different parts of the country, in relation to the transportation of baggage and the munitions of war. Impressment was unnecessary, except in a few instances; it was only necessary to know that the Commanding General needed further aid, and it was furnished without compulsion. If the House require the same proof in this case which it uniformly has done in other cases, the amendment cannot prevail; but if it should not, all the established prin-

H. of R.]

*Case of Marigny D'Auvergne.*

[JAN. 23, 1828.]

ciples are overruled, and a new era in the settlement of claims will commence.

Mr. OWEN addressed the Chair. It is not merely the motion by the cry of question, that this House is now prepared and anxious to decide the question so long under debate, that will prevent me from detaining the House; nor will my friends, nor any member of this House, after what I have already said and done, believe that I desire further delay. Nor, Sir, should I now have claimed one moment of your time, but for the remarks of the member from Ohio, who is represented to have attributed to me opinions in relation to this question, by far less liberal than those he had just given us. I therefore call upon that gentleman to correct an error, if it be one, which arraigns my opinion as a member of that Committee to which he now belongs, against the opinion I have advanced in this debate. Sir, he has admitted property in slaves, and he is reported as having said, on a former occasion, that "I did not consider a slave property in the abstract." Sir, this is an opinion I never entertained, nor expressed in Committee nor elsewhere, nor could I have dreamed that, at this day, I should have found it due to myself to remove a shadow of doubt in relation to it; for it must be remembered, that, in consequence of having been a member of that Committee on a former occasion, I had to bear rather a prominent part in the defence of the rights of the South; and my opinions upon this branch of such rights, in another case not to be forgotten by the members of the last Congress, [*Larche's case.*] I therefore expect and call upon the member from Ohio to make the proper correction.

[Mr. WHITTLESEY replied, that he had never said, here or elsewhere, that the gentleman from Alabama had entertained or expressed such an opinion. He would certainly have done him injustice if he had so represented him.]

Mr. OWEN resumed. My main object is attained Sir, I did not believe it possible that such opinions could have been by him ascribed to me, though such is the report. But the explanation is full and satisfactory; had it been otherwise, I should have been at some loss to know how such opinion could have been called out, when the main object of the defenders of the report of the Committee, is to show that no such point is raised in it. Be that as it may—I will certainly now be pardoned for adding, that I am gratified that this question has undergone a full discussion; and, so far from my having regrets at the course I invited the House to pursue, we have but little to complain of, and much to congratulate ourselves on in the course of the debate—I cannot say perfectly fairly conducted in every respect, but, so far as our main question, I mean Southern interest, depended, we have had from all quarters a full and frank avowal of property in slaves, and of its inviolable character, and more especially, that this Government can never disturb that question. Some of my friends have expressed to me regret that I called for, and urged this investigation, and some who have opposed me have also regretted it. But, for myself, I must be permitted to say, that I have no regret. And my first ground is the more clearly sustained by this very debate, that if there was an unsettled question of great magnitude, the greater was the necessity for deliberation and prompt decision; and, Sir, although it is not my purpose to add any thing more in this already too protracted discussion, I must be permitted to remark that the range of the debate has been much more copious, and taken a latitude much wider, than I anticipated. Still, Sir, I do not regret it, even though it has embraced within its scope all things connected with the subject matter, and almost all things that are not connected with it, from the "opinion written" of one gentleman, to the splendid picture exhibited by another of "military despotism," of "military usurpation;" and, Sir, I will

add, that if this picture was intended for effect, I regret that the same gentleman had not again brought to our view, as he did in most glowing colors to the members of the 18th Congress, his picture, presented in his usual style, always eloquent, of "civil corruption," of "ministerial influence" in elections by the People; if this had been given us, they both might have gone to the people together. But as the latter, in every age, has preceded the other, it is right to preserve the chronological order in which he has presented them. My allusion is to the debate on the contested election from the "Norfolk District, Massachusetts," in the 18th Congress. I have done. I hope the question will be correctly decided.

Mr. GURLEY said, his only object in rising, was to correct some of the errors, into which gentlemen on the opposite side had fallen. He should enter into no general discussion of the question. Different gentlemen had opposed the amendment on different grounds. A gentleman from New York [Mr. S. WOODS] said, in his remarks to the House, that if we could produce the verdict of a jury as to the amount of the damages sustained, he would consent to indemnify the claimant to that extent. We have produced much more than a verdict [said Mr. GURLEY]—we have produced the evidence on which a verdict ought to rest. The gentleman from Massachusetts [Mr. ALLEN] acknowledges that persons are property, under the municipal laws of a state; but, as soon as they are removed beyond the limits of the state, they cease to be property, coming then under what he called the imperial or universal law; and in support of his position, referred to that provision of the constitution which requires that slaves, when passing into the free States, shall, on application of the masters, be delivered up. Sir, this is precisely the proof to which I would refer on the other side. Why does the constitution say they shall be restored? For a reason exactly the reverse of that given by the gentleman;—because the general government will not weaken the tenure by which that property is held. The next objection started is, that if you adopt this principle, great public injury must follow. Instead of meeting the principle itself, this objection would frighten us with the consequences! If, say gentlemen, we pay for slaves killed or injured in battle, you must, on the same principle, pay in like manner for minors and apprentices. Well, Sir, suppose we must;—if the principle is a sound one, where is the objection? Let us pay. I am ready to go the whole extent of the principle, let its application be ever so extensive. But, Sir, where did Congress get the power to call out minors? They derive it from the constitution, which gives them power to organize the militia; but the constitution was formed by the free citizens of these States for themselves and their descendants forever. But do militia mean slaves? Enlistment is a contract. Can a slave be a party to a contract with the Government? Surely not, Sir, and where then is the analogy? The constitution gives the Congress certain powers to be exercised upon those, who gave them. But slaves never conferred a particle of that power.

The gentleman from Rhode Island [Mr. BURGESS] says, that by admitting three fifths of the slaves into the ratio of representation, you increase the power of their masters. Granted. But if at the framing of the constitution, it had been agreed that three fifths of the sheep of a northern agriculturist should be reckoned in the ratio, must not the bargain be maintained? And does it alter the case in the least, whether the compact was to reckon slaves or sheep? The gentleman also says that this slave was taken by contract; where is the evidence? The evidence is that this slave, cart and horse were, together with others, put in requisition by the Commander in chief. The translation of the original French word is



N. 24, 1828.]

Retrenchment.

[H. or R.]

impressed." No consent of the master can be shewn. ut, supposing there was a contract ;—if I loan my property at a certain rate of compensation ; and it afterwards turns out that the person, who hired it, put it to uses more hazardous than were known or contemplated, r than belongs to the proper use of that species of property, is he not bound to make good any loss which ay have accrued in consequence ? If, however, the gentleman from Rhode Island will produce a contract, will agree to withdraw the amendment.

In cases of hire, the owner becomes his own insurer, nd charges according to the risk to be run ; but there as no hiring in this case. The public took the slave ; he public had the use of him ; the owner was deprived f his services, and in a great measure of his value ; and he question is, shall the public remunerate him. This property was taken not only without the consent, but in he absence of the owner, who was at the lines fighting he enemy of his country ; an officer is sent and the property taken into the public service. He afterwards finds ut the names of the respective owners and gives them ertificates of the fact. Is this no impressment ? Is not he government bound to pay ? Yes surely ; as much is if a file of soldiers had advanced and seized them at he point of the bayonet. But the gentleman from Rhode Island employed an argument of a different kind—an argument addressed to our pride and patriotism. He says t is impossible that a necessity could have existed that ould justify the impressment ; that at such an hour even oulds would flock to their country's standard. Sir, permit me to tell that gentleman, that no cowards, but hat brave men flocked to the defence of their country on that occasion ; that not a part but all her citizens were forward to press into her ranks. There was but one feeling, one soul, one ambition, and that was who should do the most—who should offer himself and his property with the readiest devotion. But, Sir, it will be a poor consolation to Marigny D'Auterive, to tell him that a certain gentleman from Rhode Island, paid a very eloquent compliment to his patriotism and bravery ; but utterly refused to pay him for his property. Sir, that gentleman's compliments will not restore to this injured slave the use of his eye, nor the strength of his arm. No, Sir, there was no sculking on that occasion : all went to the rampart and the field ;—the contest was who should get there first, or stay longest, till the beaten enemy retreated. The glories of that day were not achieved by ignoble and cowardly hands. The battle of New Orleans was fought by the yeomanry of the country, who in peace cultivate the soil, and in war defend it.

Another gentleman says, you pay for property lost, but in no case for property injured. Sir, look to what was done in the case of the claimants for the reparation of losses on the Niagara frontier. Did you pay for no injured property there? Yes, Sir, you paid those claims in ninety-nine cases out of a hundred. But the moment we bring you an injured negro, you say no ! the government never have paid for slaves. Well, Sir, is that any reason they never shall ?—that they never ought ? But then, you must pay for minors ! Sir, when that case arises, I will decide upon it ; it is not before us now. None doubt that this slave was taken ; he was taken by the government ; wounded in their service ; and in all justice we ought to pay for the injury sustained under such circumstances.

The question on the amendment moved by Mr. GUNTER was now about to be put, when

Mr. WOODS, of Ohio, demanded that it be taken by Yeas and Nays. They were ordered by the House, and being taken, stood as follows :

YEAS.—Mark Alexander, Robert Allen, Willis Alston, William S. Archer, John S. Barbour, Philip P. Barbour, David Barker, Jr. D. L. Barringer, John Bell, John Blair,

Thomas H. Blake, William L. Brent, John H. Bryan, R. A. Buckner, C. C. Cambreleng, Samuel P. Carson, John Carter, Thomas Chilton, N. H. Claiborne, James Clark, Henry W. Conner, David Crockett, Henry Daniel, Thomas Davenport, Warren R. Davis, Robert Deaha, Clement Dorsey, William Drayton, Edward Everett, John Floyd, Va., John Floyd, Geo., Tomlinson Fort, Joseph Fry, Levin Gale, George R. Gilmer, Benjamin Gorham, Henry H. Gurley, Thomas H. Hall, James Hamilton, Jr. Charles E. Haynes, Joseph Healy, James L. Hodges, Gabriel Holmes, Jacob C. Isaacks, Jonathan Jennings, Jeromus Johnson, John Leeds Kerr, George Kremer, Joseph Lecompte, Pryor Lea, Isaac Leffler, Robert P. Letcher, Edward Livingston, Wilson Lumpkin, Chittenden Lyon, John H. Marable, William D. Martin, George McDuffie, Robert M'Hatton, John M'Kee, Charles F. Mercer, Thomas Metcalfe, Daniel H. Miller, Thomas R. Mitchell, James C. Mitchell, Thomas P. Moore, Gabriel Moore, Thomas Newton, William T. Nuckolls, George W. Owen, James K. Polk, John Randolph, James W. Ripley, William C. Rives, John Roan, Lemuel Sawyer, A. H. Shepperd, Alexander Smyth, James S. Stevenson, Joel B. Sutherland, John Taliaferro, Wiley Thompson, Starling Tucker, Daniel Turner, Epsy Van Horn, James Trezvant, John Varnum, G. C. Verplanck, G. C. Washington, John C. Weems, Charles A. Wickliffe, Richard H. Wilde, Ephraim K. Wilson, Joseph F. Wingate, Silas Wood, Joel Yancey—96.

NAYS.—Samuel C. Allen, John Anderson, Samuel Anderson, Wm. Armstrong, John Bailey, Noyes Barber, Stephen Barlow, Daniel D. Barnard, Ichabod Bartlett, Mordecai Bartley, Isaac C. Bates, Philemon Beecher, Titus Brown, James Buchanan, Daniel A. A. Buck, Tristram Burges, Samuel Butman, Samuel Chase, John C. Clark, Richard Coulter, W. Creighton, jr. B. W. Crowninshield, John Davenport, John Davis, Joseph Duncan, Henry W. Dwight, Jonas Earll, jr. Chauncey Forward, Daniel G. Garney, Nathaniel Garrow, Innis Green, John Hallock, jr. Jonathan Harvey, Selah R. Hobbie, Michael Hoffman, Jonathan Hunt, Ralph J. Ingersoll, Samuel D. Ingham, Kensey Johns, jr. Richard Keese, Adam King, Joseph Lawrence, Peter Little, John Locke, John Long, John Magee, John Maynard, William McCoy, Rufus McIntire, Henry Markell, Henry C. Martindale, Lewis Maxwell, Samuel McKean, William M'Lean, Orange Merwin, Charles Miner, John Mitchell, Thomas J. Oakley, Jeremiah O'Brien, Dutce J. Earce, Isaac Pearson, David Plant, William Ramsey, John Reed, William Russell, John Sargeant, John Sloane, Oliver H. Smith, William Stanberry, John B. Sterigere, Andrew Stewart, Henry R. Storrs, John G. Stower, Samuel Swan, Benjamin Swift, John W. Taylor, Hedge Thompson, Phineas L. Tracy, Ebenezer Tucker, Joseph Vance, Samuel F. Vinton, George E. Wales, Aaron Ward, Thomas Whipple, jr. Elisha Whittlesey, Lewis Williams, James Wilson, John J. Wood, John Woods, David Woodcock, George Wolf, John C. Wright—92.

So the amendment was adopted, and the bill, as amended, was ordered to be engrossed for a third reading to-morrow.

THURSDAY, JANUARY 24, 1828.

#### RETRENCHMENT.

The House resumed the consideration of the resolutions moved by Mr. CHILTON on the 21st January.

Mr. CHILTON said, that he disliked, in a second instance, to refer to the same subject which had already been discussed, and to consume even a small portion of the time of the House ; but the duty which he owed to his constituents, and to himself, compelled him to offer a few remarks in reply to what had been said by the gentleman from Maryland, [Mr. BARNER]—because, said he,



H. or R.]

Retrenchment.

[JAN. 24, 1828.]

that gentleman has made me the subject of a passing notice. He seemed to consider me a bird of flight, and treated me accordingly. The gentleman amused himself for a considerable time with a recitation of a portion of poetry, which he seemed to repeat with much pleasure; whether he amused the House or not, I shall not undertake to decide. I have been taught to believe that age and youth are, in some respects, subject to the same exception—superannuation in the one case producing the same effect as imbecility in the other. The same remark may, perhaps, be applied to the statements of that honorable gentleman and myself. He seemed to insinuate that, as I had attended here only a few days, ergo, or therefore, it was arrogant in me to bring the solitary and insulated interest of my constituents before Congress. The gentleman might perhaps, have convinced himself, as he came very near to convince me, that my proper course would be to return home, and commit the interests of myself and my constituents to his care. The gentleman's age and experience certainly entitle him to great regard; and I had thought that, while the hoary hairs of age were entitled to respect, from superannuation, the weakness and inexperience of youth might be entitled to some small portion of his Christian charity. I had never understood that, on the floor of this Hall, the privileges of members were, in any respect, different from each other. The aged here I certainly venerate, and am even prepared to fall at their feet, and receive the lessons of instruction, if, by so doing, I could in the least advance the cause of my country and of my constituents. It has been said, however, that the aged ought to remember that they once were young, while the young ought not to forget that they one day may be old. Youth, from its ardour and eagerness, may indeed, sometimes go beyond what duty requires; but let the aged also remember, that they cannot arrogate all the rights to themselves. Why was I sent here by my constituents? Was it to sit in silence when their rights were involved? When, on rising, I was honored with at least the partial attention of the House, had I sat silent I should have failed in redeeming those pledges which I gave to my constituents. I represent a portion of the People of these United States; and the only difference which ought to exist here, between the old and the young, is in the different degrees of their devotion to the cause of Republicanism. The gentleman ought to remember that an old Representative is sometimes superseded by a young one, who, when he makes his first debut, is sometimes found to be better qualified than his predecessor. Admonition from the aged shall always be received by me, in kindness and with thanks, when it is not carried so far that, in complying with it, I must neglect my duty. When it goes to this length, I shall take my own course. I am well aware that I have attacked an important and dangerous subject. Why? Because I have brought the matter at once to the threshold. Such was my design. I resolved to attack extravagance, whether it should be found in this Hall, or in any of the Departments of Government. I am informed, by friends of great respectability, that many have been deterred from advocating the cause of retrenchment, by an apprehension that they should be considered as possessing a niggardly spirit, and accused of great tamerity, if they should venture to say that matters here do not go on quite right. I am willing to encounter such imputations, and am prepared to fall a victim under them. My country is more to me than the good opinion of any body of men. Duty to my constituents shall always be my polar star. I have not, therefore, hesitated to attack a system of profusion, however formidable. My fate is with the House, with the community, with my God, and my constituents.

I trust I need say nothing more on the high standing and experience of the gentleman from Maryland, nor on

his rhymes. I will not say they were tolerable, but I will say they were like the breeze—they passed off. I must confess I did not derive from them much light on the subject of retrenchment. I acknowledge they might have done for trimmings, but not for the substance of any thing. The gentleman in the next place attacks the policy of my argument, in relation to the pay of our noble selves, as he called us. I know that, when I approach a great many of the members of this House, I touch a very tender point. Sir, the British Parliament has been referred to. God forbid that they should be my text book—the Lord defend us against the British parliament, and all things connected with the British Government. It was against it that we revolted, and it shall never be my model, for finance, or for any thing else; unless gentlemen want to see here a sinking fund and debt like that of Great Britain. Another point in the gentleman's remarks, was this, that our present pay is not extravagant, because gentlemen wish to have their wives and children, and servants, and I suppose many others attending here with them; because, when once you begin, there is no stopping place. All the members, however, are not so happily situated—whether the possibility might be extended to all, by sufficiently squandering the public money, I cannot say; but one thing I will say to the gentleman, that, if he is not happy here without his family, he may be happy with them at home. There is, I presume, no compulsory process, which obliges him to attend here; and though his seat may not be so ably filled, yet I doubt not that his district will continue to be represented, even if he shall magnanimously decline coming again to Congress without his family. His use of his pay is a little more surprising, and somewhat amusing. How is it expended? for as I understood the gentleman, none of it is treasured up—it is expended, it seems, in liberal donations to charitable objects; this, with me, is a strong reason why I would not give it to them. There are divers ways and means of converting the public Treasury into a machine to promote our private purposes. A contingent fund furnishes a tremendous machine for pulling down our republican institutions. The pay of a member of Congress, and his franking privileges, may easily be made vehicles by which documents calculated to advance one party and pull down another, may be conveyed from time to time, and from place to place. The object, in each case, is to advance himself. Building temples, at the expence of the Government, is certainly a very laudable employment. I justify my venerable friend for such an application of his pay. I am even proud to think that it is applied to the erection of temples, and I hope humbly that he is a worshipper therein. Yet I consider it of great importance that our wages should be reduced. We could not then bring our families with us, it is true, but at present we certainly receive more than is necessary to support ourselves decently. We pay for our board from \$10 to \$15 a week. Our pay amounts to \$36 a week. What becomes of the balance? Sir, I would not convert this Hall into a set of exchange rooms, into an office for money changers. I would rather imitate the illustrious example which has been set us, and turn over the tables of the money-changers. To do so, would, in my opinion, evince devotion to our country. But if many must sit here as mere blanks, they would certainly be better at home. We should either determine at once to cover all the expenses of the trip, or else to reduce our wages to such a sum as will enable any gentleman to keep his seat here. And for this purpose, six dollars a day is, in my opinion, amply sufficient.

The gentleman, in one part of his speech also alluded to the school at West Point, and he seems to glory in the prospect of that Institution. It seems he has been there, and seen the effects of the system. But I, sir oppose that school for the best of all reasons. Its benefits

JAN. 24, 1828.]

Retrenchment.

[H. OF R.]

are given to the rich and the well-born. Few, if any, of the poor, receive any benefit from it. It is possible they may share in more of them when the system is extended. In peace, its advantages are certainly inconsiderable, if, indeed, it has any at all. The poor man can't spare his child. He cultivates the soil, and many families subsist entirely on the industry of their sons. These, therefore, are detained at home, and are taxed for an institution of this kind. In these remarks, I do not allude to any purpose of discontinuing the institution; but I would certainly avoid all supernumeraries.

The calculation of the gentleman on the subject of the public lands is certainly very peculiar. His opinion and mine differ very widely. But the difference will be adjusted by time. I still hold the position that much of our public revenue is derived from the public lands—we all know this—and I repeat it, if we merely wade now, what must be our condition when this source of revenue is exhausted? The gentleman, indeed, has told us, that we shall have abundance of these lands on hand two hundred years hence. But this is a mere chimera. If the House will but for one moment investigate the immense expense which these lands cost to the Government, they cannot fail to see that it would be much better if the whole were given away. An annual appropriation is called for—yes, sir, and an annual appropriation is made—ininitely more than that derived from the sale of the lands. Hence gentlemen are greatly mistaken, if they consider the public lands as an eternal source of revenue. And if the present system in relation to them shall be persevered in, the Government, ere long, will discover that they have passed a bourne from which they cannot return.

I need not advert, for any great length of time, to the gentlemen's systematic plan of electioneering, or to those horses which he called poney, and which he told us were so trained as of themselves to approach every man's door. No doubt they did so to carry some point of aspirants to office. But this I consider wholly aside from the merits of the question.

The gentleman also proposed, if I would agree with him, to receive no pay whatever for his services, and allow the whole of his wages to go towards the discharge of the public debt. That gentleman may be able, from his circumstances, to do this, but if made a general rule, it would operate very unequally. If, however, the gentleman will satisfy me that his pecuniary circumstances are the same as mine, I pledge myself to go hand in hand with him, and am willing to measure patriotism with him by his own scale. A remark fell from my honorable friend from Pennsylvania, [Mr. BUCHANAN] in relation to the Fifth Auditor. In justice to that officer, I must be permitted to say, that he was not designed to be the object of the operation of the inquiry proposed. I did not design any individual in particular. They are all unknown to me, as I to them. But I still believe that there are more Auditors than necessary. I believe there are some that might safely be dispensed with. As an exception, however, I name with pride and pleasure the Third and Fifth Auditors, and the Postmaster General. These officers, I believe to be prompt in the discharge of their duty. I do not say that all others are not so; but I believe that some might, with advantage, be discontinued. A sound discretion must be exercised in this matter. I wish the House, however, distinctly to understand, that the Fifth Auditor is not designed by me to be discontinued. But as I believe that there are too many Auditors, I care not which of them, in point of numerical succession, shall be stricken from the list.

The gentleman further remarked, that I should have investigated this subject myself, and not have turned over the task to others. But, Sir, it is impossible that I should wade through all the intricacies of this subject. I am clothed with no power to approach an individual or an

office. Information, if given to me, is a matter of courtesy. But when a Committee of this House shall be invested with authority, the doors must open, the papers must be exhibited, and this is my object.

The gentleman from South Carolina, [Mr. McDUFFIE] has recommended a division of the resolution, and the reference of its several parts to different Committees of the House. Sir, I am perfectly content that this honorable body shall dispose of the resolution just as it shall please. My pledge is redeemed. I could redeem it by no other means. I have done my duty by submitting the resolution, and if that gentleman shall offer any plan for dividing or subdividing it, I assure him I shall not take it unkindly; on the contrary, I will go hand in hand with that gentleman, in any arrangement he may propose. I would only observe, that, if we begin to fritter away the resolution, I fear the object of it will never be accomplished. If it shall be thought best to refer the resolution to a Select Committee, I shall be entirely satisfied. The evil is a crying evil; I have no doubt of its existence; and I want to know how the contingent fund is appropriated. I will therefore suggest a modification of the resolution.

Mr. C. then modified the second resolution, by introducing, after the words "with instruction," the words "to inquire into and," so as to make it read;

"That the foregoing resolution be referred to the Committee of Ways and Means, with instructions to inquire into and report," &c.

This modification is designed solely to accommodate the wishes of the House. I have not the slightest wish to embarrass any gentleman on the floor. All I wish is an inquiry; when that is made I shall be content. I can then return to my constituents, and say to them whether the impression I had on this subject is true or false. Any proposition of gentlemen, with a view to this object, will be taken kindly by me. I have no right or power to dictate to this House. I am positive only on one thing, and that is, that we shall resort to a system of retrenchment.

Mr. RANDOLPH said, when the gentleman from S. Carolina withdrew his motion yesterday, to lay this resolution on the table, I rose for the purpose of renewing it. But, understanding that he had not withdrawn it, I did not because I could not renew it. The gentleman from South Carolina, with that courtesy and comity which we all ought to shew to one another, did, subsequently, withdraw his motion, in order to give an opportunity to the gentleman who moved it, and who has now just taken his seat, to make explanations. That opportunity having been ample, I should be content to let the matter pass, but that I feel myself pledged (to use an expression which, though parliamentary, is not strictly grammatical) to the cause of retrenchment. I shall say a few, a very few words, in order to explain the course I am about to take, and which, otherwise, might appear to militate against that cause. Sir, I do believe, that retrenchment is required, both by the circumstances of the country, and by the voice of the public. I concur heartily with the gentleman from Pennsylvania, on my left, [Mr. BUCHANAN] in all he advanced, (in as far as that went.) I am clearly of opinion that this is a case in which reformation, like charity, (I mean modern charity) begins at home—at least it ought to begin at home. I have long been of opinion, that no economical Government could ever inhabit such a House as this; I do believe we never shall have an economical Government in such an establishment as the present. This, however, may be a peculiar opinion of mine. Yes, sir, reformation must begin at home. I do not mean in our own cases as members—I am not going to start the *per diem* question—God forbid! We had enough of that when we sat in the brick building, over the way, (where I should be very glad we sat now.) I believe sir, that whatever

H. or R.]

Retrenchment.

[JAN. 24, 1828.]

abuses may exist elsewhere, we can go with them, *pari passu*, at home, and shew an equal case of abuse. But, sir, this is not "the accepted time"—and in saying this, I do not speak in the words of some of the orators over the water, who never will find an "accepted time" for parliamentary or economical reform. Every effort that is made now, will only recoil on those who make it—will injure the cause, not further it. One of the greatest men and best patriots that ever lived, I mean John De Witt, when asked how he managed to get through so much business, replied, that he managed it "by doing one thing at a time." Now, sir, I believe that we have "one thing needful" to do, and I am for doing it. I will not indicate further than I have done, what that "one thing" is. I say, let us bring to bear upon that object the whole of our strength, all our rays, light and heat, into one focus. Sir, we know that even Mr. Jefferson, in his highest and most palmy state, could not succeed in certain reforms he wished to introduce. And why, sir? Because there was a countervailing under-current, too strong even for him to stem.

Mr. Speaker, I wish not to add another to the number of resolutions which are to be taken up regularly every morning—debated for an hour throughout the session, and, at the end of it, left unfinished, with the unfinished speech of some gentleman by the side of them; and this resolution will infallibly take that course, unless you revise your rules and orders, or unless the House will join me in a motion I am going to make. Sir, I will not enter upon one of the subjects referred to in the resolution, farther than to say one word in respect to the school at West Point. Sir, that School is a contrivance to educate the sons of the rich at the expense of the poor. But I will not, by farther entering into this subject, bring all that force to operate against me, which I know to be enlisted in defence of that Institution. I am for doing one thing at a time—but it is nevertheless true, that every poor man in this country who buys a pound of sugar, a peck of salt, or as much iron as will point his plough share, can proudly say to any one of the cadets from West Point, "you were educated at my expense." Yes, sir, he can say this, and how would the young man feel under such circumstances? Certainly as I would not feel for any consideration that can be named.

I had rather that a son of mine should be obliged to make his mark, for want of knowing how to write, than that, while his father was capable of bearing all the necessary charges, he should be educated at the public expense. Sir, I make no reflections: for the only man I ever knew, who was educated under such circumstances, is as estimable, as worthy, and as true a man as any that lives. I never knew but one. Sir, it is just as easy, that two bodies should occupy the same space, as that all these irons should be in the fire at the same time, and none of them should burn. As long as we have this dead weight against us, reformation is impossible. I defy the committees to accomplish any thing—you may turn them all into the Departments and they will do nothing; and when I say this, do I mean to cast any personal reflections? Certainly not—not at all sir—I have already said that Mr. Jefferson, even in his highest and most palmy state, was baffled in the attempt. Sir, there are certain interests here which were too strong for him—they are stronger than the President, and stronger than the People. I now move you that this resolution lie upon the table, never to be taken up again, with my consent, during the present session.

The question now being about to be put on laying the resolution on the table, Mr. CULPEPER demanded that it be taken by yeas and nays.

Mr. RANDOLPH now offered to withdraw the motion, if the gentleman from North Carolina wished to submit any remarks to the House.

Mr. CULPEPER declining to do so,

Mr. ARMSTRONG asked for the reading of the resolution as modified. It having been read, accordingly, Mr. HOFFMAN asked that the propositions in the resolution might be separated, so that a vote might be taken on laying on the table each by itself.

The SPEAKER pronounced this not to be in order; and, thereupon,

The question was taken by yeas and nays, on the whole resolution, and decided in the negative—Yeas 47—Nays 149.

Mr. TAYLOR moved the following amendment:

"Resolved, That the Committee of Ways and Means be instructed to inquire into and report to this House what officers, in their opinion, may be most advantageously discontinued, what salaries will reasonably bear reduction, and such other means of retrenchment as to them may seem necessary."

The SPEAKER now announced that the hour allotted to the consideration of resolutions had expired, when

Mr. STEWART moved to postpone the orders of the day for the purpose of continuing, and, if possible, ending, the present discussion.

The motion prevailed, Yeas 84, Nays 82.

The resolution, as modified having been again read—

Mr. CULPEPER said he should vote against the amendment of the gentleman from New York, because it does not go to the full extent, if any reform be necessary; but he should vote for the resolution of the gentleman from Kentucky, with the hope that he would not stop at, or be content with the reference to a committee, but pursue it to some practical result. And I will pledge myself (said Mr. C.) to go with the gentleman the full length. As to the remarks of the gentleman from Pennsylvania, that we should begin with a reduction of our own compensation, I do not agree with him. He says that the per diem allowance to members is too low to compensate for our loss of time, though more than sufficient for our support while here. Sir, (said Mr. C.) I have not patriotism enough to devote my time to the public for a bare support. My family are to be provided for, and I shall vote for the compensation I deem just, and use my wages to support myself, to pay my debts, to support my family, &c. just as I would the avails of my labor on my farm, or any where else: and I deem eight dollars about a proper compensation, and I shall never vote for less, for fear that that compensation may end the 3d March, &c. But the gentleman expresses a hope that we have passed the middle of the session. Passed the middle of the session! And what have we done? We have passed one bill to appropriate money to pay our own salaries; and if we are to progress in the same way, judging of our progress in future from the past, we shall pass one more bill; and what bill is that to be? Not the tariff, I presume: for, though many gentlemen are anxious for the passage of that bill, yet the resolution authorizing the committee to send for persons, &c. has I expect, put the passage of that bill out of dispute, if we are to rise the 3d of March. Yes, sir, the bill on that subject, if not defunct, is rocked to sleep for the present, if we are to have a short session. Before I sit down, I will suggest to the gentleman, if he desires reform, to amend his resolution, and refer the subject of it to a select committee, and not to the Committee of Ways and Means, when the committee has informed us and no doubt honestly, that they cannot have time to make the inquiry. Send it sir, to a select committee—let the subject be fully investigated, and I will go all lengths with the gentleman in his progress towards reform and retrenchment, if any shall be proved to be necessary.

Mr. RANDOLPH said, as this thing is to be gone into, so far from having reached the middle of the Session, I fear we have only begun it. I had hoped that, instead of

[N. 24, 1828.]

Retrenchment.

[H. OF R.]

ing half way, we were two-thirds through it. I do not know what more the public good imperiously requires, that is now attainable, than that we should pass the other appropriation bills, and then adjourn. I shall vote against the amendment proposed by the gentleman from New York, [Mr. TAYLOR] but I shall not, therefore, vote in favor of the resolutions of the gentleman from Kentucky, [Mr. CHILTON.] I cannot agree in sending the resolution to the Committee of Ways and Means; and one reason is, that the Chairman of that committee has very truly told us, that he would be sent, without chart or compass, upon a voyage of discovery, to find out *terra incognita*; but, if adopted, I will join in sending it to a Select Committee, knowing, from what has passed, now that Committee will be appointed—I should not say knowing, but rather, being able to anticipate, from the usage of the House in all such cases. If this subject is to be brought up, I hope it will be thoroughly probed; and the only way thoroughly to probe it, will be, to have the discussion, first, here, on the general principle of reform. Let gentlemen here—in this House—determine whether they will retrench, and then point out what offices can be spared, and what salaries can be reduced. Sir, any movement at this time, affecting great interests and classes of men, was what I deprecated when my very worthy and most respectable colleague [Mr. P. P. BARBORN] brought in his resolution on the subject of the Government Stock in the Bank of the United States; and, which, although the House refused to put upon the table, finally obtained but nine votes in its favor. I do not hesitate to say, here in my place, that the expenses of this Government are too high, that they ought to be reduced, and that, as soon as such a thing is practicable, I am ready to join heart and hand in its accomplishment. Sir, I will specify one or two particulars. The present salary of the President of the United States, and I hope no gentleman will understand me as wishing to have it increased, has remained where it now is ever since it was appointed, hard upon forty years ago. What other salary under this Government is in the same situation? Is there one other? When, by the improvidence, imprudent conduct, of the men who were at the head of the Treasury, and of the Councils of this House, under their auspices, the whole country was deluged with paper money—when the people of the United States were brought to this pass, that their trustees exchanged their notes, bottomed upon every foot of land and upon every shilling's worth of productive labor of the country, against the notes of certain corporations; yes, exchanged their own notes, bearing interest, for the notes of those corporations, bearing no interest—when they agreed to allow a *bonus* on the nominal amount of these bank notes, equal to nearly twenty, certainly exceeding ten per cent.—when tobacco was worth forty dollars per hundred, for choice crops—when cotton was worth thirty dollars; and for a single slave, a common field hand, were paid, to my certain knowledge, twelve hundred dollars—when land was at a price which beggars all belief, (if that price had not been paid in worthless trash, for the land was, in fact cheaper than it is now)—then, sir, the salaries of all the officers of this Government were raised. I will point to one, (*absit invidia*) that of the Attorney General. It commenced, I believe, with \$1,200, because it was considered that the very office itself was a great remuneration. Since then it has been raised, I know not how often. So, all the salaries have been increased. Sir, have any been diminished? I believe not one—not one to my knowledge. It is easy to talk about “a certain style of living,” and about the dignity which becomes the officers of this Government. Sir, we may swell like the poor frog in the fable, till we burst, but we cannot equal the style or splendor of those on the other side of the water. And we never shall be able

to equal them, until our people shall be reduced to the same state of misery with their people. Dignity consists in adapting the style of our living to the means we have to live on. It never did consist in expense and pageantry, especially in a Government having even the semblance of Republicanism. Dignity, like happiness, resides in the mind—it is in the man, and you cannot give it by any station. Sir, there was as much true dignity in Fabricius—there is now as much true dignity in Fabricius, as there ever was in Louis XIV.—the *grande monarque*, who was never seen, even by his *valet de chambre*, without the paraphernalia of his enormous wig—in *comptis Curium capillis*; yes, sir there was as much dignity in the American Curius Dentatus, I mean Roger Sherman, as in any of the Ambassadors which his most Christian Majesty thought fit to send to us, then his very great, dear allies.

Sir, whenever money is plenty, and every thing is at the highest price, that price forms a very good reason why salaries must be raised. And when all things have fallen, and the price is depreciated, for aught I know 90 per cent, why then, sir, the times are so hard that salaries cannot be reduced, but, on the contrary, should be raised. So, in reference to the emolument of Government, that happens which happens in certain other institutions, where the Directors, the Cashiers, and the Presidents, take good care of themselves, but are quite regardless of the Stockholders. Sir, in this Government, the People are the Stockholders, and all I look at, in any public man, is, whether he is for the Stockholders, or for the Directors. This is my test, my touchstone. Yes, sir, when all things are dear, salaries must be raised, because they are dear; when all things are cheap, still salaries must be raised, because the cheapness of every thing shews the scarcity of money, and that the times are hard. So, sir, to use one of my homely phrases, and that language is understood by the People, and is the only language I will ever use when speaking to them—the game amounts to this: Cross, the People lose; and Pile, their rulers win. Sir, I wish to know, if the offices of this Government were filled with less able men, when Jefferson was in the Department of State, Hamilton at the head of the Treasury, Knox, ay, sir, Knox, in the Department of War, and Bradford was Attorney General, than they are now? Were our officers, with about one half the present salary, less dignified then, than they are now, with double the amount? I wish to know if that (I was going to say) unrivalled Chief Justice of the United States, has any more dignity now, when his salary is \$5000, than he had when it was \$4000? Or whether his Associates are more dignified now they get \$4000, than they were when the salary was but \$3500? They are the same men, they perform the same services, and with the same ability and integrity. Sir, I did not intend to trespass on the House so long as I have done, but out of the fullness of my heart I have spoken. Sir, I believe that the country I live in is quite as well off as any of those adjacent to it, and this may perhaps, be owing to the fact of its being too far removed from any Bank, from this Pandora's box, for us to receive our full portion of its blessings, which, like those of the evil spirits, are curses. But, sir, there is hardly a man in the sphere of my knowledge, who makes one per cent, upon the value of his plantation and stock. For one such, I can shew you twenty persons whose account of profit and loss, if they keep any, will exhibit a balance on the wrong side of the Leger. Sir, the country is in an unexampled state. I can remember nothing like it, though I remember well when Lord Cornwallis passed triumphantly through the South, carrying all before him, before the battle of Guilford. I remember well the peace of '83, and even then, when we had nothing like this state of things, although the paper money of that day did its office, we had a forty shilling year for

H. of R.]

Retrenchment.

[JAN. 24, 1823.]

tobacco, and fifteen and twenty shilling years for many years thereafter; and yet even then the times were not like these. Sir, there is not a planter within the sphere of my knowledge, or not a farmer, if you please, with no other resource but his farm, who has one shilling at the end of the year, even though he may not have spent, in the course of it, one shilling on himself. The expenses swallow up all the profits, and, in most cases, far exceed them. And why is this? Sir, we have been legislated into this thing—would to God, we could be legislated out of it again—*facilis descensus Avernii*. Aye, Sir, but the return *revocare gradum superasque eadere ad auras hic labor, hoc opus est*. Sir, we have been impoverished till we have scarce enough of spirit left to act like men. Yet we hear that the expenses of this Government are only such as comport with the dignity—yes, Sir, the dignity of a poor man with a Sheriff at his back—such as comport with the dignity of this great Metropolis. The dignity, Sir, of vainly endeavoring to rival the Representatives of Autocrats and Kings, instead of exercising Industry and Economy. But when I say economy, I do not mean merely the economy of lopping off. I know very well, Sir, that economy is one thing, and parsimony is quite another. But I would couple industry with frugality, and associate it with all the domestic virtues. But no, Sir, our sons must be educated at the public expense, and when the People are in distress, we must look from their own or our improvidence for some canal, or some road, or some woollen manufactory, to any thing for relief—but industry and self denial—and to ascribe the disease to any thing but the true cause, unwise legislation and prodigality. And when I say this, Sir, I don't mean to exempt the States from the charge. No, sir, not at all. I do not mean to exempt Virginia, and I will never vote for a man to represent me in her Legislature, who will not there vote for short sessions and low taxes. And if it becomes necessary, as it never yet has been, I will turn out, Sir, and electioneer against him upon these very grounds.

That is a good Government which takes from the People nothing that it can spare. I mean nothing that the Government can do without. I would always give the requisite supplies. Yes, sir, I would not stop the supplies unless the Government refused to redress grievances; but, if it did, I would follow the example of those very ancestors who are now quoted on the other side. Yes, sir, I would then stop the supplies. I would not hesitate to vote against any item in an appropriation bill; yes, sir, and against the appropriation bill itself, if I could get at my object in no other way. Sir, we are the keepers of the People's money, and what other function can be so important? If you let me have the keeping of your money, I shall be very glad to be discharged from the custody of your person and the protection of your wife and children. Such a state of things would benefit me much more than if you were an Ethiopian. Sir, look at the condition of other People. Look at the state of the Irish, that brave, honest, gallant, warm-hearted People (too warm hearted, I grant you, sometimes, when their hearts sail too fast for their heads.) They are the most oppressed of the human race. I make no exception, sir; no, none at all: But do I take part with their oppressors? Far from it. Look at the People of England. I ask the House to turn their eyes to the sea-girt isle. And, sir, I hesitate not to acknowledge that I feel towards that country as a Greek of Syracuse would feel towards Peloponnesus. The French, indeed, are not so badly off, yet many of them are extremely wretched, if that can be called an extreme, which, like Milton's fire, has an extreme still more fierce beyond it. You see there the same empiricism, the same *Charlatanerie* that we see here. There is, at this moment, within three miles of St. Stephen's Chapel, more misery and more

vice than exists on the whole of North America, the West Indies included. And what is the cure, sir? The philanthropists, instead of ferreting out that which is immediately under their noses, or rather which they are glad to stop their noses to avoid, occupy themselves in taking care of the slaves of Mr. Watson Taylor, Mr. Beckford, Mr. Hibbert, and other West India gentlemen, whose condition, in comparison with the *canaille* of St. Giles's, St. Peter's, Westminster, and other quarters of London, is a condition of independence, virtue, and happiness. The misery before their eyes they cannot see—their philanthropy acts only at a distance. (I will not say only, for there are some very good men, no doubt, who do relieve the sufferings at home.) Their philanthropy acts only through their ears, and not through their eyes—they reverse the Horatian maxim, that what a man sees affects him more than what he hears. Sir, there are *lazzaroni*—I used the word because they are so—there are *lazzaroni* all over Europe, and I am far from sure that we shall not have some of them here—they were *lazzaroni* only who took up arms in defence of Naples—sturdy beggars, if you please—sturdy dogs—but as far above the condition of the oppressed peasantry of Ireland in food and raiment, as a slave here is above the condition of a slave in the West Indies.

Sir, I am very sensible that I have wandered somewhat from the point in debate—seduced, probably, by that very kind attention which the House has accorded to me. If there is any gentleman who thinks I have said too much—that I have said what I ought not to say, or, at least I ought to have said it—let such a gentleman remember that it has not been owing to me that this subject is here. For myself, I should be satisfied if we could pass the other appropriation bill, and then go home. I hope we shall pass upon such salaries as are to be abolished or retrenched here, in this House, and not suffer the subject to go to a committee at all, until we shall have settled the principle. I am in favor neither of the amendment, nor of the resolution. I shall vote against both. If we are of opinion that any officer of the Government receives too much salary, why must we send one of our committees on a voyage of discovery, or rather of un-discovery—for they can and will discover nothing.

Sir, I shall add no more at present. I have many and heavy things to say—high matter, sir—when the proper time shall come; but I reserve it until then.

Mr. BARNEY being opposed to the amendment, said he was unwilling to be confined by a rigid construction of the rules of order to a discussion of their merits, and would ask the indulgence of the House, in noticing the remarks submitted, while the original proposition was under consideration. His mercantile education induced him always to desire to close promptly every account opened against him, and he hoped that the debate would not leave him in debt, as he was anxious not to appear in this House a public defaulter.

Mr. B. acknowledged many obligations to the honorable member from Pennsylvania, [Mr. BUCKNAN] for his occasional notice of him, and proposed, in the first instance, to discharge the debt of gratitude due to him. This gentleman has declared, that, for many years, it has been his serious conviction, that the per diem compensation was too large, and yet he has drawn the full amount from the Treasury, and appropriated it to his individual use, without ever having submitted a proposition to reduce it. Sir, it is conscience doth make cowards of us all. I presume not to judge for others; but, had this been my conviction, my conscience would have dictated a different course. No member on this floor enjoys, or is justly entitled to higher consideration than the gentleman from Pennsylvania; occupying a distinguished station on one of the most important committees, a motion from him to enquire into the expediency of reducing the

APR. 24, 1828.]

Retrenchment.

[H. OF R.]

compensation would have carried great weight. I cannot learn that such an intimation has ever been made. I know not the rate at which he values his services. I have ever attached to them the highest value. I learn that six dollars a day is his own estimate: he certainly does himself injustice in the appraisement. The Treasury would not gain much by the difference—yet my course would have been to compromise with my conscience, and draw just as much as I thought myself fairly entitled to, leaving the balance for public use. Mr. B., however, did not desire that his opinions should become the rule of action for others; he found the pay fixed at eight dollars, and was willing to leave it so—reserving to himself the privilege of disbursing any surplus that might remain, after paying his bills in Washington, to defray the expense of an electioneering campaign.

He coincided in opinion with his friend from Pennsylvania, that the whole amount was no compensation for the sacrifice made, in a pecuniary point of view, by every member on this floor. Were his pursuits of a professional character, the income derived from his practice must be small, indeed, if it did not exceed a thousand dollars a year; was he a merchant or a farmer, his entire neglect and abandonment of his domestic pursuits must prejudice them at least that amount. In his judgment, their constituents did not require of them to make any reduction, which, if done at all, would go back to the old rates of six dollars, and the saving was not worth the discussion.

The gentleman from Kentucky commenced his argument this morning under some excitement, caused by my notice of his introductory remarks yesterday. I regret it, because, disposed to treat every gentleman with respect, I would not be deficient in courtesy to young members: for their country have much to hope for them; and, if any individual of this House will say that I was wanting in courtesy, I will not hesitate to acknowledge and atone for it. In allusion to my venerable self, he certainly has forgotten the respect due to my supposed age: for, in fact, there cannot be many years difference between us. I thank Heaven I still have some of the fire of youthful blood in my veins; and, notwithstanding my alleged imbecility, I have just discernment enough to see that he is on such good terms with himself, that I will not seek to disparage him in his own esteem, by retorting any uncourteous epithets; and, if he is in love with himself, would not rob him of a rival: for, where ignorance is bliss, it were folly to be wise. He has gravely asked, why his constituents send him here? On my conscience, although I have reflected on the subject, I do not know—therefore cannot give him a satisfactory answer. He alleges that I have considered him a bird of flight. Not so. I frankly say to the gentleman, that, ere he has arrived at my advanced age, (I speak in reference to my political life,) his experience will convince him that a few days' residence here is too short to allow him to arrive at a conclusion that, in this (which I consider the most economical Government on earth) extravagance and prodigality have full sway, and that he is competent to the great work of reform. Earnestly desiring to cultivate the good will of all mankind, I am particularly anxious to move in perfect harmony with the Representatives of the People in this Hall, with whom it is my duty to co-operate; and, to convince the gentleman that I feel none of the irritability of old age, I proffer him the right hand of fellowship, with unfeigned sincerity. On a proper occasion, I am ready, in the language of my chevalier friend from Mississippi, to cavil on the ninth part of a hair, and go as far as him who dares go farthest. Age shall not shield me from responsibility here or elsewhere.

In point of fortune, I can assure the gentleman, there can be but little disparity between us. I will not thank my God I am not worth a ducat; but, if merely a suffi-

ciency to live with economy and industry, places us on a par, we are so. He supposes that the franking privilege enjoyed by members, gives great political influence. If but one party existed, it might be thus exercised; but so nearly are they equipoised, that a counteracting and neutralising influence is produced, and no misrepresentation can circulate among the People uncontradicted. As for my single self, I care not how soon it is abolished. The proceeds of public lands are supposed to be diminished by the heavy expenses attending the survey and sale of them. From one of these much-abused pile of printed documents which encumber our tables, I learn that the sum total of expense amounts to but three-fourths per cent.: so that, of thirty-one millions of dollars received into the public Treasury from this source, not quite one million has been deducted, to meet charges of every description. Averse to the proposition submitted, in every shape, more especially as the honorable mover has not, after few weeks devoted to public life, been able to point out a solitary instance of prodigality or extravagance—yet if a single one shall be designated, I pledge myself to vote for the reference.

The honorable member from Virginia, [Mr. RANDOLPH] has said, that it is best to do one thing at a time, and that this is not the accepted time to do the one thing needful. I most respectfully dissent from that gentleman. Now is the time, now the hour most propitious, in my humble opinion.

This nation will soon be called upon to exercise their sovereign authority in the choice of their rulers. Although I should find myself in an awkward dilemma, yet once convinced that there is any lurking prodigality, any deeds of darkness which cannot bear the light of noon-day, and I will enter into the scrutiny heart and hand, and aid in bringing it into prominent relief, and when convinced of its existence, will do all in my power to place honest men in the high places which, it is alleged, are now improperly filled; and if retrenchment and economy have not been the order of the day, for the four years preceding the 4th of March, 1829, will assist in elevating men who will establish them on a firm basis.

Mr. TAYLOR, of New-York, said, he had never failed to support motions of inquiry into the public expenditure. Whenever a member of this House, rising in his place, demands a scrutiny in regard to offices which he considers unnecessary, or salaries which he deems unreasonable, we owe it to ourselves, and to our constituents, patiently to hear, and candidly to examine the subject. He would not stop short of him who was disposed to go farthest in his career of retrenchment and correction of abuses. But he wished to give to the resolution a definite and intelligible form. He wished to disencumber it of its equivocal and argumentative expressions, and simply enjoin upon the Committee the doing of that which the gentleman from Kentucky, [Mr. CHILTON] appears desirous to have performed. He sets out, said Mr. T. in his preamble resolution, by declaring, "that it is expedient to discharge the national debt without unavoidable delay." If this expression is intended to convey the idea that every resource of taxation, direct and indirect, ought now to be adopted for the purpose of expediting the extinguishment of the national debt, Mr. T. said, it would find few advocates, either in this House or out of it. No man would risk his reputation—he would not say as a statesman, but as a man of common sense—by proposing for that purpose, to lay a direct tax on the States of this Union, or by re-enacting the excises and double postages to which necessity compelled us to resort, during the late war. What, then, does the gentleman from Kentucky propose? Does he wish to divert the progress of our half-finished public works? Our fortifications, the Cumberland Road, the improvement of harbors and navigable rivers, the extension of post roads,



H. of R.]

Retrenchment.

[JAN. 24, 1828.]

the purchase and preservation of ship-timber, and arming the militia? I trust not. No such intention is avowed, and I presume, said Mr. T. none such is entertained; and yet these expenditures may be avoided, and, if not avoided, will delay the extinguishment of the public debt. If I understand the object of the mover of the resolution, said Mr. T. it is to abolish useless offices, to reduce extravagant salaries, and to apply the savings to the payment of the debt. That object is distinctly kept in view by my amendment, without encountering the objectionable features of the original resolution. Whatever shall be saved by retrenchment, under the existing laws, must be applied to pay our debts. At the close of the last war, the party which had declared it, and had carried the country successfully through its perils, considered its work but half done, until provision was made to relieve the country from the burden it had left on our shoulders. Our debt at that time exceeded 120 millions of dollars. For the punctual payment of the interest, and the gradual reimbursement of the principal, a sinking fund was established, which, in its regular operation, has paid the interest, and already reduced the principal of that debt, to 55 millions of dollars. Not only have the pledged ten millions been thus applied, but also all the surpluses which remained in the Treasury, over and above the sum limited by law.

There was, indeed, a period, said Mr. T. during the last Administration, when the condition of the Treasury was such, that it could not regularly pay to the Commissioners of the Sinking Fund the annual ten millions. The appropriations remained a charge upon the Treasury, and although loans, to the amount of several millions, were authorized and negotiated, the Treasury still remained debtor to the Commissioners. It was in this condition of the country, when, on the one hand we were increasing our debt by loans from banks and individuals, and, on the other, not paying our debt to the Sinking Fund, that the reformers, the much abused radicals, of whom, said Mr. T. I was one, succeeded in reducing the Army, rank and file, from 10,000 to 6000 men, and disbanding useless officers. This operation saved about a million a year, which has already amounted to seven or eight millions, without the least injury to the public service. Since then, the condition of the Treasury has been more flourishing. Within the last three years, it has paid the balances it owed to the Sinking Fund. The principal of the public debt has been extinguished to an amount exceeding twenty-one millions of dollars, and nearly twelve millions paid for interest. The speedy extinguishment of the remaining debt can only be arrested by some unlooked-for national calamity. It has been steadily and most successfully pursued by the present and preceding administrations. It is the settled policy of this government, in which all men of all parties unite. Why, then, is it now brought forward, as if it were some new discovery? Surely, it cannot be necessary, for the purpose of confirming our courage to abolish useless offices or reduce extravagant salaries. I have been no advocate, said Mr. T. for raising salaries. Most of the laws increasing them, both in the Legislative and Executive branches of this Government, have been passed in opposition to my vote. When the Secretaries at the head of Executive Departments had smaller salaries, they lived less expensively. They were not required—it was not expected of them—that they should keep open house, and entertain all Members of Congress and strangers, who might visit the seat of Government. Most of them could not do it without ruin to their private fortunes. When you raised their salaries to six thousand dollars, you did them no service. You imposed upon them the necessity of living in more splendor, but in less comfort. Put the salaries back to the old standard, and they will have more time for private study and public duties; and I doubt not you will have their thanks.

My amendment, said Mr. T. does not propose to strike from the resolution one word of substance. It only expunges those parts, to some of which serious objections apply in point of fact, and all of which are at best useless. It leaves the instruction, unchanged and unrestricted, in the very words of the mover.

Mr. BUCHANAN said, that, if the House should determine to adopt any resolution on the subject of reform, at the present time, it ought to contain a distinct proposition, that it was expedient to discharge the national debt as soon as possible. For this reason, he could not vote for the amendment offered by the gentleman from New-York, [Mr. TAYLOR.] When that gentleman moved an amendment, which, if it should prevail, would strike out all that part of the original resolution which related to the extinguishment of the public debt, he expected to hear some reasons urged for such an omission. In this he had been disappointed.

Sir, said Mr. B. I know it has become very fashionable in the present day, to say, that we are discharging the public debt too rapidly. Many deplore that it is melting away so fast: and although it has not been openly avowed that a public debt is a public blessing, yet such is the necessary tendency of the remarks which we often hear. Upon this subject, I beg the House to recur to the past history of the country. What was the amount of our debt before the late war? It had been so much reduced, that a very wise and a very great statesman felt himself at a loss to know how our surplus revenue could be expended, after the debt should be entirely extinguished. To accomplish this purpose, amendments to the Constitution were recommended. But war came; and in less than three years, the public debt increased from fifty-five to one hundred and twenty millions of dollars. It was a maxim of the Father of his Country, that, in peace it was our duty to prepare for war. How can we better prepare, than by paying our debts? According to the system which has been pursued by this Government from its origin, we have, comparatively speaking, no resource left, in time of war, but a resort to loans. They and they alone, must support our credit in the day of trial; and yet this resource had nearly been exhausted before the close of the last war. What has once been, experiences teaches us may be again. A war, by injuring our foreign trade, would cut off many of the sources of our revenue, and we should be compelled again immediately to resort to loans. I wish, then, if possible, to be clear of debt when another war shall commence. Our debt, reduced as it has been, is still much larger than it was at the declaration of the late war. A future war would, in a very few years, raise it higher than it ever has been. I am, therefore, in favor of husbanding all our resources, and applying the whole surplus, not absolutely necessary for other objects, to the extinguishment of the national debt. If, therefore, we shall pass the resolution, I trust that this object will stand in the front rank.

I know that the process of extinguishing the debt has been rapidly advancing for several years, and I do not complain that the present administration have not fairly applied the sinking fund to this purpose. Although I do not pretend to be their friend, yet I am willing to admit they have gone on to carry into effect the law creating that fund, which was so wisely enacted by our predecessors. This rapid extinguishment of the public debt has been productive of much good to the country. Among other benefits, it has essentially promoted domestic manufactures, by forcing capital into that channel of business, which would never have been thus employed, could it have remained in the public stock. I shall vote for no amendment which shall not embrace, in distinct terms, the position that the public debt ought to be extinguished as speedily as possible.

Mr. B. said he would reply in a few words to his friend



[Jan. 24, 1828.]

*Retrenchment.*

[H. OF R.]

From Maryland [Mr. BARNEY.] He reciprocated the term friend, because he believed he could do so towards that gentleman with propriety. Said Mr. B., when I expressed myself friendly to the reduction of our own per diem allowance, I trust neither that gentleman, nor any other upon this floor, attributed my remarks to the grovelling and selfish desire of courting popularity. The people of this country are too clear-sighted and too intelligent to be deceived by such pretences. I here distinctly avow, that the saving of money to the public treasury was far from being the chief reason which influenced my mind in arriving at the conclusion that our per diem should be reduced. I firmly believe that my own constituents would not regard it a single straw, whether I should vote for eight or for four dollars per day. My motive was of a higher nature. My remarks, I trust, sprung from a nobler source. If the gentleman from North Carolina [Mr. COLFER] had reasoned upon the fact which he stated, and had drawn the fair deduction from it, he would, I think feel the force of the remarks which I intend to make. He says that but one bill has passed into a law during the present session, and that one is a bill providing for the pay of the members of Congress. I would ask that gentleman, why is this the case? Why has not more business been done? If he had asked himself these questions, he would probably have discovered the true origin of my remarks. I wish to speak with all due deference to the members of this House, when I say it is my desire, by reducing our wages, to make it our interest, as well as our duty, to do the business of the country as it arises, and go home as soon as possible. I do not wish to be in a hurry—I do not wish to act without due deliberation; and yet, I firmly believe that the public business might be better transacted than it is at present, in little more than half the period of our long sessions. I do not profess to be “an aged gentleman;” but yet, upon this subject, I can speak in the language of experience, and am glad that there are many gentlemen around me who can correct me if I should fall into error. I would ask, what has been the course of legislation which we have heretofore pursued? What have we done during the first half of every long session? I answer, comparatively nothing. The fact stated by the gentleman from North Carolina, [Mr. COLFER] in regard to the business which has been transacted during the present session, is substantially true of those that are past. But I do not complain of the waste of time alone. The necessary consequence of this manner of proceeding is to force the whole business of the session in a solid mass upon the House near its close. Then we have so much to do, that we can do nothing well. There is neither time nor opportunity for investigation; and measures are adopted, the nature and character of which cannot be understood by the House. Immediately before the close of the session, we are employed in passing bills until 12, 1, 2, and 3 o’clock in the morning. I have been upon this floor at a late period of the night, when important amendments were arriving every few minutes from the Senate, which were adopted, when, I believe, there were not more than thirty or forty members present. I do know that it was then in the power of any individual, by merely calling for a division, to defeat any of these measures. This would have furnished official information to the Speaker that a quorum was not present, and then no business could have proceeded.

When the spirit of reform is abroad, I wish to try the experiment, whether we should not do more business, and do it better, in a shorter time, if our pay were less. I say we, because I am conscious that I like money quite as well, and have been quite as much to blame, as other members. As to the saving of a few dollars per day, out of the pay of each member, to the People of the United States, they disregard it, and, in that view of the subject,

I disregard it. I concur with the gentleman from Maryland, in believing it to be small game. If its tendency, however, should be, as I believe it would, to direct our attention more earnestly to the public business of the country, and to induce us to apply ourselves more industriously to discharge it, the effect would be happy. I did not wish, at the present time, to be drawn out into this explanation. It, however, became necessary. Having done so, I can now utterly disclaim the idea, that I was urged to the performance of this duty by any desire to obtain popularity, which, if it rested upon no other foundation, would be fleeting in its nature, and would not be worth possessing by any honorable man.

The gentleman from Maryland asks why I had not, ere this, made a motion to reduce our wages, as I had long been thoroughly convinced of its propriety? I answer that I have not now made such a motion; I have merely expressed my opinion. I have not set myself up as a reformer of every abuse which I see here. To become a reformer in this Government, I fear would be a most troublesome, thankless, and hopeless task, particularly if the first blow should be directed against ourselves. If I had made any motion upon the subject, which I intend to do at a proper time, I might answer him, in the language of the homely proverb, “better late than never.”

Mr. MITCHELL, of Tennessee, said, I shall vote for the resolution. It was with pain I saw the apparent laugh and amusement which the resolution, and the remarks which accompanied it, afforded to some of the gentlemen of this House. Their feelings towards a new member must be very different from mine. I view such a member as coming fresh from the People, and, therefore, not long enough here to be contaminated by bad principles, or evil example. He is fresh from the oven of public opinion; and, as such, bearing the impress of the People. The gentleman from Kentucky speaks, I do not doubt, the sentiments of seven-eighths of the honest and intelligent People whom we represent. What he speaks is not his own language; it is the language of the People. And while I listened to him, I felt an emotion of shame that I should, in any degree, during the little time I have been here, have weakened my feeling of reverence for what I believe to be the will of my constituents. The Constitution itself, by appointing a periodical term for our service here, reminds us of the principle that the representatives in this hall ought, from period to period, to come fresh from the People, reflecting their sentiments and speaking their language. And, sir, he who disregards this principle, will most certainly fall a victim to his own folly; and, in saying this, I do not speak the dreams of imagination, but the language of fact. It has been said, in this discussion, that we have the cheapest Government on earth. Have we, sir? I can call the attention of gentlemen to one which has outlived all the republics of the world—of Athens, of Sparta, and all the other republics of Greece. There is not one among them all which is equal in this respect to the little republic of San Marino, which has endured now for fourteen hundred years. So long, sir, as a republic continues simple, its Government cheap, and its people virtuous, it will perpetuate their happiness; but as soon as the Government becomes splendid, and its officers grow into rulers, it will surely be of short continuance. Now, sir, what is the present situation of this cheap Government? Why, sir, would it be believed that the number of persons actually engaged in it amounts to double the number of our military force? Yet such is the fact at this moment. The number of officers in the various departments of this Government, civil and military, amount to no less than nine thousand. Can they all be really useful? No, sir, it is impossible. I have been informed, said Mr. M., and believe, that, in the Ordnance Department, the disbursement of about three hundred thousand dollars costs the Government nearly seventy

H. of R.]

Retrenchment.

[JAN. 24, 1838.]

thousand. Sir, in this there must be something wrong. There must be something rotten in Denmark.

Sir, it has been said that the gentleman from Kentucky ought to have pointed out the particular mischief which he wished to remedy. But this is not in the power of any individual, unless he can devote the whole of his time to the inquiry. And I therefore hope this resolution will not be sent to the Committee of Ways and Means, but will be confided to a Select Committee, who may be employed exclusively in this investigation. And I have entire confidence in the discretion of the Chair, that such members only will be put upon it, as are not already burdened. I hope they will go into the numerous Departments, and search every thing to the bottom. I repeat, there are now, 9,338 persons employed in these various Departments. Sir, is this like a Republic? It is like any thing else in the world. Within the small period I have enjoyed a seat on this floor, I have witnessed a very strong desire to multiply offices, but no movement of reform. It has been said by a gentleman more aged in experience than I, [Mr. RANKIN] that this is not the accepted time. Sir, I cannot agree with that gentleman. It is always the time to do good. Now is the accepted time. A continual drip will at length wear a hole in a stone, and so will continual perseverance, in attempting retrenchment, eventually succeed; and I have been delighted to see, in so many members of this House, a disposition to carry forth this measure to the good of the country. Look, sir, at the vast expenditure of this Government, and compare that expenditure with the simple form of the Government itself. This, sir, is the true principle of comparison, and not to compare our expenses with the expenses of England, of Russia, of Austria, or of France. Such a comparison is manifestly unjust. Our own Government stands alone, and the parallel will not apply. When we look at the simplicity of its machinery, we shall find the Government of Great Britain a very unfaithful monitor. It will be worse if we go to that of Russia, and it will not be better if we look at any Kingly Government whatever. How many new offices have been created since the days of our prosperity? And when I speak of the days of prosperity in this Republic, I refer to the first days of Mr. Jefferson's Administration. Those were the days of its glory. The Republic has been deteriorating ever since, and will soon slide, unless carefully restrained, into the ocean of profligacy. The gentleman told us that the Military Academy at West Point did not confine its benefits to the sons of the well-born, and the rich. But, sir, I ask what orphan son of a widowed mother is ever recommended to that institution? No, sir; we recommend a boy, whose father is abundantly able to educate him, and we do it because that father is also able to aid us in our election to this House. The gentleman says the school is conducted with the greatest Republican simplicity. Sir, I am at a loss to know what idea the gentleman attaches to those terms. If ever there was a monarchical institution on the face of the earth, the military school of France not excepted, this certainly is one. Sir, it is one of the very creatures of royalty. But we have been told that we must not stop here; that we must have a naval institution also, in which young men from the first circles may receive their education, also at the public expense; and I venture to say, when they have got it, they will be more useless, if possible, than before. But it is with these that our navy is to be filled. Then, to crown all, we are to have a national university, intended, no doubt, to prepare young men for filling seats on this floor: then, sir, all things will be going on beautifully, and the poor people will be run down under our feet. God save me and my posterity from any such Republican institutions. Sir, we are misled by names. A spade is not called a spade. We call these Republican institutions. But I say let the

States educate their own sons. Let us have that cradle which brought forth a Washington and a Jackson, to bless their country. When, sir, did gentility do any thing for the public good? When did pomp and show prolong the date of a Republic? Remember how Thebes mouldered into ruins when her people sought to out-vie the Persians. Remember what became of Sparta when she forgot the simple laws of Lycurgus. So will this Government crumble into ruin, before twenty years, unless we stop the wheels of its downward course in profligacy and extravagance. We come from our homes, many of us at least, poor and penniless—we look at the magnificence of this Hall—we learn to attend upon levees, and to bow to those who are in fact our servants, and we soon disdain to own that we were poor. We are dressed at the public expense, and soon cut a fine figure, but this course will soon destroy us unless we stop midway in our mad career.

With regard to the pay of the members, I will, however say, that if any branch of the Government is miserably paid, it is the members of Congress. Their pay is a compensation which a poor young man of genius does not to receive: for, should he make the attempt, he sees nothing but starvation before him. The pay offers him no compensation for the losses he must necessarily sustain in quitting the whole of his pursuits in life; whether those pursuits be professional, agricultural, or mechanical, the pay presents no indemnity for their loss. Sir, who do we find in these seats? We find either men of great wealth, or men reckless of their future comfort, or bachelors without family or dependents. I say, and I insist on it, that we are worse paid than any other persons in this Government. We have more arduous duties, if, indeed, we would perform them—I do not mean to say that we do fully perform them; but, if we did, we should labor harder than any other persons in this Government; and yet the sorriest drudge in one of the Departments receives more than we do, unless, indeed, it be some messenger, or still inferior menial. I will candidly tell the House my opinion in this matter. It is, that one of two things ought to be done. The pay of members of Congress ought either to be raised so as to reward the exertion of the first talents in the country, or it ought to be reduced to what will barely pay the expenses of our decent living. To talk of our present pay being a compensation for our leaving our business to come here, is perfectly idle. Why, sir, in the few months of the last vacation which I could spend at home, I made more money, by far, than the whole of my salary as a member of this House; and if you do not give a compensation, then give us enough to pay our bills for board, and to buy us a single suit of clothes: for, in that case, as soon as the suit was worn out, we should all go home. Sir, gentlemen tell us of our overflowing Treasury. There is one view in which an overflowing Treasury is a curse. As soon as it is known, a species of pecuniary mania seizes upon us all, and we seem to think that every individual may dive his arm into it, and scatter its contents to the four winds. So far, an overflowing Treasury proves to be a curse, and as far, too, as we make use of it merely to throw the public money into our respective neighborhoods. I do not ask, now, whether the purpose be constitutional or not. The evil, sir, lies in our own degenerate hearts, and not in the Treasury. Were it not for this, however, the Treasury might be replenished—we should not be contaminated by the brilliant shiners it might contain. We should then remember that the money there is the bone and sinew of our country's strength. Sir, the resolution cannot but have a good effect. It will at least make the officers, who are already in place, something more circumspect in their expenditures. We have a contingent fund here and a contingent fund there, and every little office has its contingent fund. It will have

JAN. 24, 1828.]

Retrenchment.

[H. OF R.]

a still more valuable effect if it produce an inquiry into the necessity of keeping up this army of 9,000 officers. Mr. Speaker, there was a certain king who once heard his People loudly complaining under taxation, and yet, on inquiry, discovered that there was no money in his treasury. The members of his council were immediately called together—they went into a number of very warm arguments—great confusion prevailed, and the conclave came to no conclusion. The monarch dismissed his counsellors, and sent for an obscure sage who dwelt in the neighborhood: when the difficulty was explained to this wise man, he requested that the king's attendants might bring a roll of cloth, a pair of shears, a needle, and all the king's money. He immediately went to work and made as many bags as there were counsellors, and one more. He then distributed the money among all the counsellors' bags, and taking up the empty bag which remained, he presented it to the King, saying, "and there is your Majesty's share." He then made his bow and retired. The King immediately dismissed his Counsellors, when his treasury was soon full, and all his People happy. Sir, it only impoverishes the People, to set up so many dignitaries among us. I am for giving our officers an adequate compensation, but not for appointing twenty men to do the duty of one.

I shall oppose the amendment of the gentleman from New York, because it strikes out the clause, which declares the end of the whole inquiry. But I suggest to the gentleman who moved the resolution, so to modify it, as to substitute a "Select Committee" for the "Committee of Ways and Means."

Mr. M'DUFFIE agreed in this suggestion—he had no sort of objection to the investigation, but he hoped the House would pass upon the measure without farther discussion. He would take the liberty to remind gentlemen that short speeches made a short session.

Mr. CHILTON now said, that he was entirely willing to modify this resolution, as had been proposed. He believed the Committee of Ways and Means to be made up of able members, prepared to breast a thunder storm, and he had, therefore, at first selected that committee. He said a few words in explanation of his reply to the gentleman from Maryland [Mr. BARREY.] The gentleman had mistaken him, if he supposed that he meant to say that that gentleman was superannuated. What he had said on that subject, was wholly of a general nature, and was not intended to have any individual application. As, however, the gentleman had said that, under particular circumstances, he should not plead his age, so he could assure that gentleman that he should not plead his youth. He concluded with moving the appointment of a Select Committee.

Mr. DANIEL, of Kentucky, said, that he had not intended to trouble the House with any remarks of his, either upon the original proposition, or the amendment to it: nor should he now have done it, but for the keen sarcasms which had fallen from the gentleman from Maryland. So far as the original resolution proposes an inquiry into the propriety of reducing the public expenditures, so far, Mr. D. said, he heartily concurred in its provisions: and it was extremely painful to him to discover that the honorable gentleman from Maryland attempted to turn this investigation into ridicule and reproach, and had attempted to play off his wit upon his colleague. At some of his remarks, said Mr. D. I was amused, though I did not entirely approve of them, nor could I discover the force of the argument which they conveyed. His great argument appeared to be, that, if the pay of members of Congress were to be reduced, they could not so well educate their horses to go electioneering: and indeed, sir, when those remarks fell from the member, I was greatly at a loss to determine which possessed the most native genius, the horse which was spoken of, or his master.

[The SPEAKER here declared all personal observations to be out of order.]

It was not my wish, said Mr. D., to make any personal allusion whatever, further than in reference to remarks which have been applied to my colleague: but if the statement of the gentleman was to be believed, his horse was much more intelligent than the greater part of his constituents. That breed of horses, Mr. D. went on to say, would be very acceptable in his country, and would save a great deal of expence, &c. This argument about the horse appeared to him to be the great and only argument of the gentleman from Maryland against the resolution, except that the mover of it was a young member, who had been in the House only two or three days, and that it was therefore highly improper that he should attempt a measure of such great importance to the community.

The adoption of this measure, Mr. D. said, would, in his opinion, produce much good. It would set on foot an inquiry whether the public expenditures are not exorbitant, and ought not to be reduced. In any general attempt to reduce the public expenditures, it was highly expedient that Congress should set the example. Let us (said he) begin by reducing our own compensation, and then other public officers will have no reasonable ground of complaint if we should reduce their salaries, which measure might otherwise be made a matter of reproach to us. It is my opinion that, with proper prudence and economy, a man may be paid for his services and live very well on six dollars per day; and when gentlemen seem to think that two dollars saving per day is not worthy of the deliberate consideration of such a dignified body as Congress, they ought to consider that the saving of two dollars per day on the pay of each member would amount to hundreds of dollars per day: and for the number of days in each session, would amount to an immense saving. Such would be the effect of reducing the pay of members from eight dollars per day to six, or five, or four dollars per day; and members might live here comfortably for less than the latter sum, the expenses of living in this city being nothing like what he had anticipated and expected when he left home.

In our own State, where the members of the Legislature receive two dollars per day for their services, they live well during the annual session, and return home, at the end of it, with 50 or 60 dollars in their pocket, &c. Another reason which induced Mr. D. to favor a reduction of the public expenditures, was, that it was proposed to increase the duties on woollen goods, &c. to such an extent as to operate as a prohibition on their importation, the consequence of which would be, that the People must be taxed, by a direct tax, for the support of this Government: and gentlemen, who were in favor of what was called the tariff principle, ought to consider, if they meant to press that measure, that it was indispensable that the expenses of the Government should be retrenched. To this, he presumed, a portion of the public officers could have no great objection; and especially the Secretary of the Treasury, who was so desirous that the import duties on certain articles should be augmented.

It had been remarked, by the gentleman from New York, in assigning the reason why he was in favor of his amendment, that the National Debt is already extinguished as fast as any one can wish, and that we shall have more money in the Treasury than we have any use for. When that should be the case, Mr. D. said, he should thank the General Government for a few appropriations for the benefit of the State of which he was a Representative, which had hitherto experienced none of the benefits of this overflowing Treasury, whilst they paid their full proportion of the public revenue, to be expended on the sea-board; where its expenditure was perhaps more to the interest of those who had the direction of the ex-

H. OF R.]

*Retrenchment.*

[JAN. 25, 1828.]

penditure. Time after time, said he, we have been amused with projects of Internal Improvement, but until the last Summer we never had sight of an Engineer, to shew us where a stone was to be placed or removed, &c. and the Engineers who had visited the State last Summer, had travelled over the ground as rapidly as men usually travel, at the rate of five or six miles an hour—from whom he supposed in due time we should have a report. Mr. D. said, he was in favor of Internal Improvement, and he wished to see a retrenchment of the salaries of perfectly useless officers, that the saving might afford the means of making roads and canals, which roads and canals he wished to see made by the States, and not under the jurisdiction of Congress. If there is a surplus in the Treasury (said he) let it be divided amongst the States for that purpose.

There were a number of officers in the Government, whom Mr. D. said he believed to be perfectly useless. There was the Fourth Auditor, for example; and he believed there were at least three of the Auditors whose offices could be dispensed with, without detriment to the Public service—who might be lopped off, if he correctly understood the nature of their duty, which was little more than, when the subordinate officers felt in any difficulty as to any accounts before them, to decide whatever questions they might present; and, for his part he would as soon depend upon the judgment of the Clerk in general, as upon that of the Auditor. Eleven o'clock was about the hour at which these officers attended in their offices, and at two or three o'clock, (he did not exactly know which,) the offices were shut up. Now, Mr. D. said, in the State in which he lived, a man employed to labor for a compensation, had to work from Sun to Sun, and, if necessary, a little in the night, and surely the Principals and Clerks in Public offices, comfortably provided for as they were, with large contingent funds at their disposal, &c. ought to perform more labor than they do for their salaries, some at a thousand dollars, some at fifteen hundred, some at two thousand, some at three thousand dollars, and perhaps some at three thousand five hundred dollars each. This, Mr. D. said, was extravagance in the extreme. All this pomp, splendor, and pride, was of no consequence to this Government; and whenever this Government was destroyed, it would be in consequence of the licentiousness and corruption of its own citizens, created by the example of the Government—for so long as the Government is pure, &c. so long will the People be, and no longer. Here, in this House, (said Mr. D. in conclusion,) let the example be set of retrenchment and reform.

[Here the debate closed for this day.]

FRIDAY, JANUARY 25, 1828.

Mr. STORRS, from the committee to which was referred the bill fixing the ratio of representation after the 3d day of March, 1833, reported—

“That they have had the said bill under consideration, and are of opinion, that it is not expedient, at this time, to pass any law relating to the subject; and that the committee had instructed their chairman to ask that they may be discharged from the further consideration of the said bill.”

The committee was discharged accordingly, and the bill was committed to a Committee of the Whole House on the state of the Union.

#### RETRENCHMENT.

The House resumed the consideration of the resolutions heretofore submitted by Mr. CHILTON. The following amendment, moved by Mr. TAYLOR, of New York, being under consideration:

“Resolved, That the Committee of Ways and Means be instructed to inquire into, and report to this House,

what officers, in their opinion, may be most advantageously discontinued; what salaries will reasonably bear reduction; and such other means of retrenchment as to them may seem necessary.”

Mr. FLOYD, of Va. rose and said that he was opposed to the amendment, because, in his judgment, it was not likely to result in any thing beneficial either here or elsewhere. It amounts, in substance to this, that a Committee shall be directed to tell this House that which they already perfectly know—that there is prodigality and waste in the expenditures of this Government; and because that very thing on which the whole nation has so long felt the greatest anxiety, is, by this amendment, to be stricken out of the resolution. I mean, said Mr. F., the expediency of discharging, as speedily as possible, the national debt. The time has now arrived when this House is bound to do something decisive in its character. Heretofore, the operation of this Government has been, in a great degree, beyond our limits, and confined to objects of a constitutional character; but now a new era has opened upon us, and we are about to feel all those calamitous consequences which its measures and policy are destined to bring upon the People. It is very true that the doctrine advanced under the elder Adams, that a national debt is a national blessing, has not now been distinctly avowed; but the same doctrine is substantially advanced, in a different shape. We have been told that a national debt, for which stock is issued by the Government, is beneficial and desirable, because it enables capitalists to invest their money in the United States securities, and then, if death overtakes them, a permanent provision is made for their wives and families. The interest on their investment, though not, perhaps, so great as that arising from other stocks, is sure and can be received with certainty, being free from all those risks and changes which arise from the misconduct of Bank Directors, and other contingencies to which it would be liable, if invested either in commerce, or in the stock of turnpike roads, steamboats, canals, &c. which seem to be the mania of the day.

We approach an era in which the cash operations of Government are turned in upon itself; when it lays hold of all the money it can get, for purposes of a local character; when it operates upon objects instead of on principles; at such a time the extinction of the National Debt is a thing earnestly to be avoided by all politicians in power. But if the Government shall thus continue to press on objects calculated to throw back the money of the nation into the hands of capitalists; if it endeavors to throw back on their hands the whole of the National Debt, and then to urge upon us a tariff calculated to exhaust the whole of the surplus, and press that tariff to the point of prohibition on certain articles, then I ask how is it possible that we can exist under such a state of things? It is avowed that they mean to press the tariff to prohibition. Now, the property of all the Middle, the Western, and the Southern States, consists in the product of their lands; and, under this system, we are called to legislate away all the value of those lands. The farmer is now selling his produce at a price so small that it will hardly enable him to pay his taxes; and at such a time you are going to compel him to pay an addition of from 10 to 180 per cent. on the price of every article he buys. If you let the National Debt remain as it now is, you compel the country to raise a sum annually, which is equal to your whole Sinking Fund; and, by doing so, you maintain a system which will crush the People of this country into that state of want and penury of which my colleague spoke when he decrified to us the condition of the population of Ireland and England.

We were told by the gentleman from Maryland, that there is a difference between parsimony and economy

JAN. 25, 1838.]

Retrenchment.

[H. OF R.]

I admit it. I trust that we are not now to be told that parsimony is one thing and economy another. Who has denied it? But I say, that it is not a good argument to prove that this Government is economical, to tell us that the printing of the English Government alone, amounts to as much as all the expences of our own. I am sorry for the English People. It is true, I bear them no love—I have no great reason to love them. But look at their own statements. They acknowledge that one third of their population are paupers. While they have a Nobility that are rolling in wealth and splendor—the richest Nobility, perhaps, at this time in the world—the People are beggars in the streets of London; and it is calculated that, in that great and proud city, one man perishes every day, from actual hunger. [Here Mr. RANDOLPH said, in an under tone, more than one.] My colleague says there are more than one, and he is much better informed on this subject than I pretend to be.

What a spectacle is here presented to the American People! We have been asked why this object of retrenchment has not been sought in England? Sir, it has been sought there, and the man who, in my opinion, deserves a monument for his exertions, has been imprisoned, and reduced to beggary, and that through the influence which is derived from patronage—from patronage which is exerted by the Government there very much as it has been by the Department of State in this country, and which is calculated to produce ruin and corruption, if it has not already done it, in our country. I have been willing to reform abuses ever since I have had a seat on this floor, and in laboring to reform them I have encountered what the gentlemen from New York [Mr. TAYLOR] said was a misfortune, the being called a Radical—though I do not know that it is so great a misfortune. The Executive influence in this Government is very great. It has been exerted to calumniate members in this House, as well as great and wise men out of the House. It has attempted to cut them off by dark inuendoes; and hiring scribblers, whether from England or Germany, I will not say, have been paid, directly or indirectly, for performing the task. Sir, are we to be told that the expences of the contingent fund under the control of this Government have not increased? They have increased, they are increasing, and ought to be diminished. They have increased, and that to an alarming extent. Are we to be told that there are no abuses in the application of that fund, and that we ought not to correct these abuses, because the expense of printing alone for the British Parliament is equal to the whole expense of this Government? Sir, if you take into calculation what the People of the United States pay to support the Governments of the several States, and of this General Government in addition, you will find that they pay a sum equal to that paid by the People of England, under all their commercial depressions, and all the misery and degradation to which they are reduced. I am, therefore, in favor of paying the national debt by all the means that the Government can lay its hands on; and I am not now to be persuaded that the sinking fund is going to extinguish it in a year or two, because the Secretary of the Treasury has told us so. Sir, I remember a time, at the close of the last war, when a man, whom every body will allow to have been much more capable of judging and speaking on the finances of this country than the gentleman who has now the charge of them, told us, that in fourteen years, the public debt would be paid; but it is not paid yet, nor is it likely to be while we take money out of the treasury for all sorts of wild and visionary projects. We borrow on one side to pay upon the other, and the money that is now due is paid only by a new loan, at a less rate of interest. Gentlemen say that the sinking fund will pay off the debt in due time; and the gentleman from New York [Mr. TAYLOR] has told us that

he is not prepared to say that it ought to be increased. This expression of not being prepared to advocate a thing, I take to be a Congressional mode of saying that one is opposed to it.

[Mr. TAYLOR here begged leave to explain, and Mr. FLOYD having yielded the floor for that purpose,

Mr. TAYLOR observed: I stated that, by the existing law, all the surplus in the Treasury, besides the ten millions annually reserved, was carried to the sinking fund. The present balance, he believed, was about two millions. Whatever the amount might be, it went to that fund. Whatever might be saved by retrenchments would also go there. He was perfectly willing that every necessary retrenchment should be made, and that the avails should be consecrated to this object; but he did not suppose that it was the desire of any gentleman to make a formal addition to the ten millions, which were settled, by the act of 1816, as constituting an annual sinking fund.

Mr. RANDOLPH now asked his colleague to indulge him with the floor, while he put a single question to the gentleman from New York.

Mr. FLOYD having signified his assent—

Mr. RANDOLPH asked—Do I understand the gentleman as affirming that the whole of the ten millions has regularly been applied to the reduction of the national debt?

Mr. TAYLOR said, in reply, that, during the former Administration, there had been a period when, owing to the embarrassments of our commerce, and the falling off of the revenue, which was its necessary consequence, the Treasury was unable to pay to the sinking fund the whole amount of the annual ten millions required by law. This, if he rightly remembered, occurred about the years 1818, 1819, and 1820. It was when the Radicals were the majority in this House. He had not spoken of Radicals as *unfortunate*, but as *much abused*. The Treasury, in former years, had paid to the sinking fund more than ten millions per annum. At the close of the last Administration the Treasury was somewhat in arrear to the sinking fund, because the sums paid, over ten millions, in any year, could not be carried to the credit of the next year, inasmuch as all the surpluses of any year belonged to that fund. Although in the former Administration the full amount of ten millions had not been regularly paid by the Treasury to the sinking fund, yet, during the present Administration, more than ten millions had been thus regularly paid, and since the organization of the present sinking fund, to this time, a sum greater than the aggregate amount of the ten millions, annually pledged for that purpose, had been applied to the payment of the public debt; but it had not always been regularly applied.

Mr. RANDOLPH replied, that it would be perceived that, if, at any time, the whole of the ten millions had not been applied to the reduction of the public debt, then the public had been trifled with. The Commissioners of the Sinking Fund were bound to apply the whole of the ten millions, and the surpluses too, whatever they might be. But if they rob—no, Sir—I will not say rob—that is a harsh term—but if they take any thing from the sinking fund, from what fund can they repay it? If by loans, that, as my colleague forcibly expressed it, would be robbing Peter to pay Paul. If it has been repaid from surplus balances, then they have only paid the sinking fund what ought to have been in that fund before: for, if they ever take a single farthing from the sinking fund, they can never repay it—it is impossible, *ex vi termini*. They have only loans or surpluses, out of which to make up the deficiencies—and the surpluses all belong to the sinking fund already. Sir, this is as clear—aye, Sir, and much clearer—than the light from that window.

Mr. TAYLOR replied, the gentleman from Virginia is certainly correct; the fact is as he has stated it.

H. of R.]

Retrenchment.

[JAN. 25, 1828.]

But that, I say, is not the fault of the present Administration. They have paid the whole ten millions annually, and they have repaid, besides, part of the former deficiencies in the sinking fund.

Mr. RANDOLPH. That, I understand, they could not do: for they had nothing to pay with.]

Mr. FLOYD now resumed. Will the gentleman from New York assert that the present Administration has applied the whole ten millions to the payment of the public debt? Sir, I wish to impress on gentlemen from the agricultural States, the Middle, Western, and Southern States, what will be the state of things when the whole of the public debt shall be paid, and what now forms the sinking fund shall be a surplus in the Treasury. This is the very crisis that I fear—a crisis which the lynx-eyed People who have been referred to, have seen most clearly; but, if it is the object of our lynx-eyed rulers to tax the agricultural States of the Middle and West of this Union to the whole amount of that ten millions, can we exist? What must be the end of it? I leave every temperate and well constructed mind to consider. I had rather that this measure of inquiry had been brought into the House, at the time when we could have gone through the whole of the abuses in this Government, in all their ramifications. I knew they did exist—the whole of this discussion proves they exist—but whether we can get along with the investigation of them as well without the aid of the Executive Departments as with it, I leave the House to determine. There are some other little things which I will notice. Here is Europe in a state of profound peace—we have no Minister in England—our Ambassador to Russia is almost forgotten—what our Minister at Paris is doing I do not know—at Colombia we have none—but we have a splendid Tacubaya mission to amuse us in the mean time. Our accounts are settled in an entirely new way—whether by the celebrated Fifth Auditor, or by direction of Congress, he would not say. The very clothes of our Ministers are paid for at the public expense, and patterns are engraved on copper, and kept at the Department of State, that those gentlemen may be able to give suitable directions to their tailors. I do not know that I find very much fault with this, but one thing I am sure of, we give our agents abroad most ample and liberal salaries, and quite sufficient to enable them to appear as an American gentleman ought to appear. If the allowance is not sufficient, let them come to this House and say it is not, and if they can shew that that is the case, I pledge myself, for one, to make it most ample. But I would do it with this understanding, that, when the business for which the Minister was sent was completed, he shall come home. Then we shall be relieved from the expence of much of that useless splendor and show which some of our Ministers are aping abroad. I do not know, in the history of this country, or of the world, a more pleasing spectacle than the appearance of Livingston and Franklin at the Court of France, in plain well-made Republican dresses, such as became them and the Government they represented. It is much more dignified in my eye than if they had glittered like Prince Esterhazy, who could afford to let one hundred pounds sterling's worth of jewels drop from his coat every time he put it on. We have nothing but liberty, and how can we undertake to vie with such men as Sir Wellesley Pole, each foot of whose window curtains cost five guineas—we agriculturists, whose produce is selling at ten cents a bushel or lies rotting in our warehouses? Yet we, forsooth, must go into all this sort of expenditure, because England has done so.

Sir, I will refrain from any further remarks, yet I should be glad if the resolution were a little amended. There is a part of it which partakes somewhat of the character of argument. Now, I am willing that gentle-

men who support the resolution should do it on their own reasons. I shall support it for reasons of my own, but I do not chuse to vote for a measure for the reasons of others. I therefore wish the resolution could be so amended as to express nothing but the simple proposition itself.

Mr. STEWART rose to say a few words in reply to his colleague, [Mr. BUCHANAN] and the gentlemen from Virginia, [Mr. RANDOLPH and Mr. FLOYD] who had spoken against the resolution. The object of this resolution is to institute an inquiry, to ascertain whether abuses exist in the public expenditures; whether there are any unnecessary offices and salaries: and whether retrenchment may not be beneficially resorted to. For his own part he was decidedly in favor of the resolution. Let the doors of inquiry be thrown wide open; let every one enter and see for himself. He would vote for it whether referred to a Standing or a Select Committee; or whether the amendment now proposed was adopted or not; he would vote for the amendment, because the preamble proposed to be stricken out, seemed to him to contain an assumption of the very facts which it was the end and object of the proposed inquiry to ascertain. Mr. S. was decidedly in favor of every inquiry into supposed abuses; and, if found to exist, he would go with him who dares go farthest in applying the corrective. The gentleman who introduced this proposition, who comes immediately from the People, and from an highly excited political contest, tells us, what is undoubtedly true, that the public mind is excited on this subject; that the People believe the Government has become wasteful and prodigal, that abuses exist, of the most alarming character: and so strong was the popular sentiment on this subject, that he was obliged to give a pledge to his constituents, before he left them, to bring this subject immediately before the House—it was then, in his judgment, alike due to public opinion, and to the character of the Government, that this inquiry should be promptly instituted. If the alleged abuses exist, let them be exposed and remedied. If not, let these clamors be silenced by the report of a Committee of this House—let the public ear be disabused and the public mind put at rest.

He differed entirely from his colleague, [Mr. BUCHANAN] and the gentlemen from Virginia, [Messrs. RANDOLPH and FLOYD] who think that this is not the proper, "the accepted time," to inquire into and correct abuses. Why is this not the proper time? If abuses exist, why not now correct them? If the public money is misapplied, why not at once apply the remedy? The present is always the proper time for this work—"delays are dangerous," by delaying the remedy we sanction and increase the evil—"now is the accepted time," and every moment of delay is a dereliction of public duty on the part of those holding the corrective power.

If abuses exist; if there are too many offices; if salaries are too high or too numerous: if the public money is wastefully and prodigally expended—where is the fault? At whose door lies the sin of these offences? The fault is in this House, sir. We hold the purse strings of the nation, and we are responsible, and we will be held responsible, if we apply not the remedy promptly and efficiently. Public offices were not only created, but the salaries fixed, and their payment annually provided for, by law. Every appropriation of money for every object of expenditure, down to the lowest clerkship in the Departments, had to pass under the notice and receive the sanction of the Committee of Ways and Means, and afterwards of this House. He therefore hoped the inquiry would go on—its postponement would be a disregard of public duty on the part of those who believed in the existence of the evils and abuses complained of. His colleague had said, that he considered it too late in



AN. 25, 1828.]

*Retrenchment.*

[H. OF R.]

the session; that half the session had now gone by. If half the session were gone—what have we done? It had been said, and said truly, that but one bill had yet become a law, and that was to provide for the payment of our own wages! What would become of the tariff; if half the session was gone, and no bill yet reported to the House? But, for one, if abuses existed, as had been alleged, he would stay here (however reluctant) till midsummer, if necessary, to expose and correct them, and fulfil the other duties which we owe to the country and our constituents. But, gentlemen say we must go to work “systematically;” let each individual go to work and ferret out abuses and expose them. Expose them—where? In the public prints? For what purpose, and with what view? This could lead to no practical result. No, let the resolution be adopted, let the subject be referred to a committee of this House; if abuses exist, let them report a bill for their correction; if not, let the fact be stated, and let the tongue of misrepresentation be silenced; let the injurious reports now abroad upon the wind, and wafted to the remotest parts of our country, be exposed to merited reprobation. The gentleman from Virginia, [Mr. RANKINS] says, we will, by adopting the resolution, send the committee of Ways and Means not on a voyage of discovery, but of “undiscovery;” this constituted no objection to the measure. The gentleman had alleged the existence of many and great abuses. If so, does the gentleman doubt the ability or disposition of the able Chairman of the Committee of Ways and Means, to ferret out and expose them? He presumed not. This duty is imposed on the committee of Ways and Means, by the rules of the House; it was a duty for which they were particularly qualified, by their familiarity with the whole range of Public Expenditures constantly presented to their view. He would be glad to see an annual report from that Committee, presenting, in one clear and comprehensive view to the country, an exhibit of all the expenditures of the several Departments of Government, civil, military, commercial—with the considerations which recommend their continuance or discontinuance: thus public attention would be attracted to abuses if they existed, and if not, misrepresentation and unfounded complaints would be silenced.

As the subject of the public debt had been very extensively, and he thought rather unnecessarily, drawn into this debate, and as he thought a good deal of misapprehension prevailed on this subject, he begged to be indulged with a few remarks on this point. Gentlemen seemed all extremely anxious to pay off the public debt; but they appear to forget that they have no right to redeem it faster than it becomes redeemable. If you have a surplus of a hundred millions a year, you cannot pay the debt. You have no right to pay it before the year 1835, when the last portion of the debt will become redeemable; and a sinking fund of eight or nine millions a year will as effectually pay it off, by that time, (except three per cents.) as ten times the amount; for we all know that the public creditors will not receive the debt before it is due. They would be glad you would keep the money and pay them the interest. They deprecate the payment of the public debt more than those who have to pay it. He had made one or two calculations on the subject of the public debt, which he would present to the House; and he challenged an examination into their correctness. They had been submitted to the revision of a gentleman more than any other qualified to decide upon their accuracy, and had received his approbation. He would now offer the result of these calculations to the House.

1. By the application of eight millions for four years, and six millions thereafter for six years, the whole of the debt (except the three per cents) would be extinguished on the 1st of July, 1838.

2. Including the three per cent. stock, the whole debt would be extinguished by a sinking fund of ten millions, on the 31st of December, 1835, and by eight millions in 1838.
3. To pay the whole debt, (except the principal of the three per cents) the average sum of \$8,604,753 will be required till the close of the year 1835.
4. To pay the whole debt and interest by the close of 1835, (except the principal of the three per cents, and five per cent. bank stock) the sum of 7,919,994 will be required.
5. The whole debt (except the three per cents) will be redeemed, by the semi-annual application of eight millions per annum, in 1836.

The Commissioners have no right to pay off the three per cent. stock until it falls to 65 per cent. It is a fact, with which we are all familiar, that the 3 per cents, are now at 87, and in proportion as we go on to redeem other stock, the 3 per cents will rise, because there will be the ten millions which is annually extricated by the payment of debt seeking an investment. If this stock is now at 87, instead of falling to 65, it is much more probable that it will rise to par, or perhaps still higher. You have no right then to pay off this 3 per cent. stock. That is no portion of the debt which you have any right to redeem.

It will be seen that, by a Sinking Fund of eight millions, the whole of the debt would be extinguished in 1836. There is another view. The whole of the debt would be extinguished in 1835, except the principal of the three per cents, by an annual application of \$8,604,753; and before that time, we have no right to pay off the debt, if we had even 500 millions in the Treasury. Yet gentlemen talk of paying off the debt. It is demonstrable that we are not able, because we have no right to pay it off sooner than the present fund will accomplish it; and by the regular application of that fund, more than twenty millions of a surplus will remain in hand when the debt is paid.

In respect to the Bank Stock of seven millions, it is worth more than par at this moment. The annual application of \$7,719,994 will pay off the last of the Public Debt in 1835, with the exception of the Bank Stock and the three per cent. stock, and double the amount could not pay it sooner. Why, then, Mr. S. asked, is the national debt always presented by gentlemen on this floor, as a bug bear, to deter us from making necessary appropriations? He hoped such a course would not be persisted in, when every attempt to discharge the debt before the year-1835 must be in vain. The too rapid payment of the debt threw a most oppressive burden upon the country; the withdrawal of ten millions a year from a very limited currency, and its application to the redemption of the public debt, a great part of which was held in Europe, was a most severe and exhausting operation upon the country. This fact accounted for the great scarcity of money, and constituted the great source of just and universal complaints which we hear from every part of our country on this subject.

The People of this country now pay into your Exchequer more than twenty millions of dollars a year, and one-half of this immense sum is withdrawn from circulation, and applied to the public debt contracted during the late war. This was unnecessarily severe; it paralyzed industry, checked enterprise, and broke down all the active energies of our country. How much better to relieve the country from a small portion of this burden, by reducing the sinking fund to seven or eight millions, and return the two or three millions thus saved to the People who pay it, to be expended in improving the internal condition of our country: it would thus run back into its usual and ordinary channels of circulation infusing new life and activity into the whole body politic; and they



H. or R.]

Retrenchment.

[JAN. 25, 1828.]

would not postpone the final extinguishment of the debt more than one or two years. Such a change of the present exhausting system, while it would essentially promote the public prosperity, would, he had no doubt, also meet the public approbation.

These were some of his views on the subject of the national debt, which had constituted so prominent a topic in the morning's debate. He did not support this proposition under consideration because he thought it necessary to hasten the payment of the public debt—far from it. He supported it because he thought vigilance and economy in the public expenditures, at all times, and under all circumstances, fit and proper in themselves; because he was, at all times, in favor of throwing the doors of all the Departments of this Government wide open to all who wished to look into them to correct abuses, if any existed. He was opposed to concealment, or even the appearance of it. Let the country be fully satisfied on every subject of doubt or suspicion. If there is any thing wrong, let it be dragged forth into open day—let the lash be applied where it is due, whether to the accusing or the accused. If abuses exist, let them be exhibited, and I will most heartily unite with gentlemen in applying a prompt and effectual remedy.

Mr. WEEMS said, that he had risen, not to make a speech, or to enter at all into the argument, but only to call the attention of the House to what the House itself had already done, and thereby to stop, as he hoped, any further unnecessary consumption of its time. Sir, on the 11th of January, I felt myself called upon to invite the notice of the House to this very subject. With that view I offered a resolution, which the House adopted, and thereby made it theirs, and which they sent to one of the standing Committees. On examining the rules of the House before I offered this resolution, I found that the 65th rule reads thus:

“It shall be the duty of the Committee on Public Expenditures to examine into the state of the several public departments, and particularly into the laws making appropriations of moneys, and to report whether the moneys have been disbursed conformably with such laws; and, also, to report, from time to time, such provisions and arrangements as may be necessary to add to the economy of the departments, and the accountability of their officers.”

And it did strike me that this very department of legislation was embraced under the direction of that rule. It was therefore that I offered the resolution, the House adopted it, and sent it to one of the honorable Committees to whom no other duty is assigned. In directing the reference to that Committee, I was influenced by the old adage, that what is every body's business, is nobody's; I found that there were six other Committees to whom this duty in part belonged, and that, therefore, the Committee on Expenditures did not probably think themselves particularly called upon to attend to it. But, since the House adopted my resolution, that Committee has had the inquiry before them, and they are now acting upon it, in the same manner, to all intents and purposes, all good purposes at least, as if they were a Select Committee. Now, to send the subject elsewhere, or to debate it in this House, while they have been expressly charged with it, is, to say the least, not very complimentary. It was from respect to the feelings of all the gentlemen who compose that Committee, that I voted the other day with the gentleman from Virginia, [Mr. RANDOLPH] to lay the resolution upon the table, and I shall oppose whatever tends to take the business out of the hands of that Committee. I will now read, Sir, the resolution which was offered by me, and adopted by the House.

“Whereas, suspicions are abroad, in our land, touching the economy of our Government, and the improper

application of the Public money: And, whereas it is at all times meet and proper for the Representatives of the People to guard their property, as well as their freedom, so, also, it is equally their duty to protect the character of their officers: Therefore, Resolved, that the Committee on Public Expenditures, who have, by the 65th rule of this House, this subject more particularly committed to their charge than any other Committee, be requested forthwith to inform this House whether it be compatible with their other duties, to enter upon that sort of rigid examination necessary, by comparing with the several laws making appropriations, the disbursements under them, and the vouchers in support of them, according to the spirit and intention of the said rule, and the objects herein specified; And also to report, if necessary, what further provisions and arrangements are wanted to add to the economy of the Departments, and the accountability of their officers.”

This, Sir, as I conceive, embraces every possible object of the resolution which is now under discussion, and therefore completely supersedes that resolution.

Mr. BLAKE said, that when he came to the House this morning, it was his intention to have given his opinion on the resolutions now under consideration, but being apprehensive that he should anticipate some gentleman who was entitled to the floor, who, according to parliamentary courtesy, had a right to precede him in debate, he had declined to introduce the discussion. If, Sir, said he, I was induced, by the remarks of yesterday on this subject, to come to a determination to take part in the debate, the remarks which have just fallen from the gentleman from Virginia [Mr. FLORIN] of a similar tenor, do certainly afford a strong additional inducement. Mr. Speaker, the question is not whether the national debt should be extinguished, but whether the present Administration is an extravagant and prodigal one or not. Before I left my constituents, to discharge the duty they had been pleased to assign me in this House, I had heard repeatedly and frequently that the patronage of the Administration had become alarmingly extensive—that the officers in various Departments under them received higher salaries than their services entitled them to, and that the disbursements of the public money were prodigal, and menacing to the liberty of the country. These complaints were not made generally without assigning a responsibility, but they were all charged upon the Administration; they helped to swell the catalogue of misrepresentation and complaint against the present incumbents in the high offices of the Government. These distinguished individuals were represented as setting an example of extravagance, of nourishing and extending the evil to the community around them at the public expense; and their conduct generally, it was emphatically said, was incompatible with the true character of a Republic, sustaining and recommending the notion that this Government should be splendid and profuse like the old Governments of the other hemisphere. That the gentleman from Kentucky has introduced this resolution, and presented the subject seriously before the House, is therefore matter for rejoicing. I shall support an inquiry into these charges most willingly. Let the resolution be adopted, let the investigation be proceeded in, and pushed thoroughly—let the gentleman and those who may be assigned to aid him have every assistance from this House, so that the inquiry may be conducted to the greatest advantage. If it be the fact, that this is such a wicked and unprincipled Administration as it is represented, let that fact be made appear and reported to us, and let every member of it tremble for the consequences that will await him from a betrayed and indignant People. But if it be mere fiction, originating in the heated minds of political zealots, let that fact also appear and let a generous acknowledgment be made. And, Sir,

AN. 25, 1828.]

*Retrenchment.*

[H. OF R.]

trust that there is in this House a sense of generosity, a spirit of chivalry, which under all circumstances, will support its honor, and induce it to redress the calumnies and the injured. Sir, I cannot vote for all the resolutions offered by the gentleman from Kentucky, but for that one which is retained in the amendment proposed by the gentleman from New York, which contemplates an inquiry whether any retrenchment be necessary or not. The other resolutions which precede it, state it as a fact that abuses do exist, and I am unwilling to sanction such an admission by my vote, until I have some evidence that they do exist. So far as he contemplates an inquiry, I will go with the gentleman from Kentucky, but I cannot admit any loose and unsupported charges; nor am I as yet prepared to say that retrenchment is necessary—that the salaries of officers are exorbitant, and that abuses exist in the disbursement of the public money. Sir, we were told yesterday about the West Point Academy, and that the manner in which it was supported was a reflection on the present Administration. It is true that the Administration has sustained and nourished that Institution. And why so? Did the Institution originate with the present Administration? No, Sir. It was recommended by the illustrious Washington, so frequently and deservedly called the Father of his Country, was established by Congress in the second year of the administration of Mr. Jefferson, and, from first to last, has been protected and cherished by every Administration. If it be an improper establishment, and one calculated to undermine the political Institutions of the country, let not the blame be attributed to the present Administration, but to those who have gone before it. We are told by the gentleman from Tennessee, [Mr. MITCHELL] that it is a place for the education of the sons of rich men, and that the sons of poor men do not participate in its benefits. Since the remark was made by the gentleman I have inquired particularly into the facts, and I have learnt enough to satisfy me that the gentleman has been misinformed—that he is mistaken—that the appointments are distributed without regard to the pecuniary circumstances of the parent of the applicant—that the sons of the poor as well as the rich have received them—that it is enough to know that the youthful candidate is one of promise, and that the district in which he resides has not received its full complement; and these facts being established, the Secretary appoints without regard to the exploded qualification of family rank.

Sir, all impartial persons will, I think, admit, that the science of War is an important one; that it requires much application; and that, unless it is assiduously cultivated we shall ever be found unprepared to meet an enemy, and protect the honor of the nation. The many disasters which have happened to our army, have taught us impressive lessons upon this subject. The gentleman has also alluded to the recommendation of a Naval Academy, and seems to deprecate the policy. I will observe, in answer to him, that the same reasons which apply in favor of a Military Academy, apply with equal force in favor of a similar Institution for the instruction of our Naval youth. And why should they be neglected, while the youth of the Army are provided for? Has more fame been acquired on land than on the water? At least one half of the Nation's glory is the hard earnings of our gallant tars. We are told by the same gentleman, that we are here surrounded by splendor and extravagance, and that the objects and habits which entrench us on all sides, inculcate notions very different from those which we entertain at our respective homes. This may be; but, let us undertake retrenchment and reform, and prosecute the work as rigorously and efficiently as possible; we shall, after all, still find ourselves surrounded by splendor and extravagance. These things are inseparable from the seat of Government of a na-

tion; and if we are led astray by them, the People who sent us here must apply the rod of correction, and restore us to private life, until we are restored to ourselves. Sir, it is constantly rung in our ears, that the present Administration is prodigal and wasteful; but where is the proof? What new offices have been created under it? Not one. What salaries have been raised? Not one, except that of the Postmaster General, and whose salary, as I am informed, was raised a thousand dollars higher than the recommendation of the Executive. Then why all this declamation, and all these resolutions, about the multitude of officers, and the extravagance of their salaries? Sir, I repeat it, these resolutions are an attack on the present Administration, and whether so designed or not, such is the aspect, I am well convinced, in which they will be regarded on the other side of the mountains. We are, moreover, told, that the per diem allowance received by us here, as the Representatives of the People, is too much; but if this be the fact it is surely our own fault, and the Administration are not to be blamed for it. On the score of this item of retrenchment, I am prepared to go as far as any other gentleman on this floor. In the language of the gentleman from Maryland [Mr. BARNES] I will go as far as he that dares go farthest. I am willing even to go so far as to do away the compensation to members altogether. But, if we are to be supported here at the public expense, it does appear to me that we ought to be furnished with such means as will enable us to live in a manner becoming the Representatives of a great People.

Mr. Speaker, I am not prepared to say that a general retrenchment is absolutely necessary—that there are more officers employed here than are required by the public interest. If such was the case, I am inclined to believe that the distinguished individuals at the head of the Government, would have recommended the measure. My opinion of those gentlemen is very different from that which the honorable gentleman from Virginia [Mr. FLOYD] appears to entertain of them. I believe them to be as intelligent, as honest, as patriotic, as any set of men at the head of any Government in the world, and that we have cause to rejoice that they are our countrymen, and have been placed at the helm. If justice should not be done them now, posterity will do them justice; but I hope, and trust, and believe, that the present age will do them justice, notwithstanding the many predictions and appearances to the contrary; and, sir, as it relates to my humble fortunes, I cheerfully and fearlessly peril them in the same barque, and am willing to sink or swim with the cause of the present Administration.

Sir, we are told by an honorable gentleman from Virginia, that this is not the accepted time for this inquiry; but I put it to the generous feelings of the House, whether, after the remarks that have been made, so well calculated to excite the suspicion of the People, and swell the clamor against the present Administration, it is right then to refuse and prohibit an inquiry? Sir, this is the accepted time; there is a crisis in our political concerns; the People are excited, and that, too, about the very matters embraced in this resolution, and justice; and generosity, our duty to ourselves and to our constituents, require that we should now fully investigate whether the present Administration be culpable or innocent.

[Mr. WRIGHT was proceeding to discuss the subject before the House, when Mr. WEEMS, of Md., rose to a question of order. The SPEAKER requested the gentleman from Ohio, to take his seat.]

Mr. WEEMS then stated that he did not consider the resolution under consideration in order, inasmuch as he thought the whole subject contained in it and the amendment of the gentleman from New York, [Mr. TAYLOR] was embraced by a resolution he offered some days ago,

H. or R.]

Retrenchment.

[JAN. 25, 1828.]

which had been adopted by the House. He wished, therefore, to know from the Chair, whether the subject was now in order?

The SPEAKER said that he did not consider the resolution, heretofore adopted, as covering entirely the ground embraced by the resolution and amendment now under consideration. It was, however, a question of consistency, which belonged rather to the decision of the House, than the Chair. If the Speaker were permitted, at least on doubtful cases, to draw questions of consistency within the vortex of order, he might usurp a negative upon important propositions, and thereby suppress, instead of subserve, the legislative will. Such was the *Lex Parliamentaria*. The Chair, therefore, pronounced the resolution in order, and the gentleman from Ohio entitled to the floor.]

Mr. WRIGHT, of Ohio, said he owed it to the subject to express his satisfaction that this matter had been introduced into the House, and, said Mr. W. I may be permitted, I hope, to congratulate the country on the auspicious prospects which now appear to attend the proposed enquiry. So long ago, sir, as the 18th of May, 1826, I presented to the House a proposition having in view the same object with that avowed by the gentleman from Kentucky [Mr. CHILTON.] A reference to the Journal of that day will show a proposition introduced by me, to amend the rules of the House, so as to raise a standing committee on retrenchment, whose express duty it should be to examine into the mode and manner in which business was transacted in the various public offices, to ascertain any abuses that existed, and suggest the proper remedies, and propose measures calculated to promote economy in the transaction of public affairs. The proposition met with little favor then, and I was unable to get it off from the table. I am glad to see many gentlemen, from whom I then received neither aid nor countenance, anxious to promote the measure now. I then preferred a general Standing Committee, because, in looking over the duties assigned to the various committees of the House, I was afraid that this, as I then thought, and still think, important subject, would be neglected by committees charged with so many other duties. At the last session of Congress, sir, thinking that, if I directed my efforts to one single subject, I might be more successful, I offered a resolution directing an enquiry into the expenditure of the contingent fund of this House. In looking over the items of expenditure connected with it, I thought many of them extravagant and unnecessary, conducing more to the convenience of members than to the advancement of the public interest. I thought retrenchment ought to be made, and that it was proper the work should begin here, in this House. This project failed, as did the other. I am really gratified that the subject is now here under different auspices, and that the present proposition meets much more favor than either of mine did.

I have, sir, still another cause to congratulate myself that this subject is introduced in the House at this time, and under the present auspices. The present President of the United States has recommended it to your consideration in his two last messages. This shows the subject is not a new one, brought forward for the first time by the gentleman from Kentucky. The President, in his message to Congress, in December, 1826, says: "It is well for us, however, to be admonished of the necessity of abiding by the maxims of the most vigilant economy, and of resorting to all honorable and useful expedients, for pursuing, with steady and inflexible perseverance, the total discharge of the debt." In the message of December, 1827, he says: "The deep solicitude felt by all classes throughout the Union, for the total discharge of the public debt, will apologize for the earnestness with which I deem it my duty to urge this topic upon the con-

sideration of Congress, of recommending to them again the strictest economy in the application of the public funds."

Sir, if we really wish to retrench the public expenditures, and reform existing abuses, we have reason to felicitate ourselves on the prospect of doing something; and I have reason to be satisfied that a measure which, when brought forward by me, wholly failed to find favor, and which, when earnestly and repeatedly recommended to our consideration by our present excellent and vigilant Chief Magistrate, under the injunctions of the Constitution, could not attract the attention of the House, or draw out one friend of economy and reform in its favor, has now drawn to its support the aid of many gentlemen, from different sides of the House. I hope something will now be done. I have supposed that, in some of the many public offices to which the business of the nation is consigned, there are extravagancies and abuses that need remedy; but I owe it to candor to say, I am unable to say precisely where the extravagance or the abuses can be found. I want the subject enquired into by a competent committee, and fully probed to the bottom. Give us information and light, and if reform be needed, let us reform. I entertain the opinion that this duty would be better performed by the able, experienced, and diligent Committee of Ways and Means, than by any Select Committee which may be raised, composed, probably, of new members. Gentlemen must be more fortunate than I have been, if, in visiting the offices on business, they can find their way through the different official ramifications of the offices; and they will, I fear, make slow progress in searching for abuses where they are ignorant of the routine of business. If gentlemen will advert to the duties devolved by the rule of the House on the Committee of Ways and Means, they will find that, among other things, that committee is required "to inquire into the state of the public debt, of the revenue, and of the expenditures, and to report, from time to time, their opinion thereon; and to examine into the state of the several public Departments, and particularly into the laws making appropriations of moneys, and to report whether the moneys have been disbursed conformably with those laws; and also, to report, from time to time, such provisions and arrangements as may be necessary to add to the economy of the Departments, and the accountability of their officers." This committee, then, is the proper committee; its members are familiar with the whole subject, many of them are old members; they have long contemplated the whole routine of public business in the offices, and can act speedily and efficiently. They know where to strike; from them I should expect something; but I should not feel the same confidence in a Select Committee. I hope, therefore, the reference will be to that Committee; but if that is refused, I will vote for a Select Committee.

Sir, it has become fashionable, in various parts of the House, for gentlemen to rise and proclaim their desire to do the public business and go home; and I will avail myself of this occasion, lest I should not be favored with another, to say, that it is also my desire to do the public business and return home. I am willing to engage in doing the public business, and work at it, and when done, to go home. But I am not willing to go home before we have made some effort to do the public business, even if we fail in accomplishing it. What have we done? The gentleman from Pennsylvania [Mr. BUCHANAN] has told us the session is half over. We have passed a law appropriating money to pay ourselves, but what else have we done? Let gentlemen examine into the business done, and they will find we have passed no other act. Let us not go home and leave the public business, but do it, and then talk of going home. If I understand the gentleman right, (and I always listen to him with plea-

AN. 25, 1828.]

Retrenchment.

[H. OF R.]

ire,) he avowed himself favorable to retrenchment and reform, but thought it not the accepted time to engage in that work. Why is it not the accepted time? If I seek an answer in the remarks of the gentleman, I find nothing but the observations alluded to, that the session was half through, and we ought to do the public business and go home. Is the gentleman content that we defer from this that retrenchment and reform is not the public business? Surely he would not admit that. We have done nothing—there must be some public business done before we go home. What are we to do? This, sir, is public business—let us engage in it. Let us retrench—ferret out abuses, if any exist—and reform. The gentleman has declared that he is no friend to the Administration. I declare I am a friend to the Administration; and I am for engaging in this measure—which has been repeatedly pressed upon us by the President—and correcting any abuses that shall be found to exist. I will go with the gentleman in this work. Begin the inquiry; and if we are unable to accomplish our object before the close of the session, I will go farther, and empower the committee to send for persons and papers, and allow them to sit here during the whole recess of Congress, if necessary, that we may have the information at the commencement of the next session of Congress, in time to act on it then. Let us go to work, and stick to it from morning till night, and try to do some of the business before us.

The gentleman from Virginia [Mr. RANDOLPH] also says, now is not the accepted time to engage in this investigation, or to adopt measures for retrenching the public expenditures. He has given us one reason why this is not the accepted time. He has another object—one of much greater importance—an object requiring his every effort—to which he would look with a single eye: and in order to do that one thing well, he would not engage in this—he would do but one thing at a time. The gentleman did not tell us what that object was that called for his single and undivided exertions; but he used language in reference to it which no one could misunderstand. I will not say, sir, that the object referred to as requiring the entire effort of himself and friends, was, to pull down the present Administration; but I will say, I so understood his remarks. I will not say the object of the gentleman is not meritorious; far be it from me to judge any man's merits or motives; but I may say, that, if I were to engage in such a work, it would not, with me, be meritorious. I should esteem it meritorious to engage in the work of reform—of ferreting out and exposing the abuses, if any exist, of the officers of Government; but for me to engage in pulling down the Administration first, and then hunt out and expose the abuses they had been guilty of, would be a work of no merit. If your officers do wrong, show that to the People, and they will turn them out: but do not pull them down without some evidence of abuse. Sir, the gentleman from Virginia has proclaimed that there are many abuses and extravagancies that ought to be remedied: and yet now was not the proper time to apply the remedy. But why this is not the proper time, we are not told.

If abuses exist, we cannot be too soon in applying the remedy. The course of the gentleman from Virginia, over the way, to my understanding, is inconsistent. Why not go to work now, and find out these abuses?

[Mr. FLOYD, of Virginia, enquired if the gentleman from Ohio meant him. Mr. WRIGHT replied, he did not; but he would attend to the gentleman in a short time.]

Sir, said Mr. WRIGHT, if abuses exist, if retrenchment is necessary, why did the gentleman from Virginia vote to lay this resolution on the table, with the avowed object of putting an end to the enquiry? To me this appears inconsistent; but it is not for me to reconcile the gentleman's course with consistency.

The gentleman from Tennessee [Mr. MITCHELL] told us that the mover of these resolutions was fresh from the People, and fresh from the oven of public opinion. I am glad, sir, that, coming fresh from the oven, he retained, when he took his seat here, sufficient heat to introduce this subject to our consideration, under the new era of which he had heard. I hope he will have heat and perseverance enough to carry it through. The gentleman from Tennessee had also gone into an examination of himself, and disclosed his experience to the House. He had spoken of his sense of shame, resulting from the conviction that he had been growing worse ever since he came here, and more estranged from his constituents by the extravagance and splendor that surrounded him. Sir, I regret his deterioration, but I hope this self examination, to which he has been excited by the condition and course of the gentleman from Kentucky, the mover of these resolutions, will be serviceable to him, and so warm him up, that he may unite in pushing this enquiry, that, when he returns to the People, or the oven of public opinion, he may be able, from the light and knowledge he obtains, to remove any prejudices he may find among his constituents and the People of his part of the Union, against the present Administration, as to any charges of profligate and extravagant expenditures of the public treasures. I will now attend to the gentleman from Virginia, over the way, [Mr. FLOYD.] No, sir, before I do so, I have one other remark to make to the gentleman from Tennessee. He has told us, sir, that the officers employed in administering the affairs of this Government exceeded nine thousand, and has emphatically asked if this is not evidence of our departure from Republican simplicity? The gentleman would have been less likely to have been misunderstood by the country, if, in speaking of this great number of officers, he had remembered to inform us that between seven and eight thousand of them were Deputy Postmasters, employed all over the country in diffusing information, light, and knowledge, the foundation and support of free Government. The residue may be more than our Government requires; but I am not able, with my present information, to say what offices should be dispensed with.

The gentleman from Virginia [Mr. FLOYD] had said there were a good many offices that might be abolished, and a great deal of expenditure. He has not told what offices.

[Mr. RANDOLPH rose, and asked Mr. W. to give him the floor. Mr. W. said he would yield it for the purpose of explanation. Mr. R. said he wished it for that purpose, and Mr. W. yielded. Mr. RANDOLPH: I wish the gentleman from Ohio to say if he means me.]

Mr. WRIGHT: I do not mean the gentleman; I mean the gentleman entirely over the way. I should have taken it kindly, if the gentleman had informed us what offices could be abolished—a few of the many he had spoken of. I should have taken it kindly, if the gentleman had advised us of some of the great deal of useless expenditure to which he referred. It was easy to make general charges—many such had been made. I want particulars. What office can be abolished? What expenditure is too great? I believe there may be some. I am anxious to know where, and how we can apply the remedy. I do not find the information in the remarks of the gentleman on the Tacubaya mission. I had feared, from the vote of yesterday, on the proposition to lay on the table, in which I find the vote of the gentleman from Virginia, entirely over the way, in the affirmative, that he would go with us in the work of retrenchment; but he tells you this morning, that this is the accepted time to engage in this good work. The gentleman tells us a new era has commenced, and we are about to feel all the calamities that can be heaped upon the

H. of R.]

Retrenchment.

[JAN. 25, 1828.]

People. I am at a loss to know to what the gentleman alludes. Is it to the change that took place in this House at the commencement of this session? Is that the new era that is to bring down upon the People this great weight of calamity? I had hoped better things of this new era. That we were to have reform, retrenchment, all the abuses of the public offices hunted out, exposed, and corrected; that the People were to be no longer visited by calamity, but have blessings showered down upon them. I hope I have not been mistaken in the good that was to follow this new era. I agree, sir, with the gentleman from Indiana, [Mr. BLAKE] that we are approaching an important crisis in the political affairs of the country, and all are desirous of knowing if the President and heads of Departments are abusing the trust confided to them—if they are profligate in the public expenditures. Nay, I think there is a peculiar fitness and propriety in sifting this matter now—many charges had been made against the incumbents of office, of prodigality and waste.

The Chief Magistrate was a candidate for re-election; the People should be informed if these charges are true. An issue is made up and submitted to the decision of the People, and before they are called on to pronounce the guilt or innocence of this officer, they should be furnished with the evidence—all the evidence on the subject. The gentleman from Virginia, entirely over the way, [Mr. FLORN] supposes the friends of the Administration are opposed to retrenchment, and to the reduction of the public debt. Sir, I know of no such opposition of the friends of the Administration. No one has avowed any such feelings. The supposition is groundless, altogether gratuitous. The friends of the Administration are friendly to retrenchment: but if they were not, if any friend were opposed, I have shown in the extracts I have read, that the Cabinet and President are in favor of both. The gentleman has adverted to the subject of internal improvement and the tariff. He seems to think these measures fraught with calamity to the People, and he invokes the Representatives from the agricultural States of the South and the West to unite and arrest these measures. Sir, I represent a part of the agricultural People of the West, to whom that gentleman adverts. They do not agree with the gentleman in the fears he expresses, or his opinion, that every act of legislation on the tariff lessens the price of their products, and increases the price of every manufactured article necessarily compels them to buy. Appealing to the knowledge resulting from the experience of the country, they believe the more you protect the manufacturer, the more you multiply the consumers of the agricultural products, and by increasing the demand in the home market, you increase the price of the products of the former. On the other hand, that, in proportion as you protect and encourage the manufacture of those necessarily compels the former to buy, the more you reduce by the home competition the price of the articles—such has been the case with cotton cloths, and such they think would be the case with other cloths. The fears of my constituents as to the tariff, are not of the same kind with those expressed by the gentleman—they are of an entire different kind. They fear lest, not only this entire month, but this entire session, will pass away, before we even hear from our Committee of Manufactures; they fear nothing from the passage of a tariff bill that they desire, and have prayed for, and will continue to pray for.

Sir, we have been told of great extravagances and of many abuses—but no one has been specified. I regret that this is not the case. Tell us where the abuses are to be found—what officer's salary should be reduced. Is it that of the Postmaster General? Will any gentleman say his salary is too great a compensation for the various and arduous duties devolved upon him? If they do,

let them satisfy me of the fact, and I will unite to reduce his pay. But how can the Administration be chargeable with waste and extravagance? They can expend no money except on the appropriations of Congress; and what laws have we passed, since the commencement of the present Administration, to increase expenditures or salaries, except that of the Postmaster General? I recollect none. If then there is waste, and profligacy, and extravagance, it originates and continues here. Point out the extravagant object, and withhold the appropriation. We are to blame—we hold the purse strings of the nation, and I am not disposed to surrender them, and we can close and open the purse at pleasure. The gentleman from Virginia, [Mr. FLORN] speaks of visionary and extravagant projects. Does he rank among the visionary and extravagant projects that introduced by himself, to establish a new Government at the mouth of the Columbia, or Oregon river? I formerly went with him in favor of that bill, but he says so much of visionary schemes, that I begin to doubt if that be not one.

Sir, I repeat my sincere desire that we may proceed to apply all our disposable means to the reduction of the public debt, as far as our contracts will allow us to redeem, and go on in the work of economy and retrenchment—ferret out abuses, expose and correct them. I wish, to be sure, gentlemen had been more specific, for who can tell now, after the debate, where the alleged abuses exist, any more than he could tell before it began. I cannot: but I am for going on with the work, in order to find and to cure them if they exist. I have done.

Mr. McDUFFIE then moved to amend the amendment proposed by Mr. TAYLOR yesterday, by striking out all after the word "that," with which it commences, and inserting as follows:

"The Committee on Public Expenditures be directed to examine into the manner in which the moneys appropriated to defray the expenses of foreign intercourse have been expended, and that the Committees on the several Executive Departments be directed to inquire into the manner in which the moneys appropriated for the contingent expenses of those Departments have been expended; and that the said several Committees do make special report to this House, as far as they can ascertain the facts touching the matters before stated."

In support of this amendment, Mr. McDUFFIE said, it was with no affectation he declared his sincere regret at the introduction of this matter, and at the course the discussion of it had taken. I was fully convinced, from the beginning, said Mr. McD. that no subject could be stirred in this House, bearing either directly or indirectly on the two great parties militant now in the field of political warfare, that would not interfere most injuriously with the appropriate legislative business of Congress. It was this conviction that caused me to do every thing in my power to arrest this debate at its commencement, and to regret that the motion of the honorable gentleman from Virginia, [Mr. RANDOLPH] to lay the resolution on the table—a regret in which, I have no doubt, the House must, by this time, participate—did not prevail. But we have now fully got into the discussion. All attempts to avoid it have been defeated by the concurrence of both sides of the House; and so far as it can be considered a party question, a portion of both parties appear to have rushed into it. So far as my conduct is concerned—whether as it relates to my duties as a Representative of the People, or as a member of a party—I would have it distinctly understood that I shall, in this matter, act upon my own grounds and upon my own opinions.

In the first place, then, I think it proper to say, that I do not regard it as becoming the dignity of this House, or as consistent with the public interest, which it is our

AN. 25, 1828.]

*Retrenchment.*

[H. OF R.]

special duty to promote, to entertain jurisdiction of any question which is either intended or calculated to have a political bearing upon either of the two parties that now divide the country. Unfortunately for the public interest, we have too much reason to apprehend the undue and improper infusion of party politics into the discussion of those legislative measures which it is our duty to consider. Under this impression, I entered upon the business of this Congress with a fixed purpose of avoiding any reference to this Administration, farther than was indispensably necessary to the proper discharge of my duty in relation to those public measures which belong to the legislation of Congress. But, sir, I presume I shall obtain credit when I say that, if it shall ever become my duty to make any movement here tending to implicate this Administration, I shall openly and distinctly avow my purpose. Believing it, however, to be incompatible with the interest of the country to carry on this discussion, either for the purpose of inculcating or exculpating the Administration, I sincerely hope it will be speedily terminated: for, as to any other object, it must evidently end in nothing. No practical result can possibly grow out of it the present session. With regard to the number of officers existing under this Government, and the salaries they now enjoy, I would remark, in the first place, that the present Administration cannot be fairly made responsible, but to a very small extent, for the one or the other. The offices were created, with a few exceptions, and their salaries fixed by law, before this Administration came into power. A proposition to limit the number of these officers, or to curtail their salaries, ought not, therefore, to be debated as a question affecting the present incumbents of the Executive Government. That certainly is not the point of their responsibility. On the subject of the proposed retrenchments, I differ entirely from the mover of the original resolution. The true mode of effecting reforms really and extensively beneficial to the country, is not by lopping off public officers with an indiscriminating hand, and curtailing salaries without a due regard to the importance of the duties for which they are paid. This is at best but a very small business. No saving worth the discussion could be effected by it. If any thing salutary is to be done, it must be a general and systematic reform of the system which regulates and controls the disbursement of the public money. An effective system of responsibility might save millions in the public expenditures; I make this general remark without any reference to the actual operations of the Government, so far as they are connected with the present Administration. But I will state for the information of the gentleman from Kentucky (Mr. CHILTON) and for the purpose of illustrating the view I am presenting, that there are two of the Executive Departments, as well organized, both with reference to the efficient performance of the duties belonging to them, and to the strict observance of economy in the disbursement of the public money, as any Departments ever were organized in any Government on earth. I refer, sir, to the Department of War and that of the General Post Office. Yes, sir, it is susceptible of the clearest demonstration, the system of strict accountability introduced into the War Department by the late Secretary of War, effected an annual saving of at least one million of dollars in the expenses of the Military Establishment, independent of the reduction of the Army. The improvements introduced into the Post Office Department, have added, in a manner not less striking, to its usefulness and economy. Since that Department was committed to the management of the excellent, and able, and faithful officer who now presides over it, an increase of half a million of dollars has been added to its annual revenue, while the facilities for the transmission of intelligence by the mail, throughout every portion of the Union, have been increased two or three

fold. And how, sir, were these signal improvements effected? By diminishing the number of the officers connected with those departments? So far from this being the case, the number of officers was as much increased as was necessary for a proper distribution of duties and division of responsibility. To each officer was assigned his appropriate duty, and the officer whose duty it was to control and check the disbursing officers, had no agency in making the disbursement. To the complete success of this system in the Post Office Department, a considerable increase of clerks has been indispensable. And I was informed the other day by the Postmaster General, that one single clerk had been the means of saving fifty thousand dollars, I think, in the postage of newspapers alone. What are we to infer from these facts on the subject we are discussing? I will tell you sir. As it is apparent that no beneficial reforms have ever yet been introduced that did not proceed from the chief officers of the Executive Departments, so may we justly infer, that no important improvements ever will, or ever can be made, without at least the aid and co-operation of those officers. If we have not at the head of those Departments, able, efficient, and practical men—men, Sir, who have a talent for business—I will not say for action, lest I should be misconstrued, as on another occasion, to mean military action—unless in a word, we have men eminently qualified, not only to talk about public business, but to do it successfully, it will be in vain for this House to attempt any thing like a beneficial reform in relation to the expenditure of the public money. It must be obvious, I think, from these views of the subject, that it will never answer any good purpose, to go blindfold into the business of reform, cutting off indiscriminately this officer and that, without a thorough and comprehensive knowledge of the whole system, and the relation which the officers in question bear to that system. So far therefore, as the resolution of the honorable member from Kentucky proposes a reduction of officers, or a decrease of their salaries, and that seems to be its principal aim, I repeat my opinion, that the inquiry must end in nothing. We should only send a committee of this House a tilting against shadows. With what consistency, Sir, could any committee of this House recommend a reduction of the number of Executive officers, when, at the very last session, Congress authorized, by law, an increase of the number employed in almost every one of the Executive Departments? I cannot, therefore, consent to indulge the peculiar views of any member on either side of the House so far as to consume the time of this House, which ought to be devoted to the ordinary business of the session, in what must evidently prove to be an unprofitable inquiry, and worse than an unprofitable discussion. I have no idea, Sir, of converting this Hall into an arena for conducting a political canvass. A few words, Sir, with regard to the amendment I have offered.

It appears, from the very large vote recently given against laying the resolution on the table, including both parties, that the House deem an inquiry necessary and proper. The friends of the Administration seem to regard such an inquiry necessary to exonerate the Administration from the imputations supposed to be cast upon them. Now, I am clearly of the opinion, that, if we go into an inquiry at all, it should not be mere children's play. If we are to prosecute an inquiry into the alleged or the possible abuses of the Government, let us direct that inquiry, specifically, to those parts of the system where such abuses are most likely to occur. Though I never will sanction the injustice of making this Administration responsible for the extent of the peace establishment, civil and military; yet the application of the various contingent funds placed at their disposal, is a very different matter. I perceive the gentlemen on the other side of the House are very prompt to meet this as an at-



H. of R.]

Retrenchment.

[JAN. 25, 1828.]

tack on the present Administration, and to insist upon an inquiry, with a view to their defence and exculpation. I would suggest to those gentlemen, that, if their object is to whitewash the Administration, they can accomplish it only by giving the inquiry a direction such as I have proposed. All the other points of inquiry that have been suggested, are perfectly immaterial, so far as this Administration is concerned. But if there has been anything extravagant or improper in the application of the contingent fund, they ought to be held responsible for it. I have no knowledge, as to the manner in which this fund has been employed, particularly as relates to diplomatic agents and messengers sent abroad. I have, however, seen it repeatedly stated in the public prints—and I can make the matter no more notorious by stating it here, or I would not state it—that a distinguished editor of a newspaper in Virginia, received from the contingent fund about 1700 dollars, for going to Buenos Ayres on public business, when, in fact he went to Europe on his own. Abuses of this kind, if they exist, ought surely to be exposed and corrected. If they do not exist, it is due to the officers implicated, that the truth should be presented in an authentic form to the public. I think the contingent fund a very proper subject of investigation, without any reference to alleged abuses. There should be an annual scrutiny by the committees of this House into the application of all the contingent funds, and the scrutiny cannot be too minute. Sir, I was anxious to get rid of this subject altogether; but, as it has been forced upon us from all sides of the House, I can consent to it only in the specific and practical form indicated in the amendment I have submitted.

Mr. RANDOLPH addressed the Chair. That has arrived (said he) which must have been foreseen by every member yesterday, whether he voted for or against the motion to lay this resolution on the table. This House is converted into an electioneering arena. I should not, permit me to say before I go any farther, have inquired of the gentleman from Ohio "over the way"—I will not say out of the way—at which of the two gentlemen from Virginia who had spoken on this subject he levelled his remarks, if he had not responded to the inquiry of my colleague that he did not intend them for him: and, as at my call he declares that he did not intend them for me, I leave it to that other gentleman from Virginia, whoever he may be, who has spoken on this debate, to take them to himself.

[Here Mr. WRIGHT asked permission to explain—but Mr. RANDOLPH refused to yield the floor for that purpose.]

But, (continued Mr. R.) if the gentleman meant my colleague, [Mr. FLORENCE] to my colleague I relegate the gentleman, being well satisfied that he could not be in better hands. Yes, Sir, with this thing I have done forever. I will not be provoked, nor will I suffer myself to be induced to enter into personalities with any man upon this floor; but I do know that the newspapers have it in their power, and, whether designedly or not, they do exercise that power, of giving to my remarks a pungency and an application, which, as made by me, they were divested of—I refer now to a late and notorious occasion.

And now, Sir, let me call the attention of the House to the amendment of the gentleman from South Carolina, and the peculiar state of things in which we are. I will vote for the amendment of the gentleman from South Carolina, but, if it is adopted, I shall vote against the resolution, as amended. I was sent here to discharge the duties of a Representative to the best of my ability, for the good of those whom I represent; and that duty I shall discharge, undeterred by calls of yeas and nays, and by the bug bears and hob-goblins which may be conjured up of any supposed responsibility—

undismayed by any fear of imputations of suppressing inquiry, or of conniving at public abuses—insensible to any imputations of throwing out against Government charges which I am not prepared to establish. I shall vote against the resolution, fearless of consequences, and the motives upon which I vote I will avow to my constituents, and in the face of the world. I have never yet refused to do so, under much more trying circumstances than the present—for, in proportion as the atmosphere presents nothing but clouds and darkness to the view of the gentleman from Indiana, [Mr. BLAKE] so to me the aspect of it exhibits indications of returning sunshine. No, Sir, I shall not be deterred. I shall do whatever I think right—and when I say so, I do not say that others will not—far from it—I will not vote for any proposition, whether from friend or from foe, which I think calculated to injure the great cause of the People of these United States. No, Sir, no gloss that can be given to my words, no coloring whatever that may be put upon my conduct, shall induce me to say aye when I am inclined to say no, or no when my feelings prompt me to say aye. I may stand alone. I have been in small minorities under the first of the present dynasty, and I have been in a minority under the second, and it is very possible I may be in a minority now—but that will make no difference to me.

Sir, it is a received maxim of the common law, drawn from the only fountain of wisdom, experience, (and the experience of ages) that no man shall be trusted to try his own cause, or be a witness in his own case. It is on the application of that wise and salutary maxim to our present situation, that I say no to this inquiry. I say no. The gentleman from Indiana has told us that, for his part, he is willing to sink or to swim with the Administration. He has nailed his colors to the mast. Sir, I admire his gallantry, but he must pardon me if I have no wish to sink along with him, or, what is worse, to sink the cause in which I am embarked against him, by agreeing to any measure, prudent or imprudent, concerted or unconcerted, matured or precipitate, which any new or any old member may throw into this House. I say to that gentleman, and to others, that, as soon as they give us the helm, we are responsible, and not before, for the safety of the ship. But I will not consent to inflate her sails—I will not consent to impel her canvas—I will not consent to work like a galley slave at pulling the oar, while she has a helmsman who may at any time he pleases run her on a shoal, and make me responsible for the result. No, Sir, I will be content to wait. I will wait, Sir, until a factious majority of the People of the United States, who have returned a factious majority to the other House, and as I hope to this also, shall have elected a factious President. Sir, you had scarcely taken your seat in that chair, before one of the master spirits of the times sneeringly said to us, I wish you joy, you are now the majority in both Houses, and you are responsible for the measures of Government. I cry you mercy, Master Stephen, I cry you mercy—we are not, and do not mean to be thus responsible; and for that very reason, because we do not, I shall vote against this measure, and against any other out of the ordinary routine of business, that may be brought up. Sir, with the gentleman from South Carolina [Mr. McDUFFIE] I am for masks off. And now what do you mean to do? Do you mean, as the gentleman from South Carolina said, to send to a man, who is both witness and judge in his own case—and in using this language, it may be said that I am making imputations against illustrious and great men, to whom the People of the United States, and a just posterity, and even the present age, will not fail to do justice. Sir, I do no such thing—I make no other implication than that which every free and wise People make against our common nature—I do say, it would be requiring more of par-



JAN. 25, 1828.]

Retrenchment.

[H. OF R.]

ties implicated, than can justly be demanded from human nature, and therefore at least as much as can fairly be demanded of them, to ask them to decide in this case. You are requiring men, whose political existence hangs by a single hair, and who have already the *risus Sardonius* of political death upon their countenance—for it was with a Sardonian sneer that we were told that we had become responsible for the measures of the Government; you are required to call upon them to do any thing which may have an effect to hasten that event. Sir, I will do no such thing. I will not call upon them. And why not? Because I may, by possibility, by that call, put it in their power to protract a little longer their political lives. I say by possibility; and that is a possibility which I am determined to avoid. No, Sir; if this House is to be converted into a political arena, and I shall be accused as one of the gladiators, whether the man with the trident or him with the net, I do not say, I am clear that we should so speak that every man, woman, and child in the United States, shall be able to understand our drift. I then shall call upon the present men in power for nothing that can, directly or indirectly, enable them in the smallest degree to affect the great question which is now at issue between them and the People of the United States, in which, as interested parties, I will take none of their evidence that I can avoid.

I believe I have, by this time, pretty well explained my object. Sir, what should we have said, thirty years ago, of one of that party, to which I had the honor to belong, as the youngest and most humble member, if he had brought forward a proposition, unconsulting and unconsulted, which might give the adverse party some color to their sinking cause, and put it in their power to live one more term? But, sir, I have another objection to the resolution. The public mind is in a state of excitement, such as must ever exist on the eve of a great political battle. And, Sir, I should as soon look for perfect calmness and composure on the eve of a battle of another sort, or rather after the fight has begun, as that such an investigation should now be conducted with that patience and deliberation which it demands. Sir, the adverse party would gladly catch at such a resolution. In the time to which I have referred, the ruling party, for they held their majority in both Houses to the last, did catch at some such straws: they were drowning men—drowned they are. I had intended to have said something as to the challenges so boldly made, to point out the offices that ought to be abolished, and the expenditures which ought to be retrenched. But I feel my strength unequal to my purpose. But I must say, that in the affair of the Panama (since called the Tacubaya) mission, not only new offices were created, but new doctrines were started in reference to the Executive prerogative, which were wholly unknown to the Constitution and to the practice of the predecessors of the present Chief Magistrate; and I will tell my worthy colleague, [Mr. FLOYD] if he will permit me, that there has been an improvement on his plan of sending Ministers abroad, and bringing them back when they have finished their business: for they are now sent abroad on sleeveless errands, that they may come back, *re infecta*, to pocket their emoluments. Is not this the fact? Sir, we have had (to say nothing of Tacubaya) two missions to England under this Administration: one of them was a complete abortion; and as to the other, what has it done for the public good? what object has it accomplished? We were told by the very accurate gentleman from Pennsylvania, [Mr. BUCHANAN] whom I always hear with pleasure, that these missions were justified\* on the ground that the acqui-

sition of South-America had created a swarm—I believe that was the word—of Diplomatic appointments. So much the worse for us, sir. Are we, whenever a nation, great or small, changes its relations to another nation, and becomes independent of that other nation, instantly to send off Ambassadors to it? Are we to make use of the incident as a pretext for increasing that patronage which all profess to wish to diminish? But we are told that the President has recommended to us economy and retrenchment. Yes, sir, he did recommend them, in one of those lofty generalities with which all sermons, political or religious, abound, which might be printed in blank, like law process, and filled as occasion might require. But I, sir, am for looking at the practices, and not the precepts of the parson, political or religious. I suppose, sir, our good friends the Greeks—yes, sir, suppose that the Greek—who is *Græculus cauriens*, the same animal now that he was in the time of Juvenal, except that he is less enlightened and refined—should succeed in throwing off the Turkish yoke—"the faith-keeping Turk"—I suppose we must have an Ambassador sent to every islet and nest of pirates in the Ægean, sir—we must send one to Hydra—one to the Continent—and one, I presume, to each of the Cyclades. So that, if my friend from Virginia, who is a medical man, will permit me the phrase, the disease, instead of being contagious, will be *sporadic*—as, indeed, it now is—and highly malignant.

Sir, I have never seen but one Administration, which, seriously, and in good faith, was disposed to give up its patronage, and was willing to go farther than Congress, or even the People themselves, so far as Congress represents their feelings, desired—and that was the first administration of Thomas Jefferson. He, sir, was the only man I ever knew or heard of, who really, truly, and honestly, not only said "*nolo episcopari*," but actually refused the mitre. It was a part of my duty, and one of the most pleasant parts of public duty that I ever performed, under his recommendation—not because he recommended it, thank God!—to move, in this House, to relieve the public at once from the whole burden of that system of internal taxation, the practical effect of which was, whatever might have been its object, to produce patronage rather than revenue. He, too, had really at heart, and showed it by his conduct, the reduction of the national debt, and that in the only mode by which it ever can be reduced, by lessening the expenses of the Government till they are below its receipts. Sir, there is no witchcraft in that—no, sir—no witchcraft at all—no more in paying a public than a private debt. You may have sinking funds, as many as you please, and never so vast a financial apparatus; but, if you spend more than you have, you will be in debt to the end of the world. Sir, so far from fearing any injurious effect from the too rapid payment of the national debt, I would pay the three per cent's now—Yes, sir, I would pay them at par, if necessary—for it could only prove that money is worth but three per cent. Sir, I was the humble instrument of introducing the first efficient sinking fund, by setting apart a given sum of \$7,300,000, which ever operated to reduce the national debt. When that debt was increased by the acquisition of Louisiana—aye, sir, the acquisition of Louisiana!—and who was for and who was against it then?—who pronounced the acquisition unconstitutional, and declared, in the other House, that we had no right to tax the People of that country?—the sinking fund was then raised to eight millions. Since that time, owing to the debt created by the expenses of the war, it has been raised to ten millions. The gentleman from New-York [Mr. TAY-

\* Mr. RANDOLPH did not mean to be understood as saying that the gentleman from Pennsylvania [Mr. BUCHANAN] justified the "Missions," but the office here charged with the business which those missions created. Neither did he mean to express himself, that the measures of the Republican Party, in the Seventh Congress, were

thwarted—but that, notwithstanding their labors were directed to the alleviation of the public burthens, and that they were a decided majority, they would have been thwarted by a disciplined minority, if they had not acted upon consultation, and in concert, to which they were compelled by their opponents to resort.—*Note by Mr. R.*

H. of R.]

Retrenchment.

[JAN. 25, 1828.]

son] himself admitted—and I thank him for it—he was obliged to admit it, and therefore, perhaps, my debt of gratitude is the less—that the sinking fund has not been faithfully applied to its object. Sir, I said, in some hasty remarks, when the gentleman interrupted my colleague, [Mr. FLEMING] that applying surplus balances to make up what had been pillaged from the sinking fund, was robbing Peter to pay Paul. No, sir, it is no such thing—it is robbing Peter to pay Peter—it is robbing the sinking fund to pay the sinking fund: for, as it has been over and over again said, the sinking fund has not only a right to its own modicum of \$10,000,000, but it is residuary legatee besides; it takes all the surplus, whatever that may be, as its own, and you never can give it any thing in return for that of which you rob it, except out of that surplus which was already its own. Can't give it any more. Your giving surplus balances to eke out the sinking fund, is nothing more than like the false guardian, who, when he comes to settle his accounts, pays off his debts to his ward with the money out of which he has cheated him.

We are asked by the gentlemen, why do you not specify? Particularize! particularize! Shew us the particulars! You give us a sum total without any items, as Mr. Sterling says in the play. Will the gentleman have one? Sir, I will give you one of them. The House will give me that credit which I demand. It is only my due. I did state that, if we begin this system of reform, it ought to begin, like modern charity, at home. Sir, I never pretended that the House was not answerable for abuses as well as any other branch of the Government. Now for one item of them. Sir, at the first session I was on this floor—it was the last Congress of the first Mr. Adams—whether this will be the last of the second I cannot say—I find this item in the list of appropriations: For the expenses of fire-wood, stationary, printing, and all other contingent expenses of Congress, twenty-one thousand six hundred and sixty-four dollars and forty cents. The sum, Sir, covered the expenses of both Houses, and included besides, the extraordinary expense and furnishing each member with a complete copy of the Journals of the old Congress. This House then consisted of one hundred and two members, one only of whom I see now left, [Mr. LIVINGSTON.] Now, we have 213 members. Then, according to the rule which has been introduced into this House—Sir, by the simple rule of three, if 102 gives so much, what ought 213 to give? This item, be it remembered, included the expenses of the other body, but I shall confine myself now to the expenses of this body alone. For the present year the total estimate for the contingent expenses of this House now differs but a trifle from ninety thousand dollars, of which, I am justified in saying, fifty thousand is for printing alone; and I have no hesitation in saying, Sir, if the British Parliament paid for their printing by the same rule that we do, it is not five hundred thousand dollars—which we are told exceeds the whole annual expenses of Congress—but that is not my statement, remember—that will defray their printer's bill. No, Sir, and it is not for me to say what would defray it. I happen to have had an opportunity of seeing a good deal of the printing of the British Parliament. It is not made up, like ours, of title pages and blanks, and broadsides of every thing and any thing—motions, petitions, bills, reports, resolutions, amendments, and every matter which can be brought into the House of Commons. No, sir, they go on and print closely; and where one line ends, another begins, (I make no allowance for the high rates of living and wages in that country;) but I will let the House into the fact, that when the rate of printing for this body was settled, a printer—a worthy and honest man, as I believe—was a member of Congress. I speak from the information of one of the first men in the country. The rate was fixed during the depreciation of paper money,

which I described yesterday when every thing brought ten prices, and it has remained not unsettled. No, Sir, for it has been regularly settled and paid ever since. It has remained, from that time to this, at the same rate—though one dollar now will buy as much of land, slaves, every article from which we draw subsistence, as four dollars would buy then. To illustrate this, I will state a fact. A gentleman, whom I knew, owning a fertile, but, as he thought, an unhealthy tract of land, on the Roanoke, sold it, and purchased a small tract, on which he built a house that cost him five thousand dollars, and that sum will build what is considered a first rate house in my part of the country. The land itself was not good, nor was it bid. It was what is called fair land. The state of his affairs, like that of many of his neighbors, soon obliged him to sell, and he sold the land, without any allowance for the improvements, for three dollars an acre. An acquaintance of mine was tempted, by the lowness of price, to purchase the farm; thus verifying the maxim of Poor Richard—that he who buys what he does not want, always buys it dear: and so it turned out in this case. If he wished to sell it now, he could not get his money back. This single fact was worth all declamation in the world. In the same quarter of the country, land (some of it good wood land) has sold for one dollar per acre!

Sir, I have not done with this subject of the public printing, and the price paid for it. I do not mean to worry the House. It is well known to the members of this House (and I hope what I now say will be taken down verbatim, if possible)—that the public printers of this House are also the editors of the most extensive—I mean in point of superficial content—the most extensive journal in the United States, and one which, from having been hitherto considered as possessing a sort of at least demi-official character—something like the *Moniteur*, in Paris, but not exactly—and from observing, or rather professing to observe, a strict neutrality, had obtained a most extensive circulation at home, and by far the most extensive abroad, of any paper in this country. Now, sir, we also know, that this journal is our main stay and reliance for the reports of our debates, and the proceedings of this House. Sir, I make no inference, farther than to say—I do not say that the political existence of these people hangs upon the event of the next election—the thread of their existence, like that of the gentleman from Indiana, is connected with that election—they sink with the Administration, having abandoned their professed neutrality, if it sinks; and if it does not, they will certainly swim. I make no more imputations on them than that they have \$50,000 per annum staked on the event—on a single card.

If the amendment of the gentleman from South Carolina shall prevail, if I understand the matter of it, this item of expenditure ought to be included, as one over which we have complete control. I beg pardon, I should have suggested this before, but I knew that there was a committee of the House whose duty it was to audit its accounts, and to see that no improper items are admitted. I have pointed out one abuse, and I have done it where it was proper to point it out, at home. Sir, I have known of the existence of these evils for a long time. They were no secret to me, nor did I make a secret of them to any body; but I do know, that a man might calculate on as much success in going a tilting—not at shadows, as the gentleman from S. Carolina says—not like the Knight of La Mancha at sheep and windmills—but rather at a flock of mad cattle, pent up in a narrow lane, as to attempt to ferret out the abuses, without having the cordial co-operation of those who are at the head of the Departments, and that co-operation it would be worse than folly to pretend to look for. On that subject, Sir, I declare the pleasure that it gives me

AN. 25, 1828.]

Retrenchment.

[H. OF R.]

to bear my testimony, such as it is, along with the gentleman from South Carolina, to the public services, the intelligence, the integrity, and the indefatigability of the officer who is at the head of the Post Office Department. I voted against increasing his salary. It is the only one of the Departments which I have lately had any thing to do with, and whenever I had occasion to go there, I have always found him in his office, and at his business. Sir, there was a time when I often had to visit the Departments, (which does not, however, affect the present Administration,) and then I seldom had the honor to find any of their high lightnesses at home—I mean, in their offices. Sir, we cannot expect the cordial co-operation of the Heads of Departments in such an inquiry as is now proposed. They are sitting before the bar of public opinion for their lives, with a zeal proportioned to the strong evidence before the jury of their guilt.

I shall vote, however, for the amendment moved by the gentleman from South Carolina, and, if it prevails, I shall vote against the resolution as so amended. And let me, before I sit down, give one warning to all concerned. This country, as we all know, is divided into two adversary parties; and we must shut our eyes to the fact, if we do not know that this House is nearly, or quite, equally divided between them. *Fas est ab hoste loqui.* I see one of these parties, perfectly willing, no doubt, with the very great man to whom I have before alluded, to throw upon us the responsibility for whatever is done here, sitting perfectly still, steadfast, silent, and demure, bringing forward no proposition whatever. I see the other party throwing out proposition after proposition. The opposite party never commits itself until after a night's reflection. And what is the consequence? Through, I believe, a minority, they so manage matters, as on every question to constitute an effective majority of this House, and then throw on us the responsibility of their own measures. Sir, this is a new sort of political justice.

Again, I see most plainly, with the gentleman from South Carolina, that this inquiry will end in smoke—and I am not one who will light the fire, or help to raise a smoke by which a retreating adversary may cover and protect his retreat. I will afford them no facilities towards victory. I stand here pledged as their adversary, *quoad hoc*, and I will add another pledge to oppose any and every party who would impose on this country any man, as its Chief Magistrate, besides him who receives the greatest number of its votes. Sir, if we must amend the Constitution, I shall not vote for a hereditary Chief Magistrate—I do not belong to that privileged class—the President of a minority is hardly less odious than a King—but I warn the House against any attempt at reform while the President is not with us. In the Seventh Congress, in spite of all Mr. Jefferson did, his measures were thwarted; and when was an Administration stronger? Then, with a House of Representatives so equally balanced as this, (and I take the vote for the election of Speaker as the indication of its state,) with the scale vibrating, nearly in *equilibrium*, it is almost impossible to be certain of a majority, let our measures be ever so well concerted. How could we get along, even if the Executive was on our side, acting against a solid phalanx who hold together—so perfectly united that we cannot cut off a single straggler, while we ourselves act more like raw undisciplined militia? Sir, I speak from experience. In the Seventh Congress, Sir, we never could have got along, with the aid of the most popular President that ever lived (except one) without consulting before we acted. We were obliged to hold—I will not use a barbarous word which has become common throughout the country, and which I first heard in this body—but we were obliged to act in concert. And, Sir, if we do not act in concert now, it is not we who will

be responsible for the consequences. And how ought we to act in concert? Sir, by leaving this Government just in the course where we found it. We ought to observe that practice which is the hardest of all—especially for young physicians—we ought to throw in no medicine at all—to abstain—to observe a wise and masterly inactivity. I am afraid, Sir, (said Mr. R., on resuming his seat,) that I have not on this occasion, added to my precept my example.

[Here the debate closed for this day.]

SATURDAY, JANUARY 26, 1828.

#### RETRENCHMENT.

The House resumed the consideration of the resolutions heretofore moved by Mr. CHILTON, together with the modifications proposed by Messrs. TAYLOR and McDUFFIE.

And the question being on the amendment submitted by Mr. McDUFFIE to the amendment of Mr. TAYLOR—

Mr. CARSON said, that the object for which he had originally attempted to obtain the floor was, to state the reasons which had induced him to vote for laying the resolution of the gentleman from Kentucky, [Mr. CHILTON] together with the amendment of the gentlemen from New York, [Mr. TAYLOR] on the table. As he had not had an opportunity of proceeding after he had obtained the floor, he considered it due to himself now to state those reasons.

Mr. CHILTON here requested Mr. CARSON to yield him the floor for a moment, and Mr. CARSON having done so,

Mr. CHILTON asked if it would be in order for him now to modify his resolutions as no amendment to them had yet been adopted?

The SPEAKER replied that it would be perfectly in order: Whereupon,

Mr. CHILTON modified his resolutions, so as to read as follows:

"1. *Resolved*, That the Committee on Public Expenditures be instructed to inquire and report whether any, and, if any, what, measures ought to be adopted to diminish Executive patronage; to secure a more effectual responsibility in the disbursement of the public money; and, also, what retrenchment can be made in the public expenditures without injury to the public service; and, also, whether any, and, if any, what, measures may be adopted for the more effectual application of the Sinking Fund to the payment of the Public debt.

"2. *Resolved*, That the said committee be directed to inquire and report to the House the amount of monies which have been paid since the 1st of January, 1824, and of the several appropriations made for contingencies of Foreign Intercourse, and which have been settled at the Treasury, without specification; and, also the payment made out of the same appropriations, and the appropriations for the contingent expenses of missions abroad, which have been settled at the Treasury in the usual manner, according to law.

"3. *Resolved*, That the Committee on the Expenditures of the State, Treasury, War, and Navy Departments, be instructed to inquire and report what sums have been paid, out of the several appropriations made since the 1st of January, 1824, for the contingent expenses of the said Departments, to whom paid, and for what service.

"4. *Resolved*, That the Committee of Accounts be directed to inquire and report whether any, and, if any, what retrenchments can be made in the expenses of this House."

Of course, the amendments to the original resolutions now fell, as their form had been changed, and they were open for any further amendment which might be proposed.

Mr. CARSON then resumed. In that part of the rules of the House prescribing the duties of the se-

H. or R.]

Retrenchment.

[JAN. 26, 1828.]

veral committees, (said Mr. C.) the attention of the Committee on Public Expenditures is particularly directed to this subject, and it is made their duty to examine into the state of the several public departments, and particularly into the laws making appropriations of moneys, and to report whether such moneys have been disbursed conformably with such laws.

We find this duty in the 65th rule of this House, as follows :

"It shall be the duty of the Committee on Public Expenditures to examine into the state of the several public departments, and particularly into laws making appropriations of moneys, and to report whether the moneys have been disbursed conformably with such laws ; and, also, to report, from time to time, such provisions and arrangements as may be necessary to add to the economy of the departments, and the accountability of their officers."

Now, I did believe that the duties of that committee being of this nature, precluded the necessity of the resolution which was offered, and I further thought that this was a very improper time for its introduction—that it could be attended with no beneficial result to the community, and that its only effect would be to waste the time of this body and produce electioneering speeches on this floor. I was not mistaken, as has since been shewn by the progress of the present debate. It appears that even gentlemen who have expressed a disposition to transact the public business and return home, have nevertheless been actuated, by an anxiety of a political kind, to turn this matter to the benefit of one or the other of the great parties which now divide this country.

He had explained himself on this subject, to a gentleman from Ohio, in the folding room attached to this House a few days ago, where he was justified in saying, that he saw thousands of the celebrated Virginia Address written by Chapman Johnson, folding to be sent to the North and to the West, and even to the South ; and the hope, I understand, is entertained, that the old State of North Carolina, among others, is to be revolutionized by the effect of this address of Chapman Johnson. But, sir, I can tell those gentlemen, who expect this to be the result in North Carolina, that they will find themselves completely defeated in all their efforts to produce such a result. Sir, North Carolina has repeatedly been tried, and in every instance she has been true to herself, and done her duty. I mentioned to that gentleman that all such attempts were perfectly useless, and the reply I received was, "though the chances are now for you, yet a reaction will speedily be brought about," and this subject is seized upon as one means to aid in producing that result. Sir, I do not care for this. No event in future is more certain, according to my judgment, than the election of General Jackson ; but, let that be as it may, I wish to see no discussions on this floor, except such as are calculated to advance the good of the community, and that we may do the public business and go home, instead of remaining here, as the gentleman from Virginia, [MR. RANDOLPH] has said, to feed upon the Public Treasury.

But, as the discussion is to be proceeded in, I wish to offer a few remarks in reply to some of the expressions which dropped from the gentlemen who have preceded me. And I ask leave, in the first place, to notice some of the remarks of a gentleman from Pennsylvania, [MR. STUART.] He said that he would vote for the resolution because it was a measure of retrenchment and economy—but what were his subsequent expressions ?—why sir, he told us that the sinking fund was too great, and that we were paying off the public debt too fast, and he added that we ought not to do this, because the continuance of the public debt promoted economy. Yes, sir, to remain in debt, and to pay large sums for interest, promotes economy. If I recollect right, when a few days

since a discussion took place on a resolution of an honorable gentleman from Virginia, [MR. P. P. BARBOUR] for selling out the stock held by the Government in the Bank of the United States, the same gentleman from Pennsylvania urged another and a different reason why the public debt should not be paid off. He then told us that our sources of revenue ought to be curtailed, and new channels of expenditure opened for the national capital to flow in, lest the public treasury should become so full that it would die of plethora. Now, his opinion seems entirely changed—the apprehensions he then felt, have, since that time, it seems, completely evaporated, and he now tells us the public debt must not be paid, because its continuance promotes economy. I think that the nature of the concerns of a nation may be greatly simplified by comparing them with those of a judicious private family. The mode which ought to be pursued by the head of such a family, to better his affairs, I should suppose would be to reduce his expenses within his income and not to economise by suffering his debts to remain, and the accruing interest to prey upon him like a moth.

I will next say a word as to the remarks which fell from the gentleman from Indiana [MR. BLAKE.] Towards that gentleman I cherish the best feeling—I esteem him highly, and am only sorry that we are not more closely united in our political opinions. The true question before the House, (says that gentleman) is neither more nor less than this : Is the present a prodigal Administration ? I was aware, when the resolution was first introduced, that the friends of the Administration would seek to make it appear that this measure had originated with and was pressed by the friends of Gen. Jackson, as furnishing an opportunity of preferring charges against the Administration. It was necessary for them to assume this as the true question, that they might with the better grace introduce encomiums and eulogies upon those who conduct the Government. That gentleman has also complained of the misrepresentations that have gone abroad against the Administration—and hopes there is liberality enough in this House to do them justice, and acquit them of the calumnies which have been heaped upon them, &c.

I, too, Mr. Speaker, regret that any misrepresentations should have been made on either side ; but, upon my soul, I think they have no right to complain on that point. If they will but turn their eyes to what has been said by the Government papers on the character of General Jackson, it must be acknowledged that they have beaten us far in misrepresentation and calumny ; and, Sir, I do not envy them their distinction : for I shall never dispute the palm with them on that subject. Sir, what has been said, or rather, what has not been said against Gen. Jackson ? Need I refer to all the Administration press in the United States ? Need I refer to a recent book published by the Secretary of State, accompanied with letters or certificates, I think he calls them, intended to exculpate him from the charge of corruption ? Sir, have they stopped here ? Has the character of Gen. Jackson alone been assailed ? No, Sir. Like the Hyena, that fellest of the fell, which robs the graves of the dead, they have entered the sanctuary of domestic retirement, and dragged before the bar of the public, loaded with the basest slanders, the character of an innocent and much injured lady. Have they done this, and do they now complain, and charge us with wishing to heap calumny on the Administration ? Sir, I propose nothing like it. I would treat the Administration justly ; and all I ask is, that they shall do the same justice to General Jackson, and his friends.

The gentleman [MR. BLAKE] also asks us, what new offices have been created under this Administration ? And he answers the question himself, by saying, not one. The question and the reply are intended to go before the community, and to produce their effect abroad. Sir, let the gentleman accept an answer from me. I answer him

JAN. 26, 1828.]

*Retrenchment.*

[H. or R.]

the officers attached to the far-famed Panama Mission, have been created by the President. I shall not say any thing on the subject of that mission. The nature of it is well understood by the American People. But I must be permitted to remark on the assumption of power by the Executive in this case. In his first message he stated to us that the invitation had been received, inviting this Nation to be represented at the Congress of Nations, shortly to be convened at the Isthmus of Panama, and, he adds, "the invitation has been accepted, and Ministers will be commissioned and sent." He subsequently submitted, it is true, the appointment of these Ministers to the Senate, and if he had not written, at the same time, a communication to that body, I should have supposed, that when he said "Ministers will be commissioned and sent," he meant, as of course, to be understood that they would be commissioned and sent by and with the advice and consent of the Senate. But in that communication he tells the Senate that he had concluded it to be within his constitutional competency to send these Ministers by his own authority, but that he had graciously condescended, as a matter of courtesy, I suppose, to ask for their consent. Now, sir, I am a plain dealing man, but as the President is a magistrate high in office, I ought not, perhaps to, say, that he is either ignorant or corrupt. But this I may be permitted to say, and this I will say, that if any other man had said as much, I should be able to convict him, either of the grossest ignorance, or of the grossest—what is worse. What says the Constitution? Here Mr. C. quoted as follows.

"He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur: and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint, Ambassadors, other Public Ministers, and Consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers as they think proper, in the President alone, in the Courts of law, or in the Heads of Departments. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session."

Now, Sir, if he can only do this, by and with the advice and consent of the Senate, it certainly follows that he has no authority to do it without their advice and consent, and if he believed the contrary, it is charity to attribute such a belief to ignorance. Such at least is my opinion, but it may be owing to my plainness and want of capacity to dive into such matters as well as he. He may derive it from some superhuman power, such as produced his "superadded obligation" to send an armed force against Georgia; with such powers I am unacquainted, but if there be such superadded power it must be accompanied with a superadded responsibility.

Let me now say a word to the gentleman from Ohio, who spoke last yesterday, [Mr. WATSON.] I heard, that gentleman demanding, as I thought, proudly, what are the abuses of which we complain and boldly challenging the fullest investigation. Sir, I think I could, with great propriety, refer him for an answer to a certain committee, called, if I mistake not, the secret committee—(I speak of this from newspaper authority)—and which was organized here last Winter. It may be that that committee, were they so disposed, could point out a great many of the corruptions and abuses of this Government; but, as they were a secret committee, I doubt greatly whether they would be much inclined to develop mysteries of that character. I rather think they would be more disposed to secrete them. I will however, ask leave of the gentleman to point out one or two. It was an abuse of the con-

tingent fund of the State Department to pay young Mr. King an outfit of \$4,500 as Charge d'Affaires while he remained in England. It was an abuse of that fund to pay John H. Pleasants nineteen hundred dollars for carrying out despatches to Buenos Ayres, when he got so far out of his latitude as to land at Liverpool. Sir, I will mention another abuse. When a Minister was appointed to the Panama Mission, a certain gentleman was appointed as Secretary of Legation to that Mission, and paid his salary, while at the same time, that gentleman was on an electioneering tour in the State of New York, as a candidate for Governor of that State. This fact we have in an answer of the Secretary of State to an inquiry of this House on that subject. The Secretary acknowledges that he received his salary for going abroad, while he staid at home; but assigns, as a reason, that the gentleman resigned a lucrative office to accept of this appointment. But an examination and comparison of dates will show that he had resigned that office sometime before, and for the avowed reason that he could not discharge the duties of it, on account of ill health. Now, if the Government may pay a man for doing the public business abroad, while, at the same time, they permit him to remain at home electioneering for a Governor's Chair, or for any other purpose, I say it is an abuse, and ought to be remedied.

Speaking of the establishment at West Point, permit me to make one remark. Among the items in the estimates for that institution, I find the following: "For compensation to twenty supernumerary Second Lieutenants, \$15,100." Here are twenty young men who have been educated at the public expense and who are now supported at their own homes, at an annual expense of \$15,000. Sir, is this economy? I know that that institution was got up under a different administration; but this application of the public money has been made by the present administration, and it is one of those expenditures which ought to be considered in the present inquiry.

The gentleman from Ohio said further, that he would to God that the House could force a tariff upon the country, or that a tariff could be forced upon us, (I will not be sure of the exact words,) and if he thought this, he should return home better satisfied. I shall only say at present, that he and his friends had better not attempt to force that measure upon the South. We, sir, are a kind of People, who will not be forced; and let the gentleman remember, too, that, while the friends of that measure are forcing the tariff upon us, they are precisely, at the same rate, forcing an inroad upon the Constitution; for, sir, the very objects of the meeting of that Convention which framed the Constitution, and the causes which influenced the leading statesmen and patriots of that day, to unite in the establishment of a Federal Government, and the very reasons which were urged (and which, in fact, produced the effect) upon the States, to give up a part of their rights as sovereignties for the good of the whole, forbids the idea, that it could have been intended (immaterial how worded) that those powers should have been extended to the injury of a part, or even one of them, for the benefit of others: for, sir, in the concession of those rights by the States, the advantages and the injuries resulting from them, were to be mutually shared by all—a perfect reciprocity of interests was to be observed, and preserved; and any measure passed by Congress, which, while it benefits one part of the Union, as manifestly injures the other, is a violation of the spirit and intent of that instrument; but more especially is it a violation, when such measures are "forced upon States not willing to be forced."

Much, sir, has been said on the *per diem* allowance of the members of Congress. I know, perfectly well, that no man more honestly expressed his opinion on that sub-

H. OF R.]

Retrenchment.

[JAN. 26, 1828.]

ject, than my colleague, [Mr. CULPHER] who spoke yesterday. That gentleman has given us the reasons which induced him to receive his pay—other gentlemen may have other reasons. I do not think with the gentlemen who have said that the rate of compensation is too low—my constituents understood the pay I was to receive when they sent me here, and I am willing to receive it—but if the members of the House are disposed to curtail the rate of pay, I am ready to go with them. The gentleman from Maryland, [Mr. BARNEY], in stating his reasons for thinking the present rate ought to be continued, was pleased to favor us with an account of the manner in which he spends his pay as a member. He said that he could hold up, in this House, a spotless hand of purity, that he kept none of the public money, &c., and one of the reasons is, that he spends so much in deeds of charity, "to cover," as he tells us, "a multitude of sins." Sir, the gentleman has let the House into a secret. I did not know that the gentleman had any sins to cover, except his political sins—and I did hope, that his experience here would lead him to repentance, and that he would, ere long, turn from the error of his ways, embrace the true faith, and come over to the cause of the People, and support General Jackson.

Mr. KREMER said, when this resolution was first offered, I little thought it would have opened such a theme of discussion. It appeared to me so plain a case that I thought it would have gone to a committee without any opposition, and that that committee would have gone on with diligence to ascertain what retrenchment could be effected. I have been disappointed. It has encountered an opposition I little expected, and however unwilling I always am, to address this House, I feel that my duty calls me, and I shall do it. I could agree to waive farther discussion, so far as I am myself concerned, but for the extraordinary course pursued by gentlemen who oppose the resolution. The gentleman from Ohio in particular, [Mr. WATERS] inquires, who is there that knows of any abuses? I will answer the gentleman by another question. Who is there that does not know them? Talk to me of the purity existing here! But we have heard an extract read from our beloved President's message, recommending to us the observance of economy. I ask, in what is it to be found? In sending a superannuated Minister abroad, to do nothing but pocket the money, and leave the public business undone? Is it in the famous mission to Panama, in search of a Congress, that nobody has been able to find? Was this any evidence of economy? The American People will say, we want no such evidences of your economy—we want you to redeem the extravagance of this Government, and bring back to us the old fashioned economy—not the new fashioned. When the elder or first Adams attempted to break the Constitution, and introduce a system of wasteful extravagance, the People measured out to him what justice required; I hope the same justice that was measured to the first, will be measured out to the second. To doubt it, would be to doubt the knowledge, virtue, and intelligence, of the People. And has it come to this? Are we to be told there is no corruption here? Sir, it is little villainy that begets great crimes. It is the bright sun that brings forth the adder. The same law that forbids you to touch, forbids the wish to touch. What have we not seen? Has not a branch of the illustrious men who achieved our revolution had the bread taken out of her mouth, and out of the mouth of her orphan children, to give it to John Binns? And who is John Binns? The Editor of a Journal, notorious for his opposition to Mr. Adams, when he was a candidate for the Presidency, and as notorious for his sudden conversion. Sir, his conversion produced great astonishment, but the mystery was soon explained—the dog had got his sop—some \$1,500 or \$2,000 per annum. A tolerable sop—yet this had no

influence at all on the gentleman's patriotic mind. The printing and stationery was taken from a poor widow, and distributed among the creatures of patronage. I, for one, will vote for the resolution in every shape and form; I see from the discussion that many gentlemen are opposed to it, and the gentleman from Virginia, [Mr. RANDOLPH] said, truly, that it is in vain to attempt now to go to the bottom and ferret out all the abuses that exist. I am well aware of this. I know that the monstrous extravagance of the contingent fund, and such a vast amount of secret service money don't comport with the character of a Republic. What! Sir: Secrets in a Republic! Secrets, sir, and in times of peace! No, sir, a Republic should be as open as day. The People, sir, will frown on these deeds of darkness, and the result of the election of 1828, will proclaim to an astonished world that they are not to be bought and sold. One word more, sir. Let me earnestly urge it on all the friends of reform, that, although the measure is ill-timed, and although we can't reach the bottom of this stinking pool, let us go as far into it as we can. If we fail, though we may not obtain success, we shall have done more—we shall have deserved it. It is not in a day or in an hour, that such a monster is to be levelled. I again invoke the friends of reform, as they hold in veneration the blood of their ancestors, and the memory of their departed worth, not to withdraw their support from this inquiry. Sir, it is in vain that Washington, and Green, and Sumpter, and Gates, and Marion, and Lafayette, hazarded their blood in contending for our liberty. Aye, sir, and that Jackson fought in two wars; and that the great Jefferson labored for us in the Cabinet, if we are now to give up the ship. I hope we shant do it. I hope, like the gentleman from Indiana, we shall nail our flag to the mast, and in such a ship, sir, manned by the American People, and commanded by such an officer, we shall put down all those who dare oppose us.

Mr. BARNEY remarked, that his friend and neighbor, from North Carolina, had presented him with a draft, at sight, which, though not strictly payable to order, as it relates to his political creed, certainly not now under consideration, yet should be promptly honored. Could he consent to descend from his station as a Representative of the People, degenerate into a mere political partisan, put on the badge and livery of party, and become that thing which no freeman could be, and still be free, another man's man—he should with brisk step come to the right about, and in "ore" rotundo, with all the ingenuity he could command, attempt to justify himself to the House for sustaining by his vote those very resolutions which he had opposed in debate; but returning was more tedious than to go on. In a spirit of manly frankness, above all praise, the honorable Chairman of the Committee of Ways and Means had declared that this investigation could not result in convicting the Administration of extravagance or prodigality; and the honorable member from Virginia, whom I do not now see in his seat—

[Here Mr. ALEXANDER rose and said, that he was requested to announce that his colleague [Mr. RANDOLPH] would be necessarily absent during the day.]

Mr. BARNEY continued, that he had not designed to say any thing that would call for remark or reply from that honorable member. His declarations, made yesterday on the floor, fresh in the recollection of all who heard them, were, in substance, that this investigation, if gone into, would rather strengthen than prejudice the Administration. Believing that the utmost purity prevails in our institutions; that they are not only pure, but above suspicion, I have and shall continue to oppose this species of legislation.

While we confine ourselves, Mr. Speaker, to the legitimate duties devolved on us, we continue to be the re-



AN. 26, 1828.]

*Retrenchment.*

[H. OF R.]

representatives of 40,000 freemen; but that moment we descend to become electioneering partisans, we resolve ourselves into units, one in the great mass of our countrymen, possessed of equal rights, and equally competent with ourselves to judge and decide on the important question, who shall become our next Chief Magistrate. I have resolved to steer clear of all party strife, but seek not to conceal my sentiments. I believe the present to be an honest Administration, ably administered. In Mr. Adams I behold a plain unpretending republican, who has enjoyed, in an eminent degree, the confidence of all his illustrious predecessors; incessantly devoting the energies of his vigorous intellect to the advancement of the best interests of his country; while the distinguished services of Gen. Jackson have encircled his brow with a wreath of never-fading glory, and embalmed him in the affections of a large portion of his countrymen. It remains with the only sovereigns, the People, to decide between their respective claims. It is not for me, nor for us, to interfere. We, too, are public servants, and have other important duties assigned to us. My maxim ever has been, and shall be—may the Administration of my country be always right, and while right may it be supported.

I am pleased, Mr. Speaker, that so much of the resolution as relate to our compensation is omitted in the modifications of them. [I am told it is not, and I am sorry for it.] It is immaterial how long the discussion may be protracted, it will all end in smoke. We may continue six weeks longer in a vapor bath, but the per diem will remain undiminished.

In reply to the gentleman from Kentucky—I do not allude to the mover of those propositions, for the conciliatory tone of that gentleman's concluding remarks leaves nothing existing between us except good will, but to the second gentleman from Kentucky—who responded to me, and rode my old horse rather roughly: this was perfectly fair, and had he not alluded to my constituents, I should not complain. They, sir, are so far removed above his censure, that they cannot be elevated by any encomiums of mine. I cannot retort upon his constituents any unkind allusion; an intimate association with them forms one of the most pleasing recollections of my early life, and my district of country feel so strongly the identity of interest which binds the Atlantic border to the Western world, that they are now vigorously employed in facilitating the means of intercourse which are more firmly to unite them as one common family. I will not retaliate, lest I should cause the crimson blush of shame to mantle in the cheeks of those I represent, should I, by any similar coarseness of language, expose myself to your rebuke when interposing the authority of the Chair to sustain the dignity of the House over which you preside, Sir, in a manner calculated not only to command the respect, but to win the esteem of all its members. And although the gentleman has drawn the sword, I do not throw away the scabbard. I will not be forced, in an angry discussion, to retort harshness of invective inconsistent with self-respect.

The gentleman from Tennessee has stated that there are twenty supernumeraries, graduates at West Point now at their homes, unemployed. It is true, Sir. Those young men, in four years devoted to study, are permitted but once to visit their families. After obtaining their degrees they generally receive a furlough of two or three months, which enables them to renew that intercourse, and rekindle that glow of affection to their parents and friends, which too long a separation might entirely alienate. Will any father say that this is extravagant indulgence? It is, however, probable, that at this present moment, there are not vacancies in the army to offer them immediate employment, but in a very short time they become merged in the Register, and cease to be supernu-

meraries. Having seen and known at West Point the destitute orphan son of a widowed mother, who was there educated, and is now one of the most distinguished Professors, I mention the fact, to convince my friend from Tennessee that its benefits are not monopolized by the children of the affluent and influential.

The gentleman from Virginia expressed great repugnance at the idea of a son of his receiving an education at West Point. He would rather he should make his mark, and not be able to read or write. Sir, were this a Charity School, so would every man who had the means to educate his children out of his own purse. Do not those young men repay the debt of gratitude due to the nation? A well organized army, well constructed fortifications, are necessary to its defence. The elements of military science imparted to them become the property of their country, and are called into active requisition, in the construction of its fortresses and resistance to its enemies; and even should they return to the paths of civil life, in imparting their science to the militia, our nation's best bulwark, they thus contribute more essentially to its advantage than while in the tented field. I have never ranked, Mr. Speaker, among the radicals. I hope I shall not be deemed a prodigal, when desiring to be found among those liberal politicians disposed to cherish the existing institutions of our country, and by ample appropriations, commensurate with her resources, advance internal improvements, cherish your Army, your Navy, increase your national defences of every description; and thus accelerate the speed of the Republic in her march to the high destinies which await her, and which can only be arrested by a system of injudicious and wasteful parsimony.

Mr. DANIEL said, that he again felt himself called upon by the allusion of the gentleman from Maryland, to make a few remarks in explanation. I certainly had no intention to wound the feelings of him, or of his constituents. I had supposed, from the many encomiums he passed upon his horse, and the accounts he gave us of the intelligence of that animal, that I had rather paid a compliment to his constituents, and to the gentleman himself, than otherwise, seeing that the animal could be sent upon his rounds without his rider, on an electioneering expedition, to teach to the gentleman's constituents the politics of the day. [Mr. BARNES here shook his head.] The gentleman says I am mistaken. It is possible I was, but I so understood him, and in consequence of this, it was, that I supposed the gentleman's horse more intelligent than his constituents. I reciprocate the warm feelings of the gentleman, for the State I have the honor to represent, and I shall be willing at all times to unite with him in every endeavor towards connecting the Western States of this Union with the State of Maryland. For, I believe that it is by commercial intercourse that the opinions of men are more or less formed, and when that connexion shall take place, I have a great hope of the conversion of that gentleman to the true principles of Republicanism, (which I dare say he considers himself as holding at this time.) The opposers of the resolution tell us that nothing can be done, and one gentleman has said, that all reference to the per diem allowance is left out of it, as now modified. I have not so understood it—I thought that it was made the duty of the committee to make inquiry into all species of retrenchment which can be effected, without injury to the public interest. All resolutions of this description, whenever they are introduced, produce much good. They awaken all concerned to diligence and inquiry; abuses are searched out, and the cause of economy promoted. Yet, it has appeared strange to me, that gentlemen on this floor, while urging every argument they can think of against the resolution, tell us, at the same time, that they are strongly in favor of it. They declare that they are very much in



H. OF R.]

Retrenchment.

[JAN. 26, 1838.]

favor of searching out abuses, though there are no abuses in the Government to search out, and though they are certain it will end in nothing, yet that they support it, and will vote for it. This course of argument appears to me strange. That abuses do exist, I have not the least doubt; if they do not, why do gentlemen oppose inquiry? Can any injury result from it? If the Administration be indeed as pure as some gentlemen seem to imagine, it ought to be their boast and pride that the search should be made, let it result as it will. They call upon us to point out the abuses. Many have already been pointed out. But, is this the time to call out for a detail of the abuses, when we are just appointing a committee to inquire if any abuses exist? They make a question, and answer it themselves. They tell us all is well. Every thing is as it should be. Well, Sir, if so, let the inquiry go on. Let us see if the Administration is as pure as they would have us believe. I acknowledge that I am incompetent to point out the various abuses that may exist in a Government so complicated as ours. It is only from newspaper rumor that I derive my knowledge of it. And, if I am to believe what I see there, then I can have no doubt that there ought to be an inquiry. I could name some offices which have been created under this Administration. The Panama Mission has cost us somewhere about 80 or \$100,000. Has it resulted in any great benefit? A Minister was sent to England, who was perfectly superannuated, and wholly unable to perform any duty, and it was through this that we lost the West India trade, and this, in my opinion, was a great loss. There was another great abuse of power. This man was known, at the time, to be incompetent, and his mission cost us 30 or \$40,000. We have had another Minister sent out since, who has returned without much benefit. There have been other abuses. Men have been paid for taking out despatches to our Ministers who went out in the very ship with the Ministers themselves. I should certainly have thought, that the Ministers might have so far condescended, as to take charge of these documents themselves. Another instance of abuse is to be found in the outfits of our Foreign Ministers. \$9,000 per annum as salary, I should think was an ample provision, without \$9,000 outfit, especially when we furnish a vessel, and bear all the expenses of their transportation to the spot. This in my opinion, is an item which calls for retrenchment, and; under the resolution, it can be reached. But, we not only give our Ministers outfits when they go out, but we must give them homefits when they come home. Was not this the case with young Mr. King? He had an outfit of \$4,500, and yet his homefit was paid him within sixty days. Is there any example of this under other Administrations? Sir, it is enormous. It may appear a little sum, but it is very much if rightly considered. The expenditure of the public money in the Government at home, has been made the subject of equal abuses. In the Quartermaster's Department of the Army, the disbursement of \$300,000, is attended with an expense of 50 or \$60,000. Is there any one who cannot see that this is an abuse? And who is responsible for these things? Who commands the vessel? Who steers it? Sir, the President of the United States is responsible. Gentlemen need not imagine that we are responsible, because we happen to have a majority in this House, and in the Senate. The President is responsible for the whole. I care not whether these offices were in existence before the present Administration came into power, or not. The President ought to examine into them, and if any of them can be dispensed with, he ought to have pointed them out particularly in his message to Congress. He has the entire control over these officers, and may dismiss, any, or all of them, at his will or pleasure. He had it in his power to work a great reform. Did he point out any particular abuse? Did he designate any one of-

fice that could be dispensed with? No Sir. On that subject he was as silent as the grave. Still, we are told that the President has recommended to us economy. Yes Sir, but not in a way which renders it tangible. The recommendation is for the mere purpose of show—that it may go abroad among the People, and benefit him and his cause. Sir, I am clear of one thing. If this resolution shall be adopted, whether Congress do, or not, the People will work a reform. The nation will compel her Representatives to do it. I, for one, will support this cause so long as I have a seat on this floor. I believe that many of the offices under this Government, are mere sinecures, of no manner of good to the public, and that they ought to be abolished.

Mr. McDUFFIE said, that he rose for the purpose of removing an impression which the gentleman from Maryland seemed to have received from the remarks he made when last up, and he did so, not because he thought that his views wanted any farther explanation, but to prevent them from being misunderstood and misrepresented. The gentleman assumes what he is not entitled to assume. He infers, from what, I said, that I meant to declare that no investigation could result in any thing disparaging to the present Administration. Sir, I said no such thing, nor had my observation any such bearing. On the contrary, I have expressly avoided either to inculpate or to exculpate the Administration. It was then my purpose, and it is now to avoid saying any thing which may have a bearing on the Administration, in one way or the other, except what refers to the subject immediately before us. I did say, that the inquiry proposed to be referred to a Committee of this House, would result in nothing this Session. Whether there are abuses or not—whether our Ministers abroad have been sent out too often, and changed without sufficient reason, are questions not involved in the resolution. The question before us is not, what the Government has done—that is past and over—but this is a practical resolution, which has reference wholly to future reforms. Whether the Panama Mission was wise and expedient, or not, is not now before us—that Mission is at an end—it is a matter of history—why, then, bring it up here, and at this time? What I said yesterday, referred to the practical proposition before the House. As such I said, and I still say, that it will end in nothing. As bearing on the Administration, it has no business here. In that character I disclaim it entirely. So much by way of explanation. I will now submit a proposition of amendment. I move to amend the resolution, as modified, by striking out the following:

“And also, whether any, and if any, what measures may be adopted for the more effectual application of the Sinking Fund to the payment of the Public Debt.”

When the original resolution was first introduced into the House. I resisted it. I am equally opposed to any thing else being referred to the committee of Ways and Means, which does not exclusively belong to their duty. If there is any thing which reflects on that Committee, as not having performed its duty, it is the not attending to a rapid discharge of the public debt. So much, therefore, of this resolution, as refers to the public debt, and to the mode of its discharge, will, I hope, be stricken out of it. That subject is before the Committee of Ways and Means. The existing laws give full efficacy to all the means which the country possesses of discharging that debt. No resolution will either hasten or retard its payment. Whatever the surplus in the Treasury may be, it goes, by law, to that object.

Mr. BARNEY said the gentleman certainly did admit that no salaries had been increased under this Administration except that of the Postmaster General, and no additional offices created, save a few Clerks in the Departments. Consequently, that they (the Administration)

JAN. 26, 1828.]

*Retrenchment.*

[H. OF R.]

could not be held responsible for any alleged extravagance, or unnecessary increase of offices.

Mr. CHILTON now signified his acceptance of Mr. McDuffie's amendment, as a modification of his resolution.

Mr. CLARK, of Kentucky, said, that, on the introduction of the original resolution, it had not been his intention to trouble the House with any remarks in relation to it, and his disinclination to do so had been much increased by the very frank, candid, and honorable manner in which the subject had since been treated by the Chairman of the Committee of Ways and Means. I return my thanks, said Mr. C. to that gentleman for the manner in which he has expressed himself. He has said nothing, with the exception of a single paragraph, that does not meet my entire approbation, and I should not now have offered to the House a single remark, but for the language which has fallen from gentlemen friendly to the resolution—language in which they have strongly denounced the present Administration, before any investigation has taken place. It is the office of reason, as it is that of justice, humanity, and Christian charity, always to hear the testimony before judgment is pronounced. I ask gentlemen whether there is any thing like testimony to justify the severe remarks they have made on what they have affirmed to be the profligate expenditures of this Government. I know very well that there is a great deal on this subject in the newspapers, and that, during the last canvass for President, it was in some parts of the country, (and in saying this I do not refer to any individual on the floor) made an instrument by which the public mind was greatly excited. I am now glad to see a prospect of that excitement being allayed by means of the resolution introduced, by my friend from Kentucky. I preferred the original form of the resolution, however, since I think that the Committee of Ways and Means is the proper organ through whom this inquiry should be made. It will be recollected, that, at the last session, the Secretary of the Treasury earnestly recommended the exchange of the sixteen millions of the present six per cent. stock of the United States for other stock, of a later date of payment, at five per cent. by which operation, had it been adopted, there would have been effected a clear annual saving of 160,000 dollars, and I consider it well worthy of consideration by the Committee of Ways and Means, whether such an exchange cannot still be effected. I preferred the first resolution, because it referred the inquiry to a Committee which may justly be entitled the first in this House, and of which I am free to say, that, in its wisdom, application, and integrity, I entirely confide. I think the subject ought to be referred to that committee and to no other. It is one of the peculiar subjects over which that committee is called to preside, by the Rules and Orders of this House; and although I should be loth to burthen the committee with unnecessary labor, yet I consider it of vital importance to call forth in this inquiry, the first talents of the country. It is an investigation, which, from its own nature, cannot properly be executed unless by an individual intimately acquainted with all the operations of the Departments of this Government. The Committee of Ways and Means, in the regular discharge of their duty, have been compelled to acquaint themselves with the routine of business in the Departments. They have the knowledge and are familiar with it, and they could prosecute the inquiry with one-third of the labor that would be required by any other committee of the House; and when they should present a report, it would have far more of the confidence of this House, than if proceeding from any other quarter.

My friend from Kentucky [Mr. DANIEL] supposed that, though the friends of the Administration in this House, have openly avowed themselves to be in favor of the resolution, yet that they have a secret hostility to it, and that

that hostility has been developed in various shapes during the present discussion. If such be the fact in respect to any other friends of the Administration, I, for one, utterly disclaim it. The gentleman who first proposed the inquiry cannot be more anxious for it than I am. I recollect no remark made by any friend of the Administration manifesting any thing like unwillingness that this investigation should proceed. If a single remark of this kind has been made, it has escaped my observation. Gentlemen have indeed rebutted some of the round charges made, without proof, against the officers of the Government, but they have at the same time challenged, instead of deprecating inquiry. I have no doubt that the gentlemen who have made these charges about extravagance, do themselves believe what they have here asserted; but the assertion has certainly been made without a particle of proof, so far as this House is concerned. I do believe them to be entirely sincere, and it is for that very reason that I am desirous the investigation should take place. If there are abuses, let them be exposed. It is our solemn duty to expose every defaulter and every individual who improperly applies the money in the Treasury. I would disclaim the cause of any Administration who applied the revenues of their country to their own private interest, or personal aggrandizement. I don't believe the charge; we have no proofs before us; and years of faithful public service, in the absence of all proof to the contrary, forbid me to believe it. In the keen acrimony of party strife, had any such facts existed, proof would, ere this, have been exhibited in abundance. No proof has been adduced—the charges consist in round assertions. But, I have never yet seen, on the records of this House, any thing that could warrant a belief that those assertions are true. Sir, I have regretted to witness the character of this debate. Surely this is a question which does not characterize party in this House. Surely we have not yet arrived at that degree of mutual ill-will, and that disregard of all public justice, which, when abuses are to be investigated, arrays the members of this House in compact and opposite ranks, for and against any Administration, or for and against any Presidential candidate. Such a state of things were beneath the dignity of this House. Surely it becomes us all to do strict justice to him who administers the concerns of the country, be that individual whom he may. If, on the one hand, it is important to the welfare of this People that their Representatives shall drag forth into public view that man who violates their trust, and expose him to the infamy which he deserves, it is equally important, on the other, that they should measure out to him who has discharged that trust with laborious fidelity, a just reward.

I felt a good deal of regret while I listened to some of the remarks of an honorable member from Tennessee. [Mr. MITCHELL.] I know the good sense, the upright intentions, and the characteristic openness and candor, which belong to that gentleman; and I did think that his candor and good sense might have suggested to him, that, if there be any mismanagement in the Military Academy at West Point, it is not chargeable upon this Administration, because that institution is not a child of theirs, and because the recommendation of the candidates for admission, is a matter in which they have no sort of concern.

[Mr. MITCHELL now requested the gentleman from Kentucky to yield him the floor for a moment, that he might explain, and Mr. CLARK having done so,

Mr. MITCHELL said, that he could assure the gentleman, with the greatest sincerity, that, when he made those remarks to which the gentleman alluded, so far from intending to bring any charge against the Administration, the Administration was not even in his recollection. He was perfectly aware that the present Administration did not create the Academy at West Point, and they had nothing to do with the question as to the policy

H. OF R.]

Retrenchment.

[JAN. 26, 1852.]

or impolicy of such an institution. He never should advance any thing against the present Administration, or any other, without evidence to support it. It did not belong to his character to accuse any one wrongfully, or to cherish personal ill-will against any man or set of men. He made this explanation to the gentleman from Kentucky with great pleasure, because he really believed him to be a clever man. For himself, he did not care with whom abuses had originated; if the Government and the country were ruined, it would make no difference in the result to determine by what Administration it had been effected. He was not desirous of convicting any one, but only sought to remedy abuse, if it did exist.]

Mr. CLARK resumed. I stand corrected. I did not voluntarily misunderstand the gentleman, but the course of his remarks induced the belief that such had been his intention. The gentleman, however, must allow him to make a single remark on the manner in which Cadets were introduced into the Military Academy. He seemed to suppose that the existence of that institution furnished, in itself, an evident proof of the correctness of his remarks that, ever since the days of Mr. Jefferson, the state of the country and of the Government had been growing worse. He spoke of the days of Mr. Jefferson as emphatically the days of our prosperity, but the gentleman surely knew that the Military Academy was organized during those very days. When the gentleman said that its benefits were confined exclusively to the sons of the rich and of the "well born," I do not know that I perfectly understood him. I had always supposed that all were well-born, who came of honest parentage. We have in this country no privileged orders. But the gentleman says, that none are admitted into that School, but the sons of the "well-born and of the wealthy." In this opinion, the gentleman is certainly mistaken. Unless I am greatly misinformed, (and I have my information through a very direct and creditable channel) nine-tenths of those who have been admitted, and are now there, are not the sons of wealthy parents. I admit, however, that they are "well-born;" for, not only are they the sons of honest parents, but a large proportion of them are the sons of officers and soldiers who fell in the Revolution and in the last war. If these are not fit subjects to receive the benefits of that institution, I am at a loss to conceive who ought to be so considered. Their parents were indeed poor, but they were honest and patriotic, and they shed their best blood for that liberty, and all those political blessings which the gentleman from Tennessee now enjoys, and which I hope he may long continue to enjoy. In the charge he made, he was certainly mistaken, and, if he will take the trouble to inquire, he will be satisfied of the fact.

In the specification of items of profuse Public Expenditure stated to the House by my honorable colleague, [Mr. DANIEL] there was one which I certainly did not expect him to make. He tells us that great abuses have taken place in the disbursement of the public funds to our diplomatic corps abroad. If that gentleman will examine the laws which regulate our Foreign intercourse, he will find that not a dollar can be paid out of the Treasury but by the force of law. The rates of the compensation of the different individuals are all fixed by the laws of the land. If he supposes that money can be paid out at the mere will and pleasure of the President, and of the Secretary of State, he is under a great mistake indeed. The law of 1802 fixed the salaries of all of our Ministers; and they are as permanent, and as uniform, and as much beyond the reach of Executive control, as yours, sir. How then, can there be any abuse? You may call on the President whenever you please, and he is bound to lay before you a full account of all that he has done on this subject. Did you not call upon him last session? And at the session before last? Did he not respond to your call? And did you pronounce that there was any thing wrong in the ac-

count which he rendered? If there was, I am ignorant of it. My colleague thinks that the public money was greatly squandered in the appointment of Rufus King to be our Minister to London, and insists that his mission was productive of no public benefit. What was the fact, sir? Mr. King was appointed Minister to that Court, by and with the consent of the Senate—he proceeded on his mission, and was taken sick in consequence—he returned home, and soon after, died. Sir, if the President is to be held answerable for the life and health of every Minister he sends abroad, I should be very unwilling to fill his office. As to the propriety of the appointment, it is not for me to give an opinion. There certainly could be nothing wrong in it, because it was submitted to the decision of the Senate and approved of by them. My colleague said, too, that, although we have had another Minister since, at the same Court, yet nothing has been effected. Sir, my colleague surely forgets himself. It has escaped his recollection that one treaty has been effected, by which \$1,200,000 have been allowed us for slaves taken and carried away during the last war, and that, thereby, a very difficult and embarrassing question between the two Governments has been quieted to the satisfaction of all parties.

But, besides this, the boundary line between the United States and the British Colonies, so long a subject of discussion between this Government and that of Great Britain, has also been settled, and a treaty, defining that line, is now before the Senate for its approbation. The gentleman forgets all these matters. Sir, this is something—what more would gentlemen have to be done? Let them point it out. But the gentleman says we have lost the Colonial Trade in the West Indies, and this has been owing to the inefficiency of the Minister sent to England. Surely the gentleman has forgotten the recent statement we have had laid before us, shewing that this trade is more prosperous now than it ever was before. Sir, the merchants themselves—persons certainly best calculated to judge, and the most deeply interested in the matter, so far from complaining of what has been done, are daily reaping the benefits which have flowed from it. Gentlemen should ascertain the truth, and know the real state of facts, before they make charges such as have been introduced in the course of this debate. I have nothing further to observe, except to repeat that I am in favor of the resolution for an inquiry. I should, it is true, have preferred it in the shape in which it was originally offered—but I shall vote for the modification which the gentleman has substituted, to which, however, I beg leave to propose this amendment—that, instead of subdividing the investigation among the committees enumerated, the whole be referred to the Committee of Ways and Means. Mr. CLARK, however, withdrew this amendment at the request of

Mr. BLAKE, who offered the following amendment to the resolution of Mr. CHILTON, as modified by the mover:

"Strike out all after the word resolved, and insert the following: That the Committee on Ways and Means be instructed to inquire into any abuses which have been, or may be reported to have been, committed by the President of the United States, or any of the Heads of Departments of this Government, in the disbursement of the public money; and whether there is any unnecessary number of officers employed in any of said Departments, and whether any of the said officers receive exorbitant salaries; and, if so, under what Administration the said salaries were created; and, if any, what, retrenchment is the public expenditures can be made, not incompatible with the public interest; and that the said Committee be, and is hereby, vested with full power to prosecute this inquiry fully, and with despatch."

Mr. MITCHELL, of Tennessee, said, I am opposed to the resolution *to* *to* *to*. There is not a feature in it

JAN. 26, 1828.]

Retrenchment.

[H. OF R.]

which I should embrace, if left to my own views of the matter. It is not, however, my intention to enter into the discussion again. The feebleness of my health would forbid it, if there were no other considerations to restrain me. The House, I believe, will do me the justice to acknowledge that I never yet have intruded myself on their attention a second time, upon the same subject. I rise merely to support the allegation which I made, which, to my mind, is as irrefragable, as the rock of Gibraltar is immovable. I said that the benefits of the Academy at West Point are given to some of the well-born, and as the gentleman professes not fully to understand the meaning of that expression, I will treat him with a dissertation upon it. None can abhor the word more than I do: for this is a Government where merit ought to rise, from whatever station it may proceed. But the Government has converged; the poor and humble are looked upon as "*canaille*," to use an expression of the hon. gentleman from Virginia, [Mr. RANDOLPH] but the man possessed of thousands of dirty acres, (no matter how he may have got them) is regarded as a person of consequence and consideration! It is the sons of these, and such as these, who are called the well-born. But there is a species of people among us whom the Government has fostered, even on this floor, who esteem wealth more than they do all the knowledge, talent, and virtue, of a sage. I acknowledge that property is a great blessing when bestowed by the munificence of Heaven upon men of talents and integrity, who consider themselves as stewards for the benefit of society; but there are others, in whose hands property is one of the greatest of curses. I hope that the gentleman, by this time, has a full view of what I meant by the term well-born. Sir, I know of no such thing as personal distinction, under this Government. I see, indeed, an attempt at it, but that attempt is odious to me, and to all who think as I do.

Now, Sir, who are in this West Point Academy? One gentleman tells us that there is to be found the son of a widowed mother. Sir, I should be glad the gentleman would name him. I certainly never heard of such a one before. [The honorable member here named some of the youths who were at the Academy, whose names and parentage the reporter was not able to catch with sufficient distinctness to embody them in this report, commenting upon them as he went along.] Sir, I feel no enmity whatever towards those who conduct that institution. God bless them—they are in what they believe to be the course of their duty, and it is not with them that I find any fault. It is the institution which I hate, and I hate it for the reasons I have stated. From a district adjoining that of my colleague, there is a young man of wealth and splendor—but, Sir, this proud soul of mine shall be bent as low as that point of degradation to which the Government seems likely to bring us all, before a son of mine shall be brought there. Notwithstanding I have the same privilege with other members, I should deem myself unworthy of the confidence of the hundred thousand souls who have sent me here as their Representative, if I could use that privilege in favor of any son of mine. Sir, my colleague did me no more than justice, when he said that I usually speak with caution in this House. Sir, I never speak unadvisedly; neither is it my desire or intention to hurt any one. I am, it is true, the son of a corrupt and fallen race, but my conscience does not reproach me with ever designing to speak what is wrong. In what I said of this Academy, I spoke from data, as I hope the gentleman also did when he told us about the son of a widow who had been received there. I know him not, and I protest before Heaven and this House, that it is my sincere belief that no son of a forlorn and destitute widow has ever been received there. But when I speak of a forlorn and destitute widow, I do not mean a woman who has merely lost

her companion in life; by that description I understand a woman depressed by poverty, who has a family to maintain, and who is compelled, by necessity, to drudge from the morning to the night, (like the unwearied ant) for her offspring. She is a forlorn widow, and I never yet heard of the son of such an one being recommended and admitted to the West Point Academy.

One word, sir, on the amendment. When the member from Kentucky, [Mr. CHILTON] first introduced his resolution into the House, I saw nothing in it which related particularly to this Administration, or to any other. In my apprehension, it had not even a squinting towards it. I thought that it was sincerely meant, and that it was such a resolution as became the Representatives of an honest People, and I believe that its adoption would be a benefit to the nation. I did think, and still do think, that a number of the officers under this Government might be dispensed with, although I well know that many must be retained. The gentleman from Kentucky, [Mr. CLARK] has given to it a political cast; he wishes us to send to these officers, that they may declare whether they have received too much. They are to tell us whether the regalia of Government are necessary or unnecessary. Sir, will you come to me to inquire whether I have done any thing worthy of punishment? I should never tell you any thing which will condemn myself, nor would I ask such a thing from another. Why, then, has there been such a waste of time in repelling charges against the Administration? But, sir, whenever persons attempt to procrastinate inquiry into their conduct, it is very natural to suspect that they know of something wrong. I do not know that such is the fact; but I do know that Republics, like all other Governments, are prone to run into extravagance and profligacy. When I spoke the other day, in support of this resolution, I had no apprehension of the buzz that would arise on all sides of us. Sir, I was brought up in the State of Virginia, in the dark and eventful days of '98. I have been a strict observer of public men and public things ever since that time. I know very well when the Military Academy was established, as well as when the other breaches have been made upon our liberty. But if any thing which fell from me was considered as making war upon an Administration which is already borne down, I was greatly misunderstood. I have no such purpose. Where the error lies, there let the investigation search it out. But, for God's sake, let us leave alone this political dispute.

Mr. CLARK now rejoined. If I had thought there would have been any difference as to facts, between the gentleman from Tennessee and myself in relation to the Military Academy, I should not have referred to that subject at all. The intelligence I received, I considered as authentic. It certainly was direct: for I had it from two young gentlemen just come from the Academy. The gentleman alluded to the Cadets from my district. The practice, I believe, at present adopted by the War Department, is to allow the member from each district to select the Cadets from that district. I know of but two Cadets from my district. If the gentleman knows of four, it is more than I do. The admission of one of these was obtained by me, and he is the son of a poor widow, whose husband fell in the service during the last war. The other is the son of a man of very high talents, but of moderate circumstances. With this selection I had nothing to do. It was made by the two Senators from my State.

Mr. ANDERSON, of Pennsylvania, said, that he regretted that the amendment offered by the gentleman from New York, [Mr. TAYLOR] had been put out of the view of the House, by the modification which the gentleman from Kentucky [Mr. CHILTON] had been pleased to make in his resolutions. He thought it more intelligible, and the language less exceptionable, than any one of the forms in which the subject had been presented to

H. OF R.]

Retrenchment.

[JAN. 26, 1828.]

the House, and he was very sorry it had been put out of view. His honorable colleague [Mr. BUCHANAN] had objected to the amendment, because it did not embrace what he conceived to be a very important part of the original resolutions, relating to the extinguishment of the public debt. That as some gentlemen entertained doubts of the expediency of paying off the public debt, and believed we were discharging it too rapidly, it was all important that this paragraph should be retained. Mr. A. observed that, as the inquiry proposed to be made by the resolutions appeared to be predicated upon the supposition that it was expedient to discharge the public debt, it might be of importance to his colleague that this object should be placed in the front rank. But, as regarded the simple abstract question of the expediency of extinguishing the public debt, he thought that a vote of the House, establishing the fact, could be of no importance at this time. He did not believe there was a gentleman on the floor, who seriously entertained the opinion that a national debt was a national blessing, or that it would be unwise for this, or any other Government, to liquidate and extinguish their public debts as speedily as the means they possessed would enable them.

The supposed prodigality and extravagance of the Government for some time past, had afforded a rich theme for declamation throughout every part of the United States. Newspaper essayists had been clamorous on the subject. And where, he would ask, have we been told, we should find evidence of this prodigal expenditure of the public revenue? In the subordinate offices of the Treasury Department? No, Sir. Where, then, are we told we should find it? In the East Room. There, it has been boldly asserted would be found the glittering and costly representatives of thousands upon thousands of the public money. There, Sir, we have been informed, we should find the most incontestible evidences of the extravagance and prodigality of the present Administration. And what is the fact? After being led by curiosity, or by the glaring light of this ignis fatuus, to its pretended location, what do we find? Nothing, except a few chairs, apparently of domestic manufacture, and of little value. He would beg leave to ask, what had gone with all this costly furniture, if it ever was there? As that constituted a very important part of the duties of the Committee of Ways and Means, which devolved upon them by a Rule of the House, he had no doubt they would inform us. For the purpose, then, of ascertaining whether such an unpropitious state of things did exist, in relation to the management of our financial concerns, he was willing that the inquiry should be made, and that the fact of their existence or non-existence should be disclosed. If a disease so alarming, and so malignant in its character, existed in the body politic, let a prompt and efficient remedy be applied, lest, by delay, the disease should become incurable. If reform was necessary, let us go to work promptly. If retrenchment in all or any of the Departments was required, let the fact be speedily ascertained, and the remedy applied. If, on the contrary, it should be found, on inquiry, that no reasonable ground of complaint existed—that all the subordinate offices were indispensably necessary for the despatch of the public business—that the salaries of the officers and clerks were not extravagant—let the public know it.

All his deliberations on the subject had led to the conclusion, that, as all those offices, about some of which so much had been said, had been established by legislative acts—that, as the salaries of the officers and clerks were fixed by law, and graduated, no doubt, by a due regard, as well to the public interest, as to the nature and importance of the services to be rendered—it would be uncharitable in him to charge the Government with extravagance, unless he had better information, and stronger evidence of the fact, than could be derived from newspaper essays.

He should not, he thought, be passing a very handsome compliment, on the very able and highly distinguished predecessor of the present honorable Chairman of the Committee of Ways and Means, should he be induced to make a charge so illiberal.

Mr. CHILTON said, that he did not rise for the purpose of entering into the argument. He would only offer a few words of explanation, and then wash his hands of the resolution. I am clearly convinced that my original motion has been entirely mistaken by a number of gentlemen on this floor. It was not intended either to whitewash or to pull down the Administration of my Government, nor to advance the interest of any great political aspirant, and I can assure gentlemen that I had not my eyes so particularly fixed upon myself, as to introduce this inquiry with a view of paving my way for a future return to this House. I had understood that abuses did exist, and that there was an extravagant expenditure of the public money. And lest this House and my constituents should suppose that I have in the least recoiled from the ground I took, I now declare that my opinion is still the same. I still believe that the People's money has been expended for what is wholly unnecessary. But the expression of my opinion might possibly not express that of the House, and being warned by many of my friends that this resolution would be more acceptable if its form was somewhat changed, I was induced to modify it in the manner which the House has witnessed. I hope, however, that this will not be considered as an abandonment of the ground I first occupied. It is not my present design to engage in a discussion of the merits of the proposition. As far as it might have been unwise to introduce such a resolution at the present moment, it is to me a subject of regret. But I never can regret it, when I take into view my situation, the opinions of my constituents, and the present situation of the People of Kentucky. If I have thrown a firebrand into this House, I regret it sincerely: for it has with great truth been said, that time is money, and it is possible that much time might have been saved if this discussion had not been introduced. I am certainly indebted to the House for the great attention they bestow upon my resolution, as well as upon my remarks, whenever I have made any. The principal objection to the length of the debate, is the consumption which it occasions of the money of the nation. I enjoy, however, the consolation of believing that I have consumed but about three quarters of an hour in all. For that I am responsible, and for no more.

Mr. BLAKE, of Indiana, said, that he returned his thanks to the gentleman from North Carolina, [Mr. CARSON] for the kind feelings which he had expressed towards him. In relation, however, to the great political contest which now agitates this nation, I, said Mr. B. am acting on the honest conviction of my own mind; and as relates to the contest in this House, in so far as I may be concerned in it, it shall be conducted by me openly, honorably, and generously. I confess it appears strange to me that gentlemen should take exception to the amendment I have proposed. Surely, if any amendment was ever introduced into this House, which might be said to embrace the views of all, this is such a one. Do any gentlemen complain that there is extravagance in the expenditure of this Government? They will find in the amendment an inquiry respecting retrenchment. Do they think that the number of officers is too great? They will find that in this amendment, that also has been contemplated. If they suspect there has been any improper conduct on the part of the individual who is at the head of the Government, they will find it proposes an inquiry into that subject. Do they apprehend the existence of corruption in the heads of any of the Departments, whether of State, or of War, or of the Treasury, or of the Navy? They will find that all these are embraced by it. What were the

[JAN. 26, 1828.]

*Retrenchment.*

[H or R.]

views of the gentleman from Kentucky, in first introducing the resolution? Were they not directed to an inquiry? I certainly so understood him. If then abuses are to be ferreted out, if the saddle is to be put on the right horse, does not the amendment provide for it?—and that, sir, is the wish of the People. As to the reference of this inquiry to the Committee of Expenditures, I have no doubt, whatever, that the members of that Committee have sufficient talent, zeal, and patriotism, to perform this duty in a proper manner. But I prefer the Committee of Ways and Means, because I think them, from their situation, best qualified to institute such an inquiry. Could any gentleman hear the remarks made yesterday by the gentleman who presides over that Committee and not be satisfied that, if any person on this floor was intimately acquainted with the various modes of disbursing the public money under this Government, it was himself? I consider it as especially proper that the investigation should be made by that Committee, rather than by any other. From that gentleman's situation, as well as from his talents, he must be better qualified to prosecute it in a full and ample manner, than other gentlemen, who do not possess the same advantage. A report from that Committee will, I am persuaded, satisfy this House, and, what is of more consequence, it will satisfy the sovereign People. I have every confidence in the talents of that gentleman. They are known not only here—they are well known to the whole nation. And, from the high sentiment of honor he is known ever to cherish, from his frankness and generosity, and his capacity for application, I am persuaded a more proper reference could not be made. I now move you, Sir, that, when the question on the amendment is taken, it be taken by yeas and nays.

The SPEAKER put the question on ordering the yeas and nays, and it passed in the affirmative. So the yeas and nays were ordered.

Mr. BUCHANAN said, I do not rise to prolong this debate, by entering into a general discussion of the subject. Sufficient time has already been wasted upon it. When it was first introduced to the House by the gentleman from Kentucky, I did not anticipate that it could have occupied so much of our time as it has already done.

My single purpose, at this time, is to notice an observation which was made yesterday, by the gentleman from Ohio, [Mr. WATSON] in relation to the Committee of Domestic Manufactures. This task I should not have undertaken, had the members of that committee been present in the House, either yesterday or to-day; because, we all know they are perfectly able to defend themselves. It is well known that they now are, and for a considerable period they have been, absent from the House, by leave, discharging the arduous and important duties which the House have thought proper to impose upon them. If the gentleman from Ohio had recollected this fact, he surely ought not have made the remark which he did.

The gentleman, in reply to a remark made upon this floor, said, he feared there was no danger that we should have a tariff forced upon us during the present session. That we had not yet heard any thing from the Committee of Manufactures, and his constituents feared we should not hear from them during the present year. The gentleman evidently intended to convey the idea to this House, and to the nation, that the committee were opposed to the great interest intrusted to their care, and wished to defeat the passage of any tariff during the present session. I ask what evidence is there, to justify the remark of that gentleman? When the House gave the Committee of Manufactures the power to send for and examine witnesses, one of the members of that committee distinctly declared, upon this floor, that they would

report during the present month. The gentleman ought, therefore, in common justice, to have waited at least until the close of the month, before he began to complain. It will be time enough to charge the committee with neglect, when the period shall have elapsed, within which they avowed their intention to make a report.

I will inform the gentleman, that the members of that committee have faithfully and industriously devoted themselves to the performance of their duty. Their labor has been almost incessant. They have for some time been occupied not only during the whole day, but a great part of the night, in examining witnesses. When they shall make a report to this House, it will be one resting upon facts, not upon vague and contradictory opinions. It will convince all, that the House acted wisely in granting that committee power to send for persons. For my own part, I am firmly convinced, that the facts which the committee have collected, instead of retarding, will greatly expedite the passage of a wise and judicious tariff. They will serve to conciliate the enemies of the system, by furnishing them with convincing testimony, that domestic manufactures really do require additional protection. I have no doubt such a bill will be reported, as shall unite the gentleman from Ohio and myself in its support; although, during the present session, we have stood in opposition to each other, upon almost every other question. Upon this occasion, I shall be glad to embark with him in the same vessel, and I trust we shall have a prosperous voyage.

As the House appears determined to pass some resolution upon the subject now before them, I shall take the liberty of making a suggestion in relation to the Military Academy at West Point. It is chiefly intended for the committee who may have charge of the resolution.

I cannot agree with some of the gentlemen who have addressed the House, that the Military Academy should be abolished. On the contrary, this Government, possessing the power of making war, and being under a solemn obligation to provide for the common defence, owe it to themselves and to the People of this country, to furnish them with the means of military instruction. War, especially in modern times, has become an art, nay a science, so extensive and so complex in its nature, that its theory can only be acquired after years of application. A Military Academy is the best plan which has ever yet been devised of communicating military instruction. It is true that a few men, of brilliant genius, have appeared in the world, who, without a military education, by mere intuition, have excelled in the art of war. These splendid exceptions ought not to detract from the general rule that a military education is necessary to make a skilful and efficient officer.

Gentlemen have complained, and I believe with justice, that there now are several supernumerary Cadets. I would suggest the source of this evil to be, that the Military Academy is too large for the Army—or, any gentleman will have it so, the Army is too small for the Military Academy. A just proportion does not exist between them. The supply of officers which the Academy furnishes is too great for the demand of an army not amounting to 6,000 men. This state of things gives birth to another evil. No man who now enlists as a private soldier in the Army, no matter what may be his capacity, or what may be his conduct, can ever expect to be promoted above the rank of a petty officer. He can never indulge the hope, which the policy and the practice of the wisest nations have sanctioned, that he may one day become a general officer. Every avenue to promotion is closed against him by the graduates at West Point, who always have the preference, and are more than sufficient to furnish the army with officers.

Whether the Government, in addition to furnishing the



H. or R.]

Retrenchment.

[JAN. 26, 1828.]

means of a military education, ought to feed, and clothe, and pay the Cadets, whilst they are receiving it, is a question well worthy of the attention of the committee to whom this subject may be referred. One thing is certain, that, whatever other sins may be fairly chargeable against the present Administration, they cannot be justly chargeable with the establishment of the Military Academy.

Mr. WRIGHT, of Ohio, said, his principal object in rising was to return his thanks to the gentleman from Pennsylvania, [Mr. BUCHANAN] on this side of the way, who has just taken his seat, for the information he had given him in relation to the Tariff and the Committee of Manufactures. I rejoice, sir, said Mr. W., at the assurance that the House may soon expect to hear from the committee, and to receive a bill; and, as one among the means of quieting the fears of my constituents, in relation to that subject, I hope to be able, this day, before the mail closes, to despatch the information West. The farmers and manufacturers in my district, sir, and in Ohio generally, will rejoice at receiving such cheering news. The gentleman, however, errs, in the supposition that I introduced the Tariff into this discussion. It was introduced by the gentleman from Virginia, [Mr. FLORENCE] and, in reply, I only adverted to the fears that had taken hold of my constituents. I rejoice that he has afforded even a small crumb of comfort for them. The gentleman errs, also, I believe, in the supposition that no one of the committee was here on yesterday to hear my remarks, and to reply. I may be mistaken, but I think some of the committee were here, heard what was said, and might have replied. I shall be pleased to go along with the gentleman in the support of a Tariff, and hope still to be able to accomplish something to relieve the great interest suffering for want of protection.

While up, sir, I may as well notice the remarks of the gentleman from North Carolina, in relation to this and other subjects. He has cautioned us not to attempt to force a Tariff upon the South, and assured us that his constituents and the People of the South will be forced to resist—that they will not submit. Well, sir, suppose they do resist, and will not submit, what then? Are we to disregard the importunity of our constituents? Is the Union to be dissolved? Will the gentleman and his Southern friends dissolve the partnership, and set up for themselves? Or do I do injustice to the character of the Southern People, in the supposition that they will submit, like good citizens, as they have heretofore done, to the laws Congress may see proper to pass on that as well as other subjects?

[Mr. CARSON rose to explain. He certainly did not intend that the Southern People would resist a Tariff deliberately passed; but he complained of forcing a Tariff by the use of the previous question, before they were ready for it.]

Mr. WRIGHT resumed. And, sir, if we are to wait the passage of the Tariff till the gentleman and his Southern friends are ready for it, then God help my constituents and the manufacturers! They are doomed to suffer, with no prospect of relief. The gentleman and his Southern friends will never be ready to receive the measure. The pill will always be bitter to them, and if we are to wait till they are ready to receive it, without the use of any force, our hopes are gone. Sir, this measure, I hope, will soon be introduced, according to the information of the gentleman from Pennsylvania, and that we shall seriously engage in forcing it through this House, until we shall obtain our object, and then we shall see whether the Southern People or the gentleman's constituents will resist and dissolve the Union, or whether I do them injustice in supposing that, as heretofore, they will submit, as becomes good citizens, to the laws Congress shall deliberately pass. Sir, the gentleman from North Carolina

has gone into a discussion of the constitutionality of a Tariff having for its object protection to manufactures. I will refer the gentleman to the first act of Congress under the present Constitution, fixing a tariff of duties, passed in 1789. In the preamble to that law, he will find, as one of the objects set forth as requiring the passage of the law, that of protecting and encouraging domestic manufactures occupied a conspicuous place. When the gentleman reflects who composed the Congress that enacted that law; when he shall recollect that it was composed of the heroes and sages of the Revolution, and of the patriots that framed our Constitution of Government—a structure which has secured our liberties and elicited the admiration of the world, he will, I trust, agree that I do not disparage his merits in saying that they understood the meaning and construction of the work of their own hands at least as well as he does. But, sir, I do not rest on this alone. I have another authority at hand—the opinion of one that, I trust, the gentleman will not question. On the 9th of January, 1816, Thomas Jefferson wrote a letter to Mr. Benjamin Austin, of Boston, on this subject, an extract from which I will read, for the edification of the gentleman from North Carolina, and I beg his particular attention to it. Mr. Jefferson says: "To be independent for the comforts of life, we must fabricate them ourselves. We must now place the manufacturer by the side of the agriculturist. The former question is suppressed, or rather assumes a new form. The grand inquiry now is, shall we make our own comforts, or?"

[Mr. HAMILTON, of South Carolina, called the gentleman to order. He asked if it was in order to discuss the Tariff on the present resolution?]

The SPEAKER replied, that the gentleman from Ohio was not discussing the Tariff, but replying to the arguments advanced by the gentleman from North Carolina, and was in order.]

Mr. WRIGHT. I thank the gentleman from South Carolina for his supervision over me, and kind concern lest I should get without the rules of order. Mr. Jefferson says—"The grand inquiry now is, shall we make our own comforts, or go without them at the will of a foreign nation? He, therefore, who is now against domestic manufactures, must be for reducing us either to a dependence on that nation, or be clothed in skins, and to live like wild beasts, in dens and caverns. I am proud to say, I am not one of these. Experience has now taught me, that manufactures are now as necessary to our independence as our comfort." This, to me, sir, would be a sufficient authority, if I doubted of the constitutional power or expediency, which I do not. I hope I have removed the constitutional scruples of the gentleman from North Carolina, and this authority will tend to remove his doubts of the expediency of protecting manufactures. The gentleman and his friends have the alternative: will they protect manufactures, and make us independent of foreign nations, or will they sink us to dependence on foreign nations for our comforts and necessities, or drive us to clothe ourselves in skins, and to live like wild beasts, in dens and caverns? Let them choose which.

The gentleman from North Carolina has taken occasion also to animadvert upon a certain secret committee, with which he supposes I was some way connected. He said, in relation to another subject he discussed, that certain observations he had heard showed a profound ignorance of the subject. He will take no offence, I hope, if I adopt his own language, and say, that his remarks as to their matter showed a profound ignorance of the subject he discussed.

[The SPEAKER called Mr. W. to order, and remarked, that it was not in order to use personalities in debate.]

Mr. WRIGHT replied, that he was aware of that; but he said, I think, sir, it is in order to reply to personalities gentlemen have been allowed to use towards me.



[AN. 26, 1828.]

Retrenchment.

[H. or R.]

The SPEAKER said, certainly; but the Chair did not understand the gentleman from North Carolina to make personal allusion to the gentleman from Ohio.

Mr. WRIGHT said, he understood the gentleman so; and I appeal to the gentleman to avow or disavow his intention to give his remarks a personal application to me.

Mr. CARSON replied, that he had stated that it was probable that he might with propriety refer that gentleman to a committee organized here last Winter, denominated the Secret Committee, for an answer to his interrogatory; but he spoke of that committee from newspaper authority. The newspapers did refer to that gentleman, as connected with that committee.

The SPEAKER observed, that he had not understood Mr. C. as making a personal application of his remarks, or he should have called him to order.]

Mr. WRIGHT resumed. Sir, I say, the gentleman, in his assertions, to use his own language, showed himself profoundly ignorant of the subject. Sir, I never attended or belonged to any such secret committee; no list of any such committee was ever made out by me, and none such was ever published, so far as I know. I would advise the gentleman to use greater caution in advancing charges here.

The gentleman from North Carolina has presented, in formidable array, the payments to John A. King, as Charge d'Affaires at London—to J. H. Plessants, a Messenger employed in foreign service, and to the Secretary of the Panama Mission, and asks me and the House, is not here evidence of corruption and profligate expenditure in the Administration? Now, sir, what was paid to King, what to Plessants, what to the Secretary of the Panama Mission? Was the payment made to either out of the usual and ordinary course of such things in the Departments? I do not know. The gentleman has not told us. When the gentleman undertakes to specify his charges, he is bound to make them explicit; but I am in favor of inquiry, although I do not believe the abuse exists in these expenditures. But, sir, I was really surprised, when the gentleman was arranging and displaying his formidable array of profligacy, he should have been altogether silent on two subjects, with at least one of which the gentleman is supposed to have been familiar. I mean, sir, the expenditure of fifty dollars (not out of the People's money; no, sir, but from private funds) for an old billiard table,\* and the expenditure about which so much has been said, in procuring the "gorgeous, splendid, and princely furniture of the East Room of the President's House." I was indeed surprised at these important omissions, and suppose they were accidental. The gentleman had spoken of the friends of the Administration who were opposed to the inquiry. Who are they? I am not one. I have supported the inquiry in its utmost latitude, and challenged the fullest investigation. Have any of the friends of the Administration opposed the inquiry? The gentleman has not himself supported the inquiry. He voted to lay it on the table—to stifle it in its bud. Among others who opposed the inquiry, and voted to put it on the table, we find the two gentlemen from Virginia, [Mr. RANDOLPH and Mr. FLOYD] the Chairman of the Committee of Ways and Means, [Mr. McDUFFIE,] and the gentleman from Pennsylvania, on this side of the way, [Mr. BUCHANAN.] These gentlemen will

not feel flattered with being called friends of the Administration.

While I am up, I will take some little notice of the course pursued by the gentleman from Virginia, [Mr. RANDOLPH] who yesterday was in the way, but is now, I am sorry to observe, out of the way. That gentleman took occasion to say to the House, yesterday, that he had done with me forever. Why this was declared, I neither know nor care. When I discovered he had fallen into error as to a remark of mine, I rose and proffered to put him right as to the matter misunderstood, if he would yield me the floor. This was abruptly refused. I then promised to notice him on some future occasion, and this is that occasion. On at least two occasions this session, I have yielded the floor to that gentleman, at his own request, to permit him to explain, and once when the matter explained had no connexion with my remarks on the subject I was discussing. I complain not of the gentleman's refusal to return this common courtesy, to admit an explanation of an error connected with myself. It is not my habit to complain. Whenever it shall suit the high-minded and chivalric Representative from the Ancient Dominion to show himself less civil and courteous than the newest member of any Legislative body—let him do so. The gentleman may be assured of one thing, however—if he has done with me, I have not done with him. I assure him I am not to be got rid of so easily; and whenever, while I have a seat on this floor, in my opinion, it will subserve the interests of my constituents or the country, I shall take him and his arguments, and handle both or either, as I shall think fit and proper, keeping within the rules of the House, and he may get rid of me, as he can. The gentleman asked, with great emphasis, who has made this House an arena for political gladiators? Who has? I have never introduced a proposition into the House calculated or intended to elicit political warmth or discussion. I have not done the deed. The gentleman himself can better answer the inquiry than I can. Who has, time and again, here and elsewhere, entered into discussions tending to no other result than political excitement and animosities? When gentlemen having, as they now have, a majority, will introduce propositions of a political character, we have no choice, but must submit or discuss the best way we can. The gentleman seemed inclined to shift off responsibility from the majority, and throw it upon us; but that is not a work of easy accomplishment. He must take the responsibility he has obtained. He may give us as many "descantations,"—I use a word I heard from his own lips some years ago in this Hall, and which then troubled him much—as many descantations, on this subject, as he pleases, he cannot throw the responsibility of their measures on me, or those with whom I act. The gentleman, with much asperity, adverted to the votes of the present Chief Magistrate, while in the Senate of the United States, in reference to the acquisition of Louisiana. Is that, sir, one of the sins of the present Administration? One of the abuses this resolution is intended to remedy? If the gentleman will take the trouble to examine into the matter he alludes to, he will find I think, that the scruples and doubts of the present President on that subject, were of a constitutional nature, and connected with the exercise of the power to extend, under the Constitution, over Territories not within the jurisdiction of the United States when the Constitution was framed, and he will find also, if I mistake not, that all the scruples and doubts he entertained, were also entertained by Mr. Jefferson, through whose instrumentality the Territory was acquired. If these opinions furnish no evidence of hostility in Mr. Jefferson to the acquisition of Louisiana, how can they furnish evidence of such feeling in Mr. Adams? Much more—how do they afford evidence of the profligacy and extravagance of this Administration?

\* [The following certificate of Mr. NOURSE is added, at the request of Mr. W.]

Treasury Department, Register's Office, June 2, 1827.

I hereby certify, that, in the settlement of the furniture account of the present President of the United States, there is not any charge made by him, nor payment made by the United States, for a billiard table, cues, balls, or any appurtenance in relation thereto; neither has there been any charge, or payment made, for backgammon boards, dice, or any appurtenance in relation thereto; nor for any chess boards, chess-men, or any appurtenance in relation thereto.

JOSEPH NOURSE, Register.

H. or R.]

Retrenchment.

[JAN. 26, 1828.]

In descending upon the situation of things here, the gentleman from Virginia has adverted to what he is pleased to term, the workings of an organized phalanx on our side of the House, and lamented the want of concert on his, and deprecated the introduction of propositions without consultation and agreement. He took occasion to admonish the gentleman from Kentucky, [Mr. CHILTON] that young physicians should stand by and not attempt to administer medicine. Adverting to the success attending the efforts of the party with whom he acted formerly, he attributed their success to concert, consultations, and arrangements out of doors. Their young doctors did not introduce propositions the party did not approve of. Sir, what follows from all this? Will any gentleman rise in his place, on this floor, and say that the Legislation of Congress, in order to make it subservient to party purposes, shall be subjected to the control of a secret irresponsible caucus out of doors? A caucus that shall not only determine what propositions shall be introduced, but the time of their introduction, and the persons who shall be permitted to bring them forward, or advocate them? Are we to come to that? I trust in God, sir, that time never will arrive, and that no one will ever be found here hardy enough to avow such a purpose. But, sir, if the time ever shall arrive, and the gentleman from Virginia, or any other gentleman, shall avow such a plan, and attempt to bring it into practice here, that he will meet the indignant frown of the House and the nation, and be put down forever.

I have attracted the notice of the gentleman from Pennsylvania, who, a short time since, occupied a position near the door, but is now I know not where, [Mr. KREMER] and I may be expected to pay him a passing notice. That gentleman has altogether mistaken the side I advocated, in ranking me among the opposers of the measure, which I should not have supposed he could do, unless he were asleep when I spoke. Sir, whenever that gentleman rises on this floor to "cry aloud and spare not," although his remarks have not the charm of novelty to recommend them, being made up of a set of words and phrases, which, with a little alteration, are made to suit all occasions, yet there is something in the matter and manner so infinitely farcical and amusing, both to myself and the House, that I cannot find it in my heart, by any reply of mine, to interpose the slightest obstacles in the way of exhibitions, affording so much entertainment to all around me.

Mr. KREMER, of Pa., said, in reply, I ought to thank the gentleman from Ohio for being so greatly amused by me. I wish I could return the compliment by saying, that I was either amused or instructed by him. But it was the reverse: for he never speaks, but he reminds me of an old hen, who is eternally cackling, cackling, and never lays an egg. I have now done with the gentleman.

Mr. CARSON spoke in reply to Mr. WRIGHT. I cannot regret any thing that has fallen from that gentleman; he can say nothing which can affect me. I am perfectly secure from his malignant shafts—

[Here the SPEAKER interposed and reminded Mr. C. that such remarks were out of order.]

I submit to the Chair—I was only replying to the remarks of the gentleman which had a personal bearing upon me. Sir, I do not regret being profoundly ignorant of all that gentleman's secrets, and of all his secret movements, and thus for causes which it would be out of order to mention, and which I therefore leave to be inferred. The gentleman regrets that I had not enumerated among the items of profuse expenditure, the disbursement of \$50 for an old billiard table. He says that that item was not paid out of the public money. I must be permitted to correct him. It was paid for out of the public money—out of an appropriation made by this House, and to deny it is to utter a libel on the President's Private Secretary,

and on the committee who reported the account of those disbursements to this House. Sir, I have once noticed this item, and, as appears, with more effect too than that gentleman is gratified to learn. When the account of those \$14,000 was rendered, it struck me as of a most extraordinary character, particularly those items about the billiard table, cues, chess men, &c. If it be true that these sums were not taken out of the public money, whose fault is it that such an impression was made here? I proceeded on the evidence of the documents before me, and I now hold in my hand the official report of a committee of this House, containing the official statement of the Private Secretary of the President. Sir, what are these items? Permit me to read them, for the purpose of refreshing the honorable gentleman's memory.

Mr. CARSON then read from the report of Mr. VAN RENSSELAER, No. 122, made the first Session of the Nineteenth Congress:

"Letter H contains the official report of Mr. John Adams, jun., Private Secretary of the President," in which are the following items:

"To Lazare Kervard, for a billiard table	- \$50 00
"To Littlejohn, for cues	- 5 00
"To Pishey Thompson, for chess-men	- 23 50
&c. &c."	

And I particularly call the attention of the gentleman from Ohio to these items, in order that, when he goes home, he may be enabled to state the truth to his constituents.

Sir, no young gentleman deserves more credit for the accuracy with which his accounts are kept, than the Private Secretary of the President. He first charges himself with the amount of the appropriation, \$14,000, and then he proceeds in the most exact and regular manner to detail the items on the opposite side of the account. Even the dates of the receipts are stated; and he concludes by striking a balance, in making up which, these items of billiard table, chess men, &c. are included.

Now, what is the part taken by the Administration in defence of these items? I thought it was extraordinary, after having just received \$14,000, they should ask the House for \$25,000 more; and when this application came before the House, I stated, as a reason for opposing it, the improper manner in which the appropriation already granted had been expended, and remarked upon those items as set forth in the account. This gave rise to a good deal of conversation about the billiard table.

The President has said, as I am informed, by a letter written by the gentleman from New York [Mr. VAN RENSSELAER] that this item in the account was a mistake, and subsequently, when the settlement of the \$14,000 came to be made at the Treasury Department, they caused those items to be stricken out, and got a Mr. Nourse to certify that no such items were contained in the account. Thus meanly skulking from the responsibility of what gentlemen now affect to consider a very insignificant matter; and by their own course they have really given the subject more importance than it originally deserved. But, sir, their accounts and certificates will avail them nothing. The account is here as officially rendered by the President's son. It is in the archives of the nation, from which the gentleman from Ohio would, I doubt not, gladly have it expunged.

Sir, as to the furniture of the East Room of the President's house, it has been suggested that I was the author of a certain letter on that subject, to the editors of the Richmond Enquirer. Sir, this is not true; and so far from it, that Mr. Ritchie, senior editor of that paper, voluntarily stated to the contrary. I am not in the habit of writing to that gentleman. I do not personally know him; nor did I ever write to him in my life. I take his paper, and derive from it both satisfaction and instruc-

JAN. 26, 1828.]

Retrenchment.

[H. OF R.]

tion, and I here bear willing testimony to the ability with which it is conducted.

As a young man just starting in political life, I am naturally anxious not to do, or to be thought to have done, any thing that may justly forfeit the good opinion of any gentleman in this House. But I must be allowed to say, that I do not wish the good opinion of the gentleman from Ohio, if, indeed, he is physically capable of entertaining a good opinion of any of his species.

Mr. FLOYD, of Virginia, said he was sorry to be obliged to rise again in this discussion, nor should he have done so, had he not been so particularly called upon by the gentleman from Ohio [Mr. WATSON] to specify instances of the misapplication of the public money. I am sorry, sir, that all I have to say will not be new: for I believe that the gentleman and his friends are pretty well acquainted with most of the items on this matter. It is said that some of these errors in disbursement are chargeable on this House, since we have ourselves voted for the salaries of the officers. Sir, it matters little whether the extravagances in this Government are under a law, or under the discretionary expenditure of a contingent fund, it is equally proper and necessary that an inquiry should be made into them; and I am persuaded that, if every member should be enquired of, "Do you know that there are any wasteful expenditures?" he would reply, "I have good reason to believe that there are." This opinion has been given by members of this House and of the other branch of the Legislature, and has been circulated all over the United States. A certain Mr. King who edits a paper in New York, (a gentleman near me says it is his brother who is the editor—it is not very material) a paper in New York which supports the Administration, was sent out as Secretary of Legation, when his father was appointed Minister. As to the father, I know very well the President is not accountable for the death of the Ministers he sends abroad, or for their sickness—but this old gentleman was sickly when he went out, and to oblige him, this son of his was sent as his Secretary of Legation. But the old gentleman did enjoy a little spell (if I may use that expression) of good health, such at least as one might have supposed would allow him to do some business; and if the Administration had thought it a matter of any great consideration, one would think they might at least have furnished him with instructions. He must not therefore, be charged with all the blame of what followed. When he returned home, he left his son as *Chargé de Affaires* at that court, and he was allowed a salary, or an outfit and part of his salary, while he remained in England, in violation, as I think, of an express law of Congress, which requires that, in such circumstances, the Secretary of Legation must be commissioned by the President as *Chargé*, and his appointment approved and ratified by the Senate. Instead of observing this law, Mr. King himself appointed the *Chargé*, and on that appointment he received the money for outfit, &c. I do not recollect that any appropriation was asked of this House to pay the item. I could say more—Mr. John H. Pleasants, a gentleman who edits a paper, in much esteem, as I suppose, with the gentleman from Ohio and with all those who are most ardent in support of the administration, is said to have got \$1,900 out of this fund.

[Mr. WRIGHT explained. He had never said or thought such a thing. I only asked the gentleman from North Carolina to state the specifications of his charge against the Administration, and he mentioned this subject. I never said any thing about it.]

Mr. FLOYD resumed. Certain it is that he did receive \$1,950 for carrying out a message to Buenos Ayres, and that he never arrived there. A member from New York informs me that he went to England, and that he saw him there.

Sir, unless all the records of the proceedings of this

House are erroneous, the paper I hold in my hand may be considered as of official authority. It is the Report of a Committee of the House; but the report of one Committee has been denied by the gentleman from Ohio, when referred to by the gentleman from North Carolina [Mr. CARSON.] I don't know how he arrived at his knowledge. It is possible the fact I am about to state may be liable to the same objection. In the Documents, vol. 9, No. 120, of the years 1821-22, there is one from the Department of State, dated on the 30th April, 1822, and signed John Quincy Adams—which document contains this, to me, most extraordinary statement. "To Russia, John Quincy Adams, from 5th August, 1809, to 27th February, 1815, outfit, \$9000; salary, \$50,100; contingencies, \$5,153 54—total, \$64,657 54." Afterwards, "To Ghent, John Q. Adams, from 29th April, 1813, to 27th February, 1815, outfit, \$9,000; salary, \$20,299 31; contingencies, \$6,345 60—total, \$35,345 60." "To Great Britain, John Q. Adams, from 28th February, 1815, to 10th June, 1817, outfit, \$9,000; return, \$2,250; salary, \$20,546; contingencies, \$3,005 62—total, \$24,801, 62." Making a grand total of \$104,804 76

I hope the gentleman will not deny this statement. I do not complain that every man should make his own living as he can; but I do not consider it disgraceful to observe something like economy. I do not know how to account for this statement—perhaps the gentleman can explain it for me.

In the session of 1826-7, a gentleman from New Hampshire [Mr. WHIPPLE] submitted a resolution for the printing of the land laws of the United States. My friend from Pennsylvania [Mr. LEXHAM] thereupon moved, that the Clerk of this House should be directed to receive proposals for the work. His resolution was adopted. But, on the last day of the session, (when I am told the House was very thin—I was not then present,) and by almost the last motion that was made, the gentleman from Ohio obtained the rescinding of this order to receive proposals, in consequence of which the printing of the land laws was executed in the same manner, and on the same terms with the other printing of this House; and by which motion, this House paid for the job some thousands of dollars more than it would otherwise have cost us. For what purpose, I will not say—possibly the type and paper were better.

I will now dismiss the subject. I am willing this investigation shall go on. I must observe, however, that the amendment of the gentleman from Indiana (Mr. BLAKE) is not such as I think likely to be followed by any beneficial results. The resolution, as modified by the mover, is such as will throw some light upon the subject, and I do hope it will be adopted, without amendment.

Mr. WHIPPLE said, he considered himself called upon by the remarks of the gentleman from Virginia, to explain to the House the course which had been taken by the Committee on Public Lands, to procure a revised and improved edition of the Land Laws, the want of which had been seriously felt by that committee. The former Chairman of that Committee (Mr. SCOTT) had on the 5th of January, 1826, moved a resolution, instructing the Committee to "inquire into the expediency of authorizing a new compilation of the resolutions, treaties, compacts, and laws, in relation to the public lands of the United States." At an after date, (March 1st, 1826,) Mr. W. said, he was instructed by the Committee of which he had the honor to be a member, to report a resolution, providing for the compilation in question. The Clerk of this House was charged with the duty of making the compilation, and the expense was ordered to be paid out of the contingent fund of the House. But the work was directed by the resolution to be laid before the House at its next session, for inspection and examination before its being printed; nor would the print

II. OF R.]

Retrenchment.

[JAN. 26, 1828.]

ing be executed without a further order of the House. At the next meeting of Congress (on the 26th of January, 1827,) Mr. W. said the volume in question, which had been previously presented by the Clerk, was, on his motion, referred to the Committee on Public Lands. On report of the Committee (19th February, 1827,) this House was called to act, when a gentleman from Pennsylvania [Mr. INGRAM] moved an amendment.

The Committee on the Public Lands had, upon the most mature consideration, come to the conclusion, that, to perfect the work, and make it as useful as practicable, it should be printed under the immediate inspection of the officer of this House, who had compiled it, and so provided; and ordered the expenses to be defrayed out of the contingent fund of the House, relying wholly upon the integrity of that officer so to direct the business as to best effect the end designed, and at the same time pay a due regard to economy in effecting it. The committee saw no reason, to doubt the integrity, zeal, or ability, of that officer, nor have they since had reason so to do, nor did they apprehend, that they were compromising the public interest by the course which was recommended.

The motion to procure the printing to be executed by contract, however, prevailed, and the amendment of the gentleman from Pennsylvania was adopted. The committee, aware, at that time, of the difficulties which would be thrown in the way of the execution of the work by this mode, opposed it—they were over-ruled by the House, and submitted to its decision. But, sir, on further and more full inquiry, the committee were so fully convinced that the work would necessarily be imperfect if executed in the mode ordered by the House, that a gentleman, not of the committee, was solicited to use his influence with the House, to procure a revision of so much of the resolution as directed the printing to be done by contract; founded on the proposal of the lowest bidder. On motion of the gentleman from Ohio, [Mr. WARREN] the House rescinded the objectionable addition which had been made on motion of the gentleman from Pennsylvania. And thus, sir, the work is now to be done under the immediate direction of a responsible officer of this House. In this, the gentleman from Virginia sees corruption, but why, or wherefore, Mr. W. said he was wholly unable to perceive.

But, the gentleman says three or four thousand dollars have been lost to the nation by this revision of a part of the resolution referred to. Sir, how is this possibly known to the gentleman—the book is not yet printed! The Committee on the Public Lands have, during the present session, experienced the want of it, and would be extremely pleased to witness its completion; it is, however, but justice to say, that the Clerk of this House has made every exertion to complete it, and is still pursuing the object with all practicable assiduity. The work has been found to be one of great labor. The treaties, laws, compacts, Spanish regulations, and a mass of other matter, which will form a heavy index to the volume, do not lie within a narrow compass, and cannot be taken by intuition, as the gentleman does the scent of corruption in every gale.

Now, Sir, having explained this very mysterious matter, as is hoped, to the gentleman's satisfaction, permit me, Mr. Speaker, said Mr. W. to take a passing notice of the question in debate—the resolutions, and the amendment offered by the gentleman from Indiana, [Mr. BLAKE.] The original mover, as well as all who have attempted to improve the resolutions by amendments, have seemed anxious to effect retrenchments in the expenditures of the Government. If, sir, this be the purpose aimed at, there need be little difficulty in effecting the object. Are not the party, sir, now in possession of the power of this House, fully prepared at every point for the onset? You have, sir, your Committee on Public Expenditures—your Com-

mittee on so much of the Public Accounts as relate to the Expenditures of the Department of State, of the Treasury, of War, of the Navy, of the Post office, and on so much of the Public Accounts and Expenditures as relate to the Public Buildings. These Committees have all been organized by the presiding officer for this House, who has been elevated to his present station by a majority, and the respective committees, each, has a majority, or at least a supposed majority, selected from the same side of the House. Now, sir, is not the House fully organized according to the most approved plan for purifying the corruptions of this proscribed Administration? And will gentlemen shrink from the use of the power which they thus have at their disposal? Is it just, is it open and ingenuous, to attempt, by insinuation and indirection, to induce the belief among the People that there is corruption and extravagance, whilst at the same time we shrink from the labor and responsibility of sustaining charges? Sir, I will never be induced, by any legislative forms, to adopt a course like this. If gentlemen wish to push their inquiries into the Departments, they shall have my aid. I never have refused, nor shall I probably ever refuse, to inquire into any alleged misuse of power. I have no belief that the most rigid investigation will touch, in the most remote degree, the integrity of the Administration: but should it result in that, let the Administration fall. Errors, slight and trivial, may exist; it would be singular if they did not exist. Errors of judgment may be supposed; but then who shall decide, under all the circumstances, whether the judge or the judged are, or have been, right? Within Constitutional limits, this House is the inquest of the nation; and, if gentlemen suppose the existence of mal-administration, let them take the responsibility of openly and boldly substantiating the fact, and they will then acquire a just and lasting fame with the American People: but, sir, to insinuate and shrink from responsibility, to traduce our rulers by indirection, has not, nor ever shall be, my course.

The amendment proposes to send the whole subject to the Committee of Ways and Means. That committee, sir, have as much to do as their time will enable them to perform, and, sir, I cannot be induced to believe that the public good requires that this resolution should take that direction. Sir, I am disposed to vote to remove this question from before the House, and would then call upon the Committee to do their duty. Some days since, the honorable gentleman from Maryland [Mr. WALKER] introduced a resolution, preceded by a number of whereases, followed by suspicions of corrupt and extravagant expenditures, which terminated in a simple call upon the chairman of one of the committees of the House to inform us whether that committee could do its duty; we have not, to my knowledge, yet been informed, whether its duty will be attended to or not.

Why then continue these insinuations of extravagance and waste in the Administration? Is it for political effect out of this House, when responsibility is to be shunned in it? Sir, I will not impute so base a motive. The committees of this House are already organized so as most effectually to secure to the majority all the political consequence, all the influence among the People of this Union, to which the party having the power is legitimately entitled, according to the constitution of this House. Let it be used, and let the party be responsible for its use.

Mr. JOHNSON, Chairman of the Committee on Public Expenditures, stated to the House, that that committee had been industriously engaged on the subject referred to them under a resolution of the gentleman from Maryland, [Mr. WALKER] and that, in a few days, they hoped to be ready to report.

Mr. FLOYD said, that he had understood the gentleman from New Hampshire as saying that base insinua-

JAN. 26, 1828.]

*Retrenchment.*

[H. or R.]

tions had been made by those who shrunk from responsibility. If that remark was intended for me, I say that the remark itself is a base insinuation, and as such I hurl it back in his teeth.

[Mr. FLOYD was here called to order by the CHAIR.]

Mr. WHIPPLE. Has the gentleman taken my words? I said, sir, I would not impute base motives, nor did I intend to insinuate that the gentleman from Virginia had made base insinuations. Sir, the very circumstances of resentment which accompany the gentleman's demand for explanation, show the necessity of our abstinence from imputations of corruption, bargain, and intrigue, in wholesale. Sir, it is degrading to us individually, it is debasing in the eyes of the world; it weakens the confidence of the American People in the stability and firmness of their republican institutions; it lowers us in moral and intellectual elevation, to be continually holding each other up in this Hall, and our National Administration too, as guilty of the basest and most mean peculation; exalting our partizans, and debasing our adversaries in politics; to be passing constantly from the extremes of honor to the extremes of baseness; to be made, in the same hour, the "wisest, brightest, meanest of mankind."

Mr. FLOYD said he was glad to be put right. He was sorry he had not understood the gentleman correctly at first. He could not have expected, from the tenor of that gentleman's conduct heretofore, that he would be guilty of any violation of decorum toward any on this floor. Expressing his regret for having on this occasion, misapprehended the gentleman, Mr. F. went on to say, that he was perfectly aware of all the respect which was due to the Executive Department, and to all public officers, as well as to the dignity of this House and to his own. But when the gentleman from Ohio [Mr. WARE] had called upon him to specify the manner, in which the gentleman "clear over the way" had done, he felt it his duty to state what he believed was the fact, that there had been a great misapplication of the public money. And surely, when a member of this House has a suspicion that the affairs of the Administration can be conducted in a better style, he has a right to advocate an inquiry, and, although it should turn out that the contingent fund had, in some cases, been applied very improperly, he was not, therefore, going to say, upon the first blush, that there was corruption in the Government.

Mr. DORSEY, after adverting to the various modellings and re-modellings which the original resolution, as well as the amendment, had undergone, and on the necessity of further time for a right understanding of the precise nature of the question presented, concluded a few preliminary remarks, by offering the following amendment (going to enlarge the inquiry) to the amendment of Mr. BLAKE. To insert, after the word created, these words, "if the compensation allowed to the Members can be reduced consistently with the public interest."

Mr. BLAKE accepted this amendment as a modification of his own.

Mr. DORSEY then moved to lay the resolution and amendment upon the table, and print them, but withdrew the motion at the request of

Mr. WRIGHT, of Ohio, who said, he had hoped not again to have asked the attention of the House in this debate. But the gentleman from Virginia, [Mr. FLOYD] had done him the favor to point out several specifications of abuses and extravagance in this Administration, in pursuance of his request yesterday, for which he thanked him, and would endeavor to reply to them. The gentleman [said Mr. W.] has set forth in his specifications the appointment and allowance to Mr. King, as Chargé at London; the allowance made to Mr. Adams while Minister to St. Petersburg and at Ghent; and the proceedings in this House the last session, relative to the printing of the land laws, and in which I had a personal agen-

cy. As to the first: Our Minister to London was taken sick, and asked and obtained leave to return home. His son was Secretary of Legation; not appointed by the father, but by the Senate of the United States, on the nomination of the President. No complaint was made that he was not qualified. The undeviating practice of the Government had been, when a Minister left a Court to which he had been sent, before a successor arrived, to leave some one in charge of our diplomatic affairs; that charge had, perhaps, always been devolved upon the Secretary of Legation, a public officer who had charge of the records and documents of the mission, and supposed to be familiar with the concerns of the mission. Mr. King followed this custom, and left his son, the Secretary, in charge of our affairs. Does this furnish evidence of profligacy and abuse in the Administration? I am not acquainted with Mr. King, or his competency; but I cannot find evidence here either of the profligacy of the present administration, or any departure from the usual and ordinary course of proceeding in such cases. If the gentleman views this affair differently, why did he not vote with me for the inquiry, and not vote, as he did to lay it on the table, with the avowed purpose of putting an end to it?

I will proceed to the second specification—the allowance to the Minister at St. Petersburg and Ghent. The gentleman here refers me to a printed document, by page and date, and hopes I will not dispute the authority of that, as it has affixed to it the name of John Quincy Adams. The document bears date in 1822, and specifies certain allowances made before that time. Now, the gentleman and I were here together at the commencement of the present Administration, and his own memory will show him that this transaction was of anterior date to the present Administration, and for services rendered long before, and he must see that they are referrible to a former Administration, not to this. I will not delay to examine the items, or the propriety of the allowances in the document; but if the gentleman does not know, I will inform him, and I speak advisedly when I do so, that the account referred to in the document, was never made out in the form there stated by Mr. Adams and signed by him; the information on this subject has heretofore been before this House. It was made out by some of the clerks in the offices, to conform to their mode of settling accounts, without the knowledge or sanction of Mr. Adams, who never did, nor never would, present the account as there stated. Not only, sir, is this transaction referrible to a former Administration, and of anterior date to this, but is of anterior date to the time limited in the resolution of inquiry proposed by the gentleman from Kentucky, and supported now by the gentleman from Virginia. If he really desires to extend this inquiry back to a period embracing this transaction, he must vote for the amendment. The time limited in the resolution is the first of January, 1824. Let us go back and have the whole matter examined into. I will cheerfully go with the gentleman.

With regard to the third specification—the printing of the Land Laws—in which the gentleman implicates me. You have been told that this transaction, which cost the Government several thousand dollars, was got up on the last day of the session, when there were but few members here, on my motion. The gentleman himself was then, and for some time before had been, absent from the House. I see no entry of leave having been given him to absent himself from the service of the House, though he may have obtained leave. Why was he absent from his place? Why was he not here attending to his duty, guarding against these profligate expenditures? I know not. I have, indeed, seen in the newspapers, which gentlemen seem willing to refer to, accounts of certain dinners, and dinner speeches in Richmond, about that time, in which we are told of certain "combinations" being

H. or R.]

Retrenchment.

[JAN. 26, 1828.]

nearly completed, and arranged for efficient operation. Perhaps the gentleman—

[Here the SPEAKER called to order. He said personal remarks could not be permitted.]

Mr. WRIGHT said he had understood the gentleman from Virginia had impugned his motives, in reference to the vote here, and he had been permitted to go on. He only sought to reply.

The SPEAKER said he had not so understood the gentleman from Virginia.]

Mr. WRIGHT said, Sir, I will explain this printing transaction, I trust to the satisfaction of the gentleman from Virginia.

[Mr. WARD called the gentleman to order.]

Mr. WRIGHT took his seat.

Mr. WARD said he was of opinion, when a gentleman was pronounced out of order, he forfeited his right to the floor.

The SPEAKER replied, he had called the gentleman from Ohio to order, and he had acquiesced in the decision, and resumed his argument in order.]

Mr. WRIGHT was about to resume, but gave way at the request of

The SPEAKER, who rose, and addressed the House. He felt, he said, very deep regret at the personal and unpleasant character which the debate had assumed, and which, if continued, was calculated to have a baneful effect upon the character and deliberations of the House. The SPEAKER certainly could have no wish to restrict improperly, the freedom of debate. He had never attempted it; he never should; but at the same time he felt it a duty that he owed the House, the nation, and himself, to interpose the authority of the Chair in maintaining the order and dignity of the House, and in repressing personalities and recriminations, which could produce no other effect than deep excitement and personal altercations. In the eagerness of controversy, and the commotion of debate, it was often very difficult for the Chair to interpose successfully its authority in preserving order, and limiting debate; in cases of great or unusual excitement, it could never be done, without the most prompt and vigorous co-operation of the House. In making these remarks, the Chair intended no allusion to any particular member of the House. He had risen to impress upon the House the necessity of enforcing order, and sustaining the Chair, and to intreat gentlemen, who might be disposed to mingle in the debate, to refrain from personal and recriminating remarks towards each other, and to confine themselves to the subject under consideration.

Mr. WRIGHT resumed. I trust I should be one of the last men in the House to violate the rules of the House. I perfectly accord with the view of the Chair. I certainly have to thank the gentlemen from New-York for his endeavors to keep me in order. Just before the close of the session, the resolution for printing the Land Laws, with the amendment of the gentleman from Pennsylvania, [Mr. IREMAN] passed. I was in the House, endeavoring to attend to my duty; but the first intimation I had of the adoption of the resolution, I obtained in the morning papers. Having had occasion, shortly before, to examine the Joint Resolution of 1819, which had the effect of a law, which any gentleman curious to look at it will find in the 6th volume of the laws of the United States, page 444, I supposed the House had inadvertently adopted the resolution. Acting under that impression, I doubted if—no, sir, I knew—that this House could not repeal a law of the United States. When I made the motion, and stated the objection, that the resolution contravened the joint resolution, the House unanimously rescinded that part of the resolution. What should have been done? The House had inadvertently committed an error. It was my duty, apprised of it, to inform the House. I did not neglect that duty. But, sir, the construction upon which

I acted, and which the House confirmed, has another sanction, which I hope the gentleman from Virginia will admit as authority. Another deliberative body in another part of this building, resolved to proceed to the choice of a printer to the body. Several ballotings took place, and an adjournment took place, with the declaration of the body that no choice had been made. At the commencement of this session of Congress, that body determined the construction of the joint resolution as I have done, though I think with less forcible application to that case, than in the case in this House. Under that construction, it was determined that an election of Printer was made last winter, notwithstanding the separate resolution of that body, which was declared a nullity. It is by virtue of this construction the Printer of that body now holds his office. Sir, if the resolution specified by the gentleman were not so accounted for, I am unable to see how it could be brought forward as a charge against this Administration. I have yet to learn how the President and his Cabinet can be chargeable with a unanimous resolution of this House. If it evidences profligacy and extravagance, it is in us. We should be content to bear the stigma, and set on foot a reform here.

Mr. DWIGHT said, he would occupy the attention of the House but for a very brief space; he knew their impatience, and the lateness of the hour, and should not have risen at all, but in consequence of the very extraordinary conclusions drawn by the gentleman from Virginia, [Mr. FLOYD] from the document which he now held in his hand. Now, sir, said Mr. D. I draw from the evidence (and have do doubt the House will do so) a conclusion directly the reverse of that of the gentleman from Virginia. He has stated that large and unusual allowances were made to, and accepted by, the present Chief Magistrate, for his services while representing this country abroad. Since the gentleman sat down, he had run his eye over the paper alluded to, and could assure the House that the document out of which the charge was made, contained in itself a most ample refutation of that charge. By a comparison of the payments to Mr. Adams with those made to many, and he believed all our Ministers in Europe, it would appear that, so far from the allowances made to the former being unusual, they have in no instance exceeded, and in many have fallen short, of allowances under similar circumstances, and for a proportionate length of time, to our Ministers, under different Administrations. How, indeed, could it be otherwise? The House would recollect that the salaries of Public Ministers, like all other salaries, had been long since regulated by a law of Congress, and the discretion vested by that law in the President, in regard to the outfit, was expressly limited in amount to a sum not exceeding a year's salary. The charge, then, touches not only the person who is supposed to have received, but the disbursing officers of Mr. Madison's Government, under whose Administration the money must have been paid out, and he appealed to the candor of the gentleman to correct an error so injurious to all affected by it.

He would ask the attention of the House for a few moments, to the grounds of the comparison he had alluded to:

It will be seen by the Document

Mr. Barlow received, for a little more than a year and a half in France, \$ 33,000

Mr. Monroe, for about five years, at England, France, and Spain, 81,679

Mr. Gallatin, for about six years, in France, and at Ghent, 94,112

Mr. Pinkney, at Great Britain, Russia, and the two Sicilies, about seven years, 109,661

Mr. Adams, at Russia, Ghent, and Great Britain, from 1809 to 1817, about 8 years, received 119,915

This calculation excludes Mr. Adams's mission to Pres-

AN. 28, 1828.]

*Retrenchment.*

[H. OF R.]

in, in 1801, for which he received \$5,110, an amount which would increase the aggregate sum paid to him, much less than the mission increased the time occupied, and the moneys disbursed in the public service. The allowances to our Foreign Ministers may appear to some gentlemen to be too large, but they ought, in vindication of the policy of the law under which those allowances are made, to recollect, that it is a service of the highest confidence, requiring the most distinguished talent of our country, and that the Courts of Europe, to which they are sent, have none of the Republican simplicity and economy of our own. Their allowances to their Ministers are in all instances greater, and in some, treble and quadruple ours. It had become proverbial, that no Minister of ours could live in Europe, without trenching upon his own funds. The account, then, though large, is not one of moneys paid to enrich the individual, but of moneys expended by him in the public service, and he was persuaded that not a dollar of it has remained in his private coffers.

The gentleman from Ohio [Mr. WRIGHT] had alluded to, but had not specified a mistake in the document. It was in the computation of the time at Russia, extending to 1815. This, he presumed, was a mere error of the press, as it was well known that Mr. Adams was transferred to Gottenburg, and subsequently to Ghent, in the Spring of 1813.

By inspecting the recapitulation on the last leaf of the document, it would be seen that the error does not come into, or affect the aggregate sum which he had previously named.

[Here the debate closed for this day.]

MONDAY, JANUARY 28, 1828.

#### RETRENCHMENT.

When the House adjourned on Saturday, a motion had been made by Mr. DORSEY, to lay the resolutions of Mr. CHILTON, together with the amendment thereto, on the table; and, on that question, the yeas and nays had been ordered. But, on the opening of the debate this morning, before the yeas and nays were taken, Mr. DORSEY withdrew his motion, and the question then recurring on the amendment of Mr. BLAKE—

Mr. BUCKNER, of Kentucky, said, that, when the original resolution was offered for the consideration of the House, he was prepared to give his vote, and, indeed, anxious to do so without any discussion. Even after his colleague [Mr. CHILTON] had explained the motives by which he professed to be influenced in its introduction, and the objects he had in view, he should have pursued the same course. It required no great foresight to anticipate the course which the argument, if persisted in, would take, and the great difficulty there would be in circumscribing it within its proper limits. It was apparent, that it could not lead to any valuable result. I was unwilling (said Mr. B.) to see this Hall converted into a theatre for crimination and recrimination; for that course of bitter invective, and unmeasured abuse of public men and measures to which the debate had already led, and with which the newspapers have been filled for the two or three last years. Such a course, sir, should always be avoided, and, more especially, in the Congress of the United States—where, if there be dignity in deliberation to be expected in any legislative body on earth, it might be hoped to be found. In the few observations which I shall submit, it is my intention to make no remark calculated to offend, or to give rise to ill feelings. They shall be confined to the subject-matter of the resolution, except so far as is deemed proper to depart, for the purpose of answering insinuations thrown out, or charges made against the present Administration. In doing that, however, I shall not so unnecessarily consume the time of the House as to answer each separately. It would be

considered as an insult to enter into a labored argument in explanation of this stale matter, about a billiard table, balls, cues, and chessmen. Nor, sir, is it at all important to inquire how many copies of the Virginia Address have been sent by gentlemen of this House to their constituents. It has never been my practice, and it never shall be, to enter the folding room, as it is termed, to ascertain what papers or documents have been franked, and forwarded to different States, by this or that gentleman. They send such only, it is presumed, as it is believed will be acceptable to their constituents, and calculated to enlighten the public mind. It forms, in my opinion, no ground for censure; and, if it did, an ample set-off would be found in the fact, related to me a few minutes since, that at least an equal number of copies of a pamphlet, purporting to be an exposition of the principles of the Adams Family, have, in the same manner, been forwarded by some gentlemen of the Opposition party, to their constituents. Nor, sir, shall I put myself to the trouble of making, or you the pain of listening to, a tedious defence of the conduct of the President, in relation to the charge made against him, of receiving a large sum of money, for his services as a Minister, many years ago; or of his nomination of Mr. King, as our Minister Plenipotentiary to England; or of the fact of Mr. King's having left his son there, as a Chargé d'Affaires, on his resignation; or of the money paid to Mr. Pleasants, of Virginia. After the facts are established, and they are not denied, in what consists the impropriety of conduct in either of those affairs? In the reception of the money alluded to, for services, as a Minister, did Mr. Adams receive more than others have received for similar services? It cannot be pretended that he did. And, if he had, he had not the control of the office in which those accounts were settled. If there be any thing wrong in that affair, others would be suspected, whose integrity is as far above suspicion, as even that of the President himself. The nomination of young Mr. King, to act as a Chargé d'Affaires, temporarily, was in strict accordance with the practice uniformly pursued, under previous Administrations, by others similarly situated, and which was never, I believe, on any former occasion, complained of. The charge of impropriety respecting the money received by Mr. Pleasants, will be found to be utterly without foundation, whenever the facts relating to it shall be investigated. But these matters appear to me to be entirely irrelevant in this debate. If, however, they must be inquired into, let us have the proof, before a sentence of condemnation be pronounced. The People of the United States have too high a sense of the sacred principles of justice—there is too much intelligence among them to permit our Chief Executive Magistrate to fall a victim to unfounded suspicion and idle insinuation. When crimes are imputed, or charges of improper conduct made, they will inquire when, where, how, were they perpetrated? It is easy to accuse; in these times of high party feeling, we must expect it; but nothing short of proof will satisfy us. For my own part, I am not only willing, but anxious that every ground of complaint shall be thoroughly examined. When that shall be done, this Administration shall have no cause to blush. They need not dread the judgment of a magnanimous public, dispassionately pronounced. Indeed, it should be matter of great consolation to them that this inquiry has been instituted. They have much more to apprehend from the abandonment of it.

A few words in answer to the remarks of the gentleman from Virginia, [Mr. FLORN] as to the style of dress prescribed for our Ministers at foreign Courts, and the expense incurred. That gentleman is surely misinformed, if he supposes that the Government has to bear any portion of that expense. It is taken from the pockets of the Ministers. The rule alluded to, moreover, so far



H. or R.]

Retrenchment.

[JAN. 28, 1828.]

from increasing the splendor of their appearance, and adding to the magnificence of the gorgeous apparel, formerly used on such occasions, was adopted for the express purpose of diminishing the expense, and bringing it more within the limits of republican simplicity. I have now done with this part of the catalogue of charges, thrown together without order or method, and prepared without the shadow of proof, making, altogether, the most ludicrous political hodge-podge that was ever offered to the amusement of any grave deliberative body, in this or any other country. Let me now call the attention of the House to the resolutions and the remarks of my colleague, [Mr. CHILTON] in explanation of them.

I have said that, when offered, I was prepared at once, and willing to aid the proposed inquiry. Yet, candor compels me to declare, that such a vote would not have been founded on any belief, or even suspicion, that there were such abuses as those pointed out. They may be: if so, they are not within my knowledge. As a friend of the Administration, there was no option allowed me, as to my vote. We occupy an entirely different attitude from gentlemen of the Opposition. If they will exhibit accusations, and get up debates, however useless, by which that time is consumed which should be devoted to important business, it is not our fault. Situated as we are, it could not reasonably be expected that we would refuse to meet them. What was the resolution, in substance, as originally offered? That the national debt should be speedily paid off; that, to effectuate this, a general retrenchment of public expenditures should be resorted to; that the number of officers employed in the public service should be lessened, and the salaries of those retained, diminished. In support of this, it was said by the mover, that there were sinecure offices, that we had departed from the republican simplicity of our ancestors; that the public money had been uselessly squandered, &c. Now, sir, whilst I admit that the public debt ought to be discharged at as early a period as possible, without detriment to other great national interests; and whilst willing to vote for an investigation of the alleged prodigality, I neither sanction it as correct, or concur in the gentleman's argument. After all that was said by him, in general terms, about profusion, national bankruptcy, &c. what were his specifications? That the services of the Fifth Auditor might be dispensed with, the occasion for which that office was created having long since passed away. That our tables were every morning piled with useless documents, and reports as long as the moral law. Whilst he seemed to imagine that, to the gentlemen of the South and the North "rocked in the cradle of ease and luxury," this would be considered as a matter of little moment, in the West there was but one voice concerning it. Whatever, sir, there may be of prodigality of public money in this matter, it savors more of any thing else than luxury. But, if the gentleman so estimates it, let me assure him, that, throughout the session, he will have it in his power to indulge his appetite in all the luxury of a most delectable variety. Reports, and the testimony upon which they are founded, must be printed and laid before us, to enable us to determine correctly such claims as are presented to Congress. They are cases in which redress can be obtained, and justice done no where else. Many of them are for very large amounts of money or property. In such cases, are we to act blindfolded, and attempt to dispense justice at hap-hazard? Surely not. If, in any particular case, any gentleman believes that it would be useless or improper to print them, when the motion is made to have them printed is the time to oppose it.

The selection of the Fifth Auditor, as an officer whose services might be safely dispensed with, was, perhaps, as unfortunate as could have been made. My colleague was informed by the gentleman from Pennsylvania, [Mr. BUCKNER] that, so far from the correctness of the sup-

position, that the occasion, for which that officer was appointed had passed away, his duties, within the last two or three years, had doubled; and, indeed, even he, whilst giving this information, was himself informed of other important and arduous duties, in relation to all the contracts for light-houses, which of late years have devolved on that officer. What, then, was the course pursued by my colleague? He enters this Hall the next morning, and informs us that, of the officers whose services, in his opinion, could be dispensed with, he would name, as honorable exceptions, the Third Auditor, the Fifth Auditor, and the Postmaster General. And, lest his meaning might be mistaken, it was repeated more than once.

Yet, he thought that some of the Auditors were unnecessary, but he could not say certainly which. Some one of them must go to the wall. To use a Western phrase, to take the scalp of an Auditor seemed to have been determined upon, and it must be had; no matter which, so that you touch not the Third, nor the Fifth. Sir, whenever it can be shown that any of them are useless; that he is receiving a high salary, or even a low salary, without performing essential services, I shall heartily co-operate with my colleague in voting that the office be abolished.

His opinions upon the subject of the additions to our revenue, derived from the sale of public lands, were not less amusing. If, said he, we can barely wade now, with all that source of revenue, what are we to do when that shall be entirely cut off? Yet, afterwards, in reply to the gentleman from Maryland [Mr. BARNES] so far from considering it as a source of revenue, I understand him to say, that they brought the Government in debt—that the amount annually expended upon them exceeded that which was received from their sales.

[Mr. CHILTON rose to explain. His colleague had misunderstood him, both in relation to that and in divers other points. He had represented him as having particularized, in his speech on introducing the resolutions, the Fifth Auditor, as an officer who ought to be discontinued. It was true, that, in his remarks, as reported, he was made to say this. But he had a distinct recollection that he had spoken only of the Auditors in general. The gentleman had also misunderstood him as to what he had said in reply to the gentleman from Maryland [Mr. BARNES.] I did not say that the expenditures on our public lands were a source of nett revenue to the nation; but that an annual appropriation was asked for and was made, to meet the expenses of those lands, and that this expense prevented them from being looked to as a lasting source of revenue. I am certainly under obligation to the gentleman, for the remark that my proposition contained a political hodge-podge—

The SPEAKER here called Mr. CHILTON to order, saying that the remark had not been directed personally to him.

Mr. CHILTON then, after expressing his hope that what he had said would be distinctly understood by the House, took his seat.]

Mr. BUCKNER proceeded. I was pleased, sir, to afford to my colleague on opportunity of making his explanation. I repeated the substance of his remarks, as reported both by the *Intelligencer* and the *Journal*; and had, therefore, reason to believe that the remarks had been accurately reported.

Mr. Speaker, it has been said, during this debate, that, although the doctrine that a national debt is a national blessing, has not been openly avowed, it had been strongly hinted at: and we are told, also, that the doctrine was becoming fashionable, that we are paying off the National Debt too rapidly. Sir, if it be the fashionable doctrine, I have not heard it, nor is it my doctrine. It is not the doctrine of this administration. So far from it, every effort has been made to diminish that debt as rapidly as

JAN. 28, 1828.]

*Retrenchment.*

[H. OF R.]

possible. May I not rely with confidence in support of this assertion, upon the remarks made by the gentleman from Pennsylvania, [Mr. BUCHANAN] who acknowledged that the Sinking Fund had been fairly applied to the purpose for which it was created, and that the debt is rapidly diminishing? My opinion is, that every consideration of true policy, of public good, requires its speedy extinguishment. But I am not willing to admit, that the only mode of effecting that most desirable object, is, by diminishing the number of officers employed in the service of the Government, and lessening the salaries of others. We have resources which may be safely and confidently relied upon, and which, if not mismanaged, will, in a few years more, prove effectual. We have heard much said, within a year or two, about direct taxes. It was said by another colleague of mine, [Mr. DANIEL] that the proposed duty on woollen goods would operate as a duty on their importation, the consequence of which would be, that we must resort to direct taxes. This is not the first time, sir, that we have heard those evil predictions. When the Tariff Bill of 1824 was under consideration, this Hall resounded with similar prophecies. The time has rolled on; nearly four years have elapsed; we still hear the same declaration repeated, but have experienced no necessity of raising revenue by direct taxation. So far from that is the fact, that, since the commencement of the present administration, in little more than three years, about thirty-three millions of dollars have been applied to the payment of the public debt, and about twenty-three millions have gone towards the extinguishment of the principal. Let it not be forgotten, moreover, that, whilst this reduction has been effected, all the proper expenses of the Government have been met. Our foreign intercourse has been kept up, extensive preparations made for such internal improvements as may be considered of national importance; large amounts for stock in various associations, for the completion of such objects; and in one instance, even in the ancient dominion of Virginia, have been subscribed by the General Government. Our Army has been kept up, and our Navy increased. Not a single important interest has been neglected; and yet we have no direct taxes. There is not the slightest prospect of our being compelled to submit to such an evil; unless, indeed, despising the wisdom of the counsels by which we have been hitherto led, we subject all to the hazard of some dangerous experiment. If, then, it be asked, why vote for an examination into supposed abuses, where none exist, my answer has already been given. No good can grow out of the inquiry, so far as it relates to a diminution of unnecessary expenditure. The Chairman of the Committee of Ways and Means, [Mr. McDUFFIE] whose opinions on the subject are certainly entitled to great weight, has said, "that the true mode of effecting reforms, really and extensively beneficial to the country, is not by lopping off public officers with an indiscriminating hand, and curtailing salaries without a due regard to the importance of the duties for which they are paid." He has, moreover, said, that, with regard to the number of officers under this Government, and their salaries, the present administration cannot be fairly made responsible, but to a very small extent. He asks (I do not give his precise words) why we begin the inquiry where there is nothing wrong, and therefore nothing to rectify?

Yet, sir, I am not at all disposed to censure the gentleman who introduced the resolutions. He did so, no doubt, under honest convictions of their propriety—he had seen these charges of extravagance, of corruption in the disbursements of public money, repeated so frequently, in a thousand different shapes, in the newspapers, by Editors in various parts of the United States, from some of high standing, down to the curs of the very lowest degree, until he began to believe there must be some truth

in it. However zealous a man may be in his pursuit of truth, even falsehoods may be repeated in his hearing so frequently and confidently, that at last they are received as truths. 'May I not now be allowed to indulge the hope, that my colleague has become satisfied, that he entertained most erroneous conceptions of these matters? Else, why has he so entirely abandoned his original resolution? Sinecure offices, high salaries of officers, the unnecessary number of them; the high per diem allowance to members, seem to have been forgotten, and we are now invited to inquire as to the manner in which the money appropriated for Foreign intercourse, and for the contingent expenses of the Executive Departments, has been applied since 1824—yes, sir, since 1824. There lies the secret. All errors, if any, committed before that period, are not worth investigation. They would shed no valuable light on the subject. The occurrence has passed by, and is no longer of any moment. It would be of no service in suggesting the propriety of any change in the law on the subject. Very well, let the inquiry be so limited. I am willing to go back as far as they please; to commence, and to stop, where they please. Should there be any thing wrong in the management of the affairs of this Nation, by this Administration, let it be made appear. If it be an error of the head, a magnanimous and generous public will scorn to punish; if it proceed from corruption, it will show that they ought no longer to be trusted. When proof of this is produced, none will be more ready than myself to pronounce a verdict of guilty. But idle suspicion, and worse than idle rumour, shall never influence my judgment.

I will now, Mr. Speaker, turn my attention to some remarks made by the gentleman from Virginia, [Mr. RANDOLPH.] He expresses great anxiety that the House should get rid of this matter. I have already expressed my willingness to do so; and the reasons which prevented me from giving my vote with that view. We have heard something about the difficulty encountered in effecting concert of action among those with whom he is politically associated, whilst the opposite party take no leap in the dark. His words, I believe, were, that "I see one of the parties, with the very great man to whom he before alluded, perfectly willing, no doubt, to throw upon us the responsibility for whatever is done here, sitting perfectly still, steadfast, silent, and demure, bringing forward no proposition whatever; I see the other party throwing out proposition after proposition. The opposite party never commits itself, until after a night's reflection." If these remarks were intended to apply to the case which the gentleman was discussing, I must remark that he has certainly not attended to, or that he has forgotten the manner in which the resolutions have so far progressed. Does not that gentleman know, that, when they were first offered, and the gentleman who introduced them had given his views on the subject, you, Mr. Speaker, immediately announced to the House, that the period allowed for the consideration of resolutions had expired; and that we were then to commence upon other business? And so immediately after the gentleman who had been speaking had taken his seat, was this announcement made, that some of the reporters ran into a mistake, in supposing that he had not concluded his remarks. What opportunity, then, had the friends of the Administration to express either their views on the resolutions, or to vote for them? I will not say that there has been any anxiety on the side of either party, as a party, to avoid the proposed inquiry. Yet, the expression of opinion on the proposition of the gentleman from Virginia, [Mr. RANDOLPH] to lay it on the table, with the avowed design of disposing of it for this session, forty-seven only voting for it, and of that number, (I believe only six Administration members) would afford a better pretence for charging them with such a design. There

H. OF R.]

*Retrenchment.*

[JAN. 28, 1828.]

is, however, no such charge made. Candor would not justify it. They acted, no doubt, from honest convictions of the propriety of the course which they pursued.

We were told by the same gentleman, [Mr. RANDOLPH] that he would oppose any and every party who would impose on this country any man as its Chief Magistrate, besides him who receives the greatest number of its votes. Is our Constitution then a dead letter? Can a man conscientiously discharge a duty devolving on him in the election of a President, violating neither the letter or spirit of that sacred instrument, and yet be subjected to censure? That must be the gentleman's opinion: for no man elected by Congress, can have received a majority of the votes of the People; otherwise, the election would not have devolved on Congress. I was truly surprised to hear such sentiments avowed; and the more especially, as coming from such a quarter. When, on the last election of President, that matter was before Congress, I understood, and still understand, that every member from Virginia voted for Mr. Crawford, except two, of which two the gentleman [Mr. RANDOLPH] was not one. It is to be presumed that he did not vote for one man, and wish another to be elected. He was in earnest as to the vote which he gave, and was, no doubt, anxious for Mr. Crawford's election. And yet, according to his present declarations, he would then have imposed on this country, a man, as its Chief Magistrate, who had not received a majority of the votes of the People; yes, and would now, upon the same principles, had he been elected, been found opposed to his administration, for that reason only, if not for other reasons.

He seems to labor under a conviction, that, under this Administration, there is much to censure, and great abuses to correct; but he will not work like a galley-slave at the oar, when the helmsman who steers the ship can, at any time he pleases, run it on a shoal. And is this his course? Is this correct doctrine—that a member of this House, elected by his constituents to aid in the deliberations of the national councils, shall give no aid in effecting even desirable objects, because he did not obtain his choice in the election of a President? Because there is a helmsman steering the ship, who may (not who has) run it upon a shoal! Will he refuse to correct what he seems to consider as alarming evils, because it may be prevented by the weight of the Executive? When did the present Executive interpose his influence to prevent the correction of any errors or abuses? Were he to attempt it, does not every man of common sense perceive, that it would at once prostrate him? It cannot, therefore, be imagined, that he would venture on such a step. But the gentleman is content to remain in the minority on this question; he was in a small minority under the first of the present dynasty. May I be permitted to enquire of him, under what Administration, at some period, he was not in a small minority? He has never known but one Administration in which the Chief Magistrate was willing, in good faith, to give up the Executive patronage, and that was the first of Thomas Jefferson. What would he say about the last Administration of that great man? Where was the gentleman then found? Was he in the small minority of which he now speaks?

The gentleman seems unwilling to afford an opportunity of saying any thing to sustain a sinking cause. "He should call on the present men in power for nothing which would enable them to affect the question, now at issue, between them and the United States." "It would be a call on those who had been improperly put in power, to protect their political lives." Shall insinuations then be made, shall charges be levelled against the Administration, and is the gentleman unwilling to hear them speak in vindication of their conduct? Are these his views of justice? If it be a sinking cause—if they are drowning men catching at straws, let them at least have a fair trial.

The gentleman is willing to correct abuses, but this is not the proper period to commence. We have heard it iterated and reiterated from various parts of the House, that this is not the accepted time. When will that glorious period arrive? Each moment, it seems to me, would be an accepted time to commence so good a work. No, the gentleman wishes to pass the appropriation bills, and go home. Shall we then pass those bills in the shape in which they are usually passed, and go home, thereby putting it in the power of the very men, who, if we credit the suspicions entertained, are abusing the confidence reposed in them, to continue those abuses? Surely not.

To expedite the approach of this most desirable period, when we can commence in good earnest, and without the fear of being foiled in our attempts, at reform, the gentleman wishes all the strength and force of his party, all the rays of their light, brought into a focus, and made to bear on this single point. Although he would not indicate more plainly than he had done, what period he alluded to, a Yankee could no doubt guess it. When it arrives, he would have us to believe that all will go on smoothly; every abuse will then be corrected; no weight of the Executive Department will throw in an obstacle. Mr. Speaker, the People of the United States are not to be gulled by this kind of cooing. This kissing of the People, this mode of winning the hearts of men, has been practiced from the earliest accounts of electioneering which we have in history, sacred or profane. "O that I were made a judge in the land, that every man that hath cause or suit might come unto me, and I would do him justice." It has worn thread-bare. There is not a yeoman in the country so ignorant that he cannot read through it as through a cobweb.

The gentleman speaks of the Administration party here as a disciplined phalanx. Let me tell him, sir, that it is not here alone he will have to contend against what he terms a disciplined phalanx. They are to be found in every part of the Union, and if I do not most egregiously misconstrue the signs of the times, in the gentleman's own State, he will have to contend there with force strong in number, and powerful for talents and respectability. There is yet much to be effected, before this greatly desired period shall arrive. I believe that it never will. I pray most fervently that it never may arrive. But, sir, if in this I am deceived—Ah me, Mr. Speaker! it will be a sad day; not for you, sir, but for many who now hear me. Not that I feel any deep interest in it. It is very certain that I shall never witness it. No, I do not wish to be here, to witness the long faces and the wry faces, which on every side will be exhibited. I have long since made up my mind, in such an event, not to approach nearer to HEAD QUARTERS than did a certain gentleman from Maryland, during the last war, to the enemy—a gentleman at one time well known on this floor, for his worth and his humor, who said, that, as they approached, he got almost to the top of Chinquepin Hill, and peeped over at them. If, however, I should change my determination, in relation to this matter, and be disposed under such circumstances to visit Washington, it would be an indulgence of curiosity, sheer curiosity, to behold the gentleman from Virginia [Mr. RANDOLPH] completely happy—(for I delight to see others happy, even when not so myself)—in the entire prostration of those abominable political heresies, which infect certain parts of the United States, and manifest themselves in a wish to see the cause of Internal Improvements flourish, and that their Domestic Manufactures should be encouraged and protected against foreign competition—heresies which, it seems, have, for years past, disturbed his repose by day, and haunted him in visions by night, striding before his disordered imagination in shapes more terrific than did the evil genius of Brutus, before him, when it told him, "We meet again at Philippi." I say it would be matter of curiosity to see

JAN. 28, 1828.]

Retrenchment.

[H. OF R.]

the gentleman, for once in his life, satisfied with himself and all around him, exclaiming, in the fullness of his heart, for he often favors us with long quotations from the Latin Classics :

"Dens nobis hæc otia fecit;  
Namque erit ille mihi semper Deus. Illius aram,  
Sepe tener nostris, ab ovilibus imbuat agnus."

But I may be answered that this cannot be; that it would be too glaring a departure from, too palpable a contradiction to, sentiments once entertained, and opinions expressed, on the same subject. No matter, sir. Let it produce no surprise. It will all be entirely natural; for, in proportion to the hardness of heart of an impenitent sinner, is always the zeal manifested after conversion. I will detain the house no longer.

Mr. WASHINGTON said, it was not his intention to have participated in this debate—already too much protracted—but, having expressed to some of his friends the intention of voting against the resolution, and having been induced by subsequent occurrences, to alter that determination, he conceived it due to himself, and to that character for consistency which it had ever been his pride to maintain, to assign briefly the reasons which had induced him to adopt a course different from his first intention.

When the resolution was offered by the gentleman from Kentucky, [said Mr. W.] I had resolved to vote against it—not that I was opposed to retrenchment or the reform of any abuses which might, by possibility, exist in the Administration of the General Government, but because I did not believe that any valuable results to this nation could grow out of such inquiry, and because I did not then, nor, do I now imagine, that any abuses exist, which require the intervention of this House, or which this inquiry is calculated in any manner to reform. I considered it merely as the redemption of a pledge, which the gentleman from Kentucky informed us he had given to his constituents. But in the latitude which has been allowed in this debate, sentiments have been expressed by gentlemen, distinguished for their talents, high in the estimation of the public, and high in the confidence of their party. What are the declarations they have made, Sir? That this is not the time for reform; that the clouds which now obscure the political horizon must be chased away by the rising of another and a brighter sun—an evident allusion to the election of another President—that you have nothing to hope for or expect from the present Administration, in aid of your patriotic exertions to effect reform. Sir, the imputation has gone forth to the world, under the sanction of high authority, that abuses, if not corruption, does exist, and that any attempt at their exposure would prove unavailing, as you could expect no co-operation from the rulers of this nation, who are thus pronounced too corrupt, too much wedded to their own sinister views, to make any sacrifice for the good of the nation. So far, Sir, we have heard nothing but allegations, without the semblance of proof: for all the evidence which has been attempted to be produced, has been ably met, and triumphantly refuted, without the aid of any inquisition.

Sir, I believe this Administration to be as pure, as patriotic, as devoted to the interest of the nation, as far removed from the suspicion of corruption, as any which ever has, ay, Sir, and as ever will preside over the destinies of this Republic; and that, like gold, the oftener assayed, the brighter it will shine. Sir, the Administration fear no inquiry or scrutiny, however rigid, either in relation to the disbursements of public money, or the discharge of the duties appertaining to their offices; neither do their friends entertain a fear on their account. On the contrary we invite and challenge the fullest and freest investigation: and, in accordance with this belief, I would with great deference, sug-

gest to my friends—political friends I mean—for I have the pleasure of claiming many personal friends on this floor, with whom I am not politically associated—that every amendment should be withdrawn which has been offered by them, and that we afford to the gentleman from Kentucky every facility he can desire, by adopting his original resolution, or the modification offered by him, as he may prefer. This is not an inquiry of our seeking, and let us not put it in the power of gentlemen to say that we frittered down, or in any way embarrassed the inquiry they had proposed. Let the whole responsibility rest where it should. For my own part, I will vote against every proposition, either in the way of amendment or substitute, which does not originate with the gentleman from Kentucky, or his political friends.

One word, Sir, in reply to the gentleman from Tennessee, in relation to the institution at West Point, and I am done. Having recently had the pleasure of attending an examination at the Military Academy, I will take the liberty of stating the impression made on my mind by that visit. Without having enjoyed the advantages of foreign travel, and of making a comparison of this with similar institutions of other nations, I will venture to assert, that, in regard to discipline, and indeed the whole economy of its arrangements and conduct, it is not excelled by any institution in the world. Sir, it is a noble monument of the liberal and enlightened policy of this Nation. It richly deserves, instead of reprobation, the fostering care and protection of the Government. Young men, from every State of this widely extended empire, are brought together at West Point. They there form friendships which remain through life; local jealousies and prejudices, which unhappily exist among us, are conquered; and the associations growing out of this friendly intercourse has a most imposing influence in a political respect, by drawing more closely the chain which binds together this great Confederacy. It is true, Sir, the selection of Cadets is not confined to any particular class of society; nor can I perceive any just reason why it should be: for this institution was created for the benefit of the whole community. Yet the gentlemen assert, that none but the well-born are allowed to participate in its advantages, to the exclusion of the sons of Revolutionary fathers and widowed mothers; but one fact, sir, is worth a thousand such assertions: For I myself, within the last year, have had the pleasure of procuring for the deserving son of a poor widow in my district, a warrant of admission to that school; and I could instance to the gentleman from Tennessee, many appointments of a similar character—one particularly, in this District, of the son of an old Revolutionary officer and poor widow, to whom the present Secretary of War promptly gave a warrant. But, sir, no censure can attach to this Administration in relation to that establishment; it being almost co-eval with our Government. I therefore will not consume the time of the House by any farther reference to the remarks of the gentleman.

Sir, if it can be shown that the President of the United States, or any of the officers of this Administration, have been faithless to the trusts and obligations imposed on them—that they have wantonly or improvidently expended the public money, I will not raise my voice here, or elsewhere, to shield them from the just indignation of an injured people. Nor will I now attempt to defend them against insinuations, which, like an *ignis fatuus*, has neither shape nor substance; but if charges are to be preferred, let them come out in a tangible form—it will then be time to meet them.

Having, as I trust, relieved myself from any possible charge of inconsistency—being my principal object in rising—I will again, before I take my seat, suggest to the friends of the Administration, whether it will not be better to withdraw all amendments offered by them, and suf-

H. or R.]

Retrenchment.

[JAN. 28, 1828.]

for the gentlemen to frame such a resolution as will meet the object they profess to have in view.

Mr. CHILTON then again modified his resolutions by adding to the first as follows :

"And whether it is not expedient to reduce the pay allowed to the Members of the House."

And by adding the following as the fifth resolution :

"5. *Resolved, also,* That the Committee of Ways and Means be instructed to inquire into the expediency of applying the funds of the Government to a more speedy extinguishment of the National Debt."

Mr. BLAKE then modified the amendment which he proposed on Saturday, so as to take out of it that part accepted at the instance of Mr. DONNER.

Mr. INGHAM said, we are so apt to be led astray from the question before the House by incidental remarks, made in the course of debate, that it requires some effort to get back to the real and proper subject of discussion. I consider it, said Mr. INGHAM, most respectful to the House, as well as most compatible with the discharge of my duty, at all times, to confine myself as much as possible to the discussion of the matter immediately before it. The proposition of the gentleman from Kentucky had reference to a general retrenchment of the public expenditures of the Government. As now modified, it comprehends the whole of the original purpose, and goes somewhat further; but, in neither aspect, does it involve the great political question which now agitates the country. It was, therefore, out of time and place for the friends of the present Administration to throw themselves into the discussion by a general defence of their favorite Administration, before it was charged. The resolution makes no such charge, nor have I heard any made in debate, until the gentleman from Indiana, upon an assumption of his own, that the character of the Administration was to be tried by the proposed enquiry, demanded specifications, and entered upon a general defence. It was that course of debate which had led to this wide and unnecessary discussion. The resolution before the House simply proposes a retrenchment of public expenditures, without reference to the period when such a measure became proper or necessary, and no one will deny that some retrenchment might be effected; but it by no means follows that the Administration would be assailed by such a measure. Another part of the enquiry proposes a specific enquiry as to the expenditure of certain sums of money placed at the disposal of the President and Heads of Departments. We all know, that, when the law prescribes the special application of public money, there cannot be much danger of a misapplication; but where large sums are disbursed at discretion, it is, to say the least of it, a fit subject for the scrutiny of this House, and may fairly be done, and has been done over and over again, without any imputation against the Administrations who have made such disbursements; if all has been done right, they can have no just objection to the scrutiny; if any thing has been done wrong, we have a right to know: for, in either case, the information may be useful to direct future legislation. Let us look, for a moment, into the amount of the sums that are placed at the discretionary disposal of the President and Heads of Departments. The proposed inquiry goes back, I believe, three years. The sums appropriated for the contingencies of foreign intercourse, for that time, are as follows: 1825, \$40,000; 1826, \$40,000; 1827, \$30,000—\$110,000: this is the fund out of which the President may, by law, cause to be paid what amount he pleases, and if, in his opinion, the public interest requires it to be concealed, he certifies that fact to the accounting officers, and they settle the account without specification, or any other voucher than the certificate I have mentioned. It is proper that we should know what sums have been thus settled at the Treasury. I would not invade any regulation

which may have been found expedient, especially in times of war and difficulty, but the resolution does not call for the specification, it only asks for the amount so expended. The remainder of this fund, and the appropriations for the contingencies of foreign missions, and the contingent expenses of the several Departments, are required, by the resolutions, to be specified, and to this there can be no reasonable objection. The amount appropriated for the "contingencies of missions abroad," for the last three years, is \$70,000, and for the contingent expenses of the Departments \$211,845, making a total sum of \$391,845, including the foreign intercourse fund, which is disbursed very much at discretion. Now, sir, if the amendment of the gentleman from Indiana should be adopted, it will exclude us from any knowledge of these large disbursements. But let us consider what his amendment proposes to do in place of the enquiry contemplated by the resolutions of the gentleman from Kentucky. The first proposition of the amendment is to enquire whether any abuses have been committed by the President or Heads of Departments, and what can that end in? Shall we send a committee to the President, to ask him what abuses he has committed? He will tell them in the first place that he does not confer with committees, and in the next, that he is not conscious of abusing his trust, and is not bound to answer that question. Will you send a committee to the Heads of Departments to put the same question to them? Will they give you any such information, after you have thus characterized the object of your enquiry? But perhaps it may be said your committees might go to the Clerks. Do we not know, that, at the last session, a certain transaction leaked out, which excited some attention both here and abroad, and afterwards became the subject of a motion in this House—I mean the payment of \$4,500 to John A. King, for a benefit, as it has been aptly called. I never knew nor enquired how it got out; but soon after it was noticed here, we heard it as a fact of common conversation in this city, and for myself I cannot doubt it, that the Head of one Department summoned his trembling Clerks before him, and menaced with immediate dismissal whoever could be proved to have made the disclosure. In such a state of things, what could be expected from an enquiry after abuses? It has been well said by the gentleman from South Carolina and others, that it must end in nothing. The next object embraced in the amendment is an enquiry as to the reduction of salaries, and as to what offices can be dispensed with, and if any salaries are found too high, under what Administration they were established! And, according to the form of the issue made up by the gentleman from Indiana, the decision of these points is to try the character of the Administration! What, sir, test this Administration by the ascertainment of a fact, which, no matter what it may be, cannot affect the Administration in the slightest degree? It was certainly an ingenious contrivance of the gentleman to put the trial on such grounds. If the salaries should not be deemed too high, nor any offices to be dispensed with, the Administration would be acquitted and entitled to our support; but if some reduction and diminution should be thought proper, then the next point presented by the gentleman, is, when were these offices and salaries established? And if it should be found that they were established before this Administration came into power, which we may all know by looking into the Statute book, then the Administration would be acquitted. I, for one, will not consent to any such a trial, and will here admit that the Administration are not responsible for the amount of the salaries—these were established by law—nor for the number of officers, whose offices are created by law; nor for the time when they were established. If the gentleman, by his ingenuity, could get such a trial as he has proposed, he would get his Administration out of their

JAN. 28, 1828.]

Relenchnent.

[H. OF R.]

difficulties most easily indeed. I am not disposed to be drawn into the discussion of that question, nor to any trial of the Administration before this House. We might indeed be compelled to put public officers upon their trial in some events, but we have no right to try them ourselves, but most especially, I would not take the great political trial now going on before the People out of their hands. It would be most unwise, as well as irregular, for this House to entertain jurisdiction of any question upon an appeal from the People. I came here to assist in transacting the legislative business of the country. This House is not competent to decide that great political question by any act which can grow out of these resolutions. Why, then, bring this discussion here? Let it remain, I beseech gentlemen, before an intelligent People, where some, perhaps, of the most intelligent bodies of men ever convened for such occasions, are discussing the subject with eminent ability. But, sir, if forced into this discussion against my will, I would admonish gentlemen that we will not try it upon the salaries of a few officers, or their number, or dates, nor upon the amount of the wages of members of Congress. We must go much deeper. We must go to the origin, and enquire how they came into power. Whether the spirit of the Constitution had not been violated in the election. And in tracing their acts when in power, who ever tries the Administration will mainly consider the *quo animo* that directed them. It being most essential for an Administration which had come into power against the will of a majority of the People, to convert that majority into a minority, I would examine the means used for this purpose, and their connexion with those transactions by which the great principle upon which our Government is founded, was rendered utterly nugatory. Shall an Administration, thus possessed of power, be permitted, through their friends in this House, to put themselves on trial for measures that they are not responsible for, and which, whether found right or wrong, would necessarily produce an acquittal? No, sir, that cannot be; nor will they get their trial upon any particular measure. If a man should break into my house, will I stop to make terms with him, and yield the possession upon the condition that he will behave himself civilly while there? No, sir; but that is for the People to decide, not this body. If, however, we must be forced into the discussion of these measures, I would look mainly at those which have grown out of the circumstances of the election, and, as I have said before, at the *quo animo* that controlled them. If called upon to investigate the case of the outfit to John A. King, I would look beyond the act to the motive which may have led to it, and whether it was not a part of that system which has rendered it necessary to dispense patronage without regard to the public service, for the purpose of acquiring power to control public opinion at the next election. If we must enter into a discussion for the trial of the Administration, we must present the proper topics for it, and not be drawn aside to examine the amount or date of a salary. If I were about to investigate the character of the Mission to England, I would not merely dwell upon its progress, or consequences, resulting, as it did, in the loss of the Colonial Trade, which, by the bye, was least of all the fault of the Ministry—I would look beyond all these, and enquire whether there were no antecedent arrangements of a peculiar character that controlled the transaction. If I were to refer to the Panama Mission, I would not indulge a feeling in relation to the agents employed in it, but examine it as it was, a piece of splendid State pageantry, got up and prosecuted, regardless of the danger of an entangling political connexion with foreign Governments, with a view not only to extend patronage, but to dazzle the public mind after the manner and for the same purpose, that corruption fetes are given in the old world. If compelled

to pursue this subject further, I would analyze the idea contained in a remark which I have heard attributed to a high public functionary. When it was asked of him, as he was about to seize the boon he had sought, how a minority could be changed into a majority? he observed, "give us the patronage, and we will make ourselves popular." This expression speaks volumes: it admonishes us where to look for the transactions upon which to try this Administration, and presents a clear view of the policy that has sought, with so much solicitude and zeal, to form a coalition of the State Administrations with that of this Government. It would explain the various movements intended to combine their power and patronage with that of the General Government, against the popular will. If this purpose could have been accomplished, we should have seen a Holy Alliance of power, similar, in principle, to that of Continental Europe, united to resist the influence of public virtue and popular intelligence. Do we not know that the expenditures of this Government, exclusive of the Sinking Fund, amounts to about twelve millions annually? What those of the State Governments are, I do not so well know. Whatever the latter may be, if they had been united, they would have controlled the event of this great contest, against all human power; thanks, however, to the intelligence and virtue of the American People, this could not be done.

These are a few of the topics which will enter into the discussion on this great trial. But it would not stop here. We should have to go farther, and follow down into the minute ramifications of the same system which uses the patronage, not for the public good, but to convert a minority into a majority. It would, in that case, be necessary to observe the measures taken to get a control over the press, by means of the public money. So much has been said, both here and abroad, on this subject, that I will only glance at it. We have seen presses having a large subscription list, which had been employed, in better times, to promulgate the acts of the Government, indirectly publishing a paragraph of eulogy in favor of one of the greatest public benefactors of our country now living, and the returning mail, almost literally, as I say, the returning mail carrying the punishment for so gross an indignity to the system upon which the Administration rests its hope. We might trace this operation even more minutely, and find a Head of a Department, of high responsibility, descending to take a scanty pittance, not from a political adversary, but from a poor widow and her orphan children, to reward one of the most venal wretches, for the most venal services that such a man could render. You might follow up still further, and find the same venal wretch convicted of publishing a forgery so gross, that it was denounced, along with some of his other calumnies, by every honorable Editor on the same side of the political question. And, afterwards, we may see a special mandate from one of the Departments of the Government, directing the advertisements for its supplies, &c. to be given him, as a reward for such service. But enough of this. Every man who loves his country must feel ashamed and degraded, when contemplating such transactions as these, emanating from the grand councils of this nation.

We have heard, in the course of this debate, of recommendations made by the President in favor of economy. We all know that recommendation and practice are two things, as different as precept and example often are. These recommendations were most appropriately styled, the other day, "lofty generalities," and more especially when we look into the other matters recommended in the same message, it would not be very unreasonable to regard them as entitled to about as much notice as "your humble servant" at the bottom of a letter. Not finding, however, a coincidence of recommendation and practice, inasmuch as no subject is proposed upon which to prac-



H. OF R.]

Retrenchment.

[JAN. 28, 1822]

tice the economy recommended, it might, not unfairly be supposed, that the whole may have been intended for political effect. I do not say so, but I think the inference is not unfair, more especially when I find a sentiment of a very opposite character contained in a letter written by the same distinguished individual, which, not having been intended for publication, most likely expressed the real sentiments of the writer, and I am very sure it was not intended for political effect. This letter was written by Mr. Adams, from Ghent, to Levitt Harris, then at St. Petersburg. He appears to have been giving Mr. Harris an account of the state of things at home during the severest part of the late war. I find in it the following sentence: "Divided among ourselves, more in passions than interest, with half the nation sold by their prejudices and their ignorance to our enemy, with a feeble and penurious Government, with five frigates for a Navy, and scarcely five efficient regiments for an Army, how can it be expected that we should resist the mass of force which that gigantic Power has collected to crush us at a blow?" I have selected this sentence on account of its direct bearing on the point I was considering. It will be recollected that our Government was then struggling with many and serious difficulties; that it was carrying on the war at an enormous expense, in which the least of all faults was penuriousness. The enemy had been, it is true, gallantly beaten and driven back at various points, but the difficulties threatening us were still great. At such a moment, we find a public officer, occupying a high station under the Government in a Foreign country, not sympathizing with us in our difficulties, but anathematizing the Government for its feebleness, penuriousness, and consequent unfitness for the purpose for which it was established. We find, upon looking into the documents of this House, that that letter was written not long after Mr. Adams received notice, from the then Secretary of State, that Congress, practising a little economy, had refused to allow him more than \$4,500 outfit, for the Mission in which he was associated to negotiate the peace with Great Britain. Congress, thought an outfit of \$4,500, for a Minister already abroad, was equivalent to the allowance of \$9,000 made to the other Ministers, who left their home and business, and made a distant journey.

[Here Mr. DORSEY inquired what mission this allowance had been made for.]

Mr. I. said, I will give the gentleman all the particulars, if he desires them. Mr. Adams being resident Minister at St. Petersburg, was associated with Mr. Bayard and Mr. Gallatin to negotiate a peace under the Russian mediation; under this appointment which was made during the recess of Congress, \$9,000 were sent to him for an outfit, not out of the fund appropriated to pay Ministers abroad, but another fund, over which the President had then a temporary discretion; when Congress met, the subject was submitted for their decision, and they refused to grant more than \$4,500 for that object. This Mission, it should be observed, was subsequently arranged to negotiate at Ghent, I believe, under a new commission; while at that place, Mr. Adams was informed of the decision of Congress upon his outfit, and that he could not be allowed more than \$4,500 in the settlement of his account, upon which he wrote a letter, not very respectful, to that penurious Congress, in which he said they might as well confiscate his property as take from him this money. Some time in 1821 or '22, Congress passed a law prohibiting the payment of salaries to public officers who stood indebted to the United States on the books; this made it necessary to settle the account, and the officer of the Treasury, refusing to pass that sum to his credit, it was referred to the President, who referred it to the Attorney General, and he decided that it was a vested right; upon which the account was closed, without any appropriation having ever been made

by law to pay that sum. I have already said, that the letter to Mr. Harris was written not long after the receipt of the letter from the State Department, communicating the decision of Congress; and it is not very unreasonable to suppose, that the severe denunciation against the Government, contained in the letter to Harris, was produced by that incident; it goes very far to show, however, the real sentiments of the writer on the subject of economy.

But, to return to the resolution, I repeat my protest against any trial of the Administration upon such questions as it or the amendment embraces. As to retrenchment, I would do all in my power to effect it, but I never will be instrumental in breaking down or impairing any institution of the country which has been found valuable or necessary to the public interest, and whatever may be my opinion of the present Administration, I am not anxious to see those I think better of in possession of the power, as to be willing to injure the fabric of the Government for that object; nor do I believe that purpose would be promoted by such means. One remark as to the wages of members of Congress. I have often observed that, when Congress proposes to make any retrenchment, those who are likely to be affected by it contrive to make it recoil upon you, by getting up a proposition, through some of their friends, to reduce your own wages—they tell us to begin at home, and then go abroad to retrench. From my own experience, I should consider it an act of some temerity to attempt a general reduction of salaries, however necessary it might be whenever you do this, it is like attacking a nest of hornets all are armed with a sting, and in full concert to assail the rash adventurer—the better way would be to take up the subjects of retrenchment one at a time, and dispose of them in detail; you cannot succeed against whole masses of men thus concerted; the undertaking is too great, they will act upon you in a thousand ways; which you cannot meet nor understand. As regards the compensation of Members of Congress, I would have no hesitation in appealing to the good sense of the People—I will never appeal to their passions or selfish feelings, believing that, whoever honestly appeals to their intelligence will always be sustained. He errs very much who supposes that the People do not understand the motives of public men as well as those who are in action. A member of Congress now receives, exclusive of travelling expenses, about as much annually as the petty Inspector of the Customs in a commercial city: and regard it as a mere finesse on the part of those who would defeat the object of this resolution, by any other means than voting against it, to turn us back to our own compensation for a beginning of every proposed retrenchment. All know that it is a very delicate matter to legislate upon this subject. If we propose to increase our pay, we cannot avoid the imputation of selfish motives—if we propose to reduce it, we will be charged with insincerity, and shrinking from the responsibility of voting according to our honest conviction.

I have trespassed too long upon your patience—I have given a faint outline only of a few of the topics which must necessarily be drawn into this discussion. If gentlemen persist in forcing upon us what the gentleman from Indiana has denominated a trial of the Administration, I have no disposition to embark in it. It does not belong to this House. But I can assure gentlemen, that, upon such a trial, the discussion cannot be confined to the points upon which they have chosen to put it. We have been unjustly charged with provoking the discussion. We all know that it is not usual to discuss resolutions of inquiry. They almost always pass as a matter of course. A proposition, very nearly similar, offered by the gentleman from Maryland, not long since, passed in silence, and this ought to have gone through in the same way.



JAN. 28, 1828.]

Retrenchment.

[H. OF R.]

but gentlemen have chosen to interrupt the public business, by discussing a proposition for mere inquiry; and the responsibility rests with them. I will only add, that the great political question which they have struggled so hard to draw into this House, is before the People, and as intelligent a People as any on the face of the globe. They are fully competent to understand and decide it. My chief purpose in rising was, to protest against taking this question out of their hands, or entertaining any appeal from such a tribunal, on such a subject, to this House, when it is not forced upon us by the Constitution. I have seen one appeal from the decision of the American People to the House of Representatives, but I hope in God it will be the last.

Mr. VANCE rose, and said, that he had not intended to take any part in the present debate; but he must be permitted to say that, from the commencement of this session, and throughout its course until now, there had been manifested a spirit towards a certain class of individuals, such as never had been exhibited in this Nation, nor, as he believed, in any other. Certain watchwords, and he would add, also, certain countersigns, had taken the rounds in a very significant manner. They had commenced with a gentleman from Virginia [Mr. RANDOLPH] whom he did not now see in his place, at the time when the resolution respecting the selling out of our stock in the United States' Bank was under discussion; but he believed there were few at that moment who thought them to be so significant as they had since been made. He alluded particularly to a remark, so often made by certain gentlemen, that they had come here to do the public business and to go home. Sir, who has not come here to do the public business? For myself I came here to do the public and the private business which might come before me in this House, together with any other business in which my constituents might wish me to act, and then to go home.

In the course of the remarks which have been made in this debate, it has been alleged that there is a certain party in this House, who believe a public debt to be a public blessing. Sir, I have attended here now for seven sessions, and I never heard that sentiment uttered in this House except by one gentleman, and he is now at the head of the Committee of Ways and Means. Sir, I recollect it well. It was on the question of retrenchment, or of the reduction of the army, when that gentleman declared that the public debt belonged to posterity. He was the only individual I ever heard utter such a sentiment; if others had, I have not heard them.

The gentleman from Virginia, [Mr. RANDOLPH] told his friends that we of the Administration party were a well disciplined phalanx, and that we never acted on any important measure without a consultation first had without the walls of this House. Sir, if there has been any such consultation, I for one never heard of it, nor did I ever hear a single friend of the Administration suggest the necessity or expediency of any such measure. No, sir, not one. If any such consultation has been held the secret was kept from me. What, sir, to charge upon us that we sit still and demure, and make no movements, and leave you to do all the public business; Why, sir, what power have we in this House? None at all. By the very organization and construction of the committees of this House, the Administration party are debarred from all power on this floor. Sir, when those committees were formed, there were personal predilections at stake; and I will say that such a proscription was never witnessed under this or any other Administration. No, sir. No such proscription was ever seen in this country. Sir, what are the facts? When there only exists between the two parties a mere difference of opinion, when neither party claims to be exclusively either the Republican or the Democratic party, but merely because we differ in

our judgment as to a certain man whom we think best qualified to rule over the nation, we have been proscribed in the manner I have pointed out. And, sir, this proscription is not merely personal, it is sectional. In the eight committees of this House, which may be justly termed National Committees, and who have all the most important business to perform, I will state how the two parties stand. Maine has two members on committees; one of these of the Administration, and one of the Opposition; and has no Chairman on any one of them. New Hampshire has two members, both in favour of the Administration. Massachusetts has four, all in favour of the Administration. It has a chairman in one of the committees, but the majority of the committee are in the opposition. Rhode Island has no member on either of those committees. Connecticut has none. Vermont has a member, who is a Chairman, in favor of the Administration, but a majority of the committee is in the Opposition.

[Mr. KREMER here inquired of the chair, whether the gentleman from Ohio was in order in thus arraigning the appointment of the committees?]

The SPEAKER replied that he was. He was making statements which the Chair presumed he intended to bring to bear upon the general argument.]

Mr. VANCE replied that he did so intend, and then proceeded with his statement. New Jersey has one member of these committees, and he is for the Administration. New York has six members on these committees, three for the Administration, three in the opposition, and one chairman. Pennsylvania has six members, four in the Opposition and two for the Administration. Delaware has none. Maryland has three, all for the Administration. Virginia has two chairmen of these committees and six members, all in the Opposition.

Mr. M'DUFFIE here rose to order. He said he was aware of all the delicacy of that situation in which the Speaker was placed, and he wished to ask whether it would be in order to appeal from the decision just now given in relation to the remarks of the gentleman from Ohio. I wish that the House should take upon itself the responsibility of determining whether this debate shall go on or not.

The SPEAKER said, that he should not pronounce the gentleman from Ohio out of order. His remarks, so far, in relation to the political and geographical organization of some of the Standing Committees of the House, were of too general a character to justify the Chair in pronouncing them out of order. Whatever the motives of the gentleman from Ohio might be, it was not for the Speaker to decide; nor could he anticipate the particular application which that gentleman intended to give to his argument. The Chair, therefore, under the circumstances of the case, decided that the gentleman from Ohio, was not out of order, and might proceed.

Mr. M'DUFFIE appealed from this decision to the House, and said, he would state the ground of his appeal. The proposition before the House, [said Mr. M'D.] involves simply an inquiry into the expediency of retrenchment in the expenditure of the public money. No remarks of any member of the House, so far as I recollect, has had reference to any other subject but this. The member from Ohio, now goes into an inquiry relative to the organization of the Committees of this House, and to the manner in which the duties of the Chair have been discharged. Now, I submit to the House whether it would not be as much in order to go into an examination of a project of a gentleman from his own State, to get into a hole at the North Pole. It has no manner of connexion with the subject before the House, and I trust the House will decide whether we are to be disgraced in the public estimation by proceeding in a discussion which now assumes a character, that cannot but degrade this body before the nation.

H. OF R.]

Retrenchment.

[JAN. 29, 1828.]

The SPEAKER now stated the question upon the appeal, in the usual form, viz. "Shall the decision of the Chair stand as the judgment of the House?"

Mr. CHILTON now said, that it might be incumbent upon him to speak for a moment to the question of order. He really begged leave of the House to make a few remarks. He would state as an additional reason why he supposed the decision of the Chair ought to be reversed, that the proposition now in discussion, was not embraced in the resolutions. He considered himself as capable to decide on this question as any other member could be, since he had himself given origin to the resolutions. I would not have remarks put into my mouth, which I never contemplated. As the character of the Administration is not included in my resolutions, it is not in order to discuss it.

Mr. CARTER said, that it could not have escaped the observation of the House, that the object of this rehearsal, on the part of the gentleman from Ohio, was not merely to impugn the impartiality of the Chair, but to sustain the charge of proscription which he had advanced, and to show that the presiding Officer of this House had so far forgotten his duty, as to organize the Committees with a view to embarrass the Government.

The CHAIR here interposed, and reminded the gentleman that an appeal was not debatable.

The question then being about to be put—

Mr. WRIGHT, of Ohio, demanded that it should be taken by yeas and nays.

It was so ordered by the House—yeas 40, noes 120—(one-fifth being sufficient to order the yeas and nays.)

Upon which, Mr. BARTLETT moved an adjournment.

TUESDAY, JANUARY 29, 1828.

The House resumed the consideration of Mr. CHILTON's resolutions, with the amendments proposed there-to.

The question on the appeal of Mr. McDUFFIE was propounded from the Chair, when the House affirmed the decision of the Speaker, yeas 91, nays 62—and Mr. VANCE again took the floor. On resuming his remarks—

Mr. VANCE said, in justice to myself, to you, Mr. Speaker, and the House, I trust I shall be permitted to say that my motives in bringing the organization of the committees before this House, have been totally misconceived. I am the last man on this floor that would unnecessarily bring this or any other matter before this House, calculated to wound the feelings of its presiding officer, and towards you, sir, personally, no such feeling exists. In doing what I have done, and was continuing to do, when called to order by the member from South Carolina, [Mr. McDUFFIE] I was doing nothing more than stating a historical fact—the organization of the House—which fact was necessary to meet and repel the arguments of the member from Virginia, [Mr. RANDOLPH] which could be met in no other way. In speaking of the friends of the Administration, the member from Virginia says, "I see one of these parties, perfectly willing, no doubt, with the very great man to whom I have before alluded, to throw upon us the responsibility for whatever is done here: sitting perfectly still, steadfast, silent, and demure, bringing forward no proposition whatever. I see the other party throwing out proposition after proposition. The opposite party never commits itself until after a night's reflection. And what is the consequence? Though I believe a minority, they so manage matters as to constitute an effective majority of this House; and then throw on us the responsibility of their own measures. Sir, this is a new sort of political justice."

This is the language of the member from Virginia, which it is my purpose to meet and repel. What, Sir,

we embarrassing legislation on this floor by consultation! If so, we deserve the proscription and denunciation of all honest men, of all parties: for I have no hesitation in saying, that whenever the legislation of this House is decided by caucusses and consultations, secret or open, the days of the Republic will be numbered; and whenever I am convinced that a party is acting in this manner, it shall cease to be my party; I would not only desert it, but I would despise myself if I did not denounce and expose it. Sir, if I could have believed, for a moment, that an expose of the organization of the Committees would have produced so much sensibility, I would not have arrayed them before this House and nation. I will not say, Sir, if I filled the place that you do, and under the circumstances in which you are placed, with all the passion and prejudice growing out of a desperate political conflict, that I would not have done as you have thought it your duty to do. No, Sir; it is not what you have done, that I am complaining of; but it is that we of the Administration party should be divested of political power, and then charged with neglect of duty for not exercising it.

One word, Sir, as it regards the member from South Carolina [Mr. McDUFFIE] at the head of the Committee of Ways and Means. It may be considered by some that I take exceptions to his appointment. Not so. In his legislative character he has always shewn himself above party. And although he is the only man upon earth, with whom I am acquainted, between whom and myself there is an entire separation, yet, with all the political passion existing between us, I have always done justice to his talents and integrity as a legislator, and will say here, what I have said elsewhere, that I would have no objections to his filling the place he now does under any Administration. No, Sir; it is a rule of my life to do justice, regardless of passion or party, to my political adversaries. I never heard a foul calumny charged upon a political opponent, knowing it to be such, but what I met and repelled it with indignation, and the world that knows me, knows that this is my practice. And, Sir, I observe the same course in defence of a friend. And when I cease to have these feelings, or to act upon these principles, in my opinion, I shall no longer be worthy of a seat on this floor. Unhappily I have come in collision, politically, with many men, but I have never written any thing about any man, but what I am willing should be put forth to the world in the broad face of day. No dark and mysterious letters and essays have ever been produced by my pen. What I have to say of men politically, I say it here on this floor, where I am liable to be met face to face. I have strong passions to combat; they have been aggravated by persecution and abuse. And I confess I was forcibly struck some days since, at the sensibility of the member from South Carolina [Mr. McDUFFIE] on a charge of insincerity, in the National Journal, relative to the debate on the sale of the Government Stock in the Bank of the United States. His sensibility did credit to his feelings. Of the injustice of the charge, I do not doubt; but, before the depreciation of this member, relative to the Government paper making this charge against him, had ceased to sound in my ear—indeed, I believe the very next morning—I found myself together with the Ohio Delegation, denounced as traitors, for preferring one individual to another as the Chief Magistrate of this nation. Yes, Sir; here was a Government paper, edited by an officer of this Congress, the printer of the Senate, goading men to desperation, and exulting and glorying in his success.

[Here the CHAIR reminded the gentlemen that it was not in order to notice the debates and proceedings of the Senate.]

Mr. V. said, he had no disposition to transgress the rules of this House; that he had not referred to the

JAN. 29, 1828.]

*Retrenchment.*

[H. OF R.]

other branch of the Legislature, but to an officer of that branch.

Before I proceed, I wish to say one word to the member from South Carolina, [Mr. CARTER] whose friendship it has been my good fortune to enjoy from our first acquaintance until the present time. In his remarks, on yesterday, he appears to have taken up the idea that my intention was to make an attack on the Speaker. From what I have said to-day, I hope he is convinced of his misapprehension. The sectional organization to which I referred, was, I confess, principally directed to the Judiciary Committee. The People of the Western States feel a lively interest in having the Judicial System beneficially extended to the Western States. The President recommends it in his message to Congress. A bill passed this House at the first session of the last Congress, that would have been satisfactory, but for some cause to me unknown, it was so amended in the Senate, that its friends were compelled to vote against it. We are to this period of the Session without a report. It is plainly to be seen that our grievances are not to be remedied, but they are to be continued another and another year. I take no exceptions to the men that compose the Committee; indeed, the member at the head of it is as conscientious and honest a legislator, in my humble opinion, as there is on this floor or in this nation. But I speak of facts, and them I have a right to speak of. And one fact is, that five out of seven of the present Judges of the Supreme Court are from the Southern or the slave-holding States; and another is, that five out of seven of the Committee are from the same States; and another fact is, that, if the bill, as amended by the Senate in the last Congress, shall be reported and passed, eight out of ten of these Judges may, and probably will, be from those States.

[Here the SPEAKER called to order.]

Mr. V. said, he would always cheerfully submit to the decision of the Chair. He spoke of facts, he intended to speak freely, but not disrespectfully; he knew his own feelings and his liability to err, but no man, on being convinced of error, would with more cheerfulness and promptness do justice to others. He said, he would now proceed to complete what he was at when called to order on yesterday. If he recollected right, he was at the State of Virginia. That State has two Chairmen, six members, all in the Opposition. North Carolina has no member on either of these Committees. South Carolina has two Chairmen, six members, all in the Opposition; Georgia has two members, both in the Opposition; Tennessee has one chairman, four members, all in the Opposition; Kentucky has two members, both in the Opposition; Ohio has four members, one in the Opposition, and three for the Administration; Louisiana has three members, one in the Opposition, and two for the Administration; Illinois has one member in the Opposition; Indiana has one member; Mississippi has one member in the Opposition; Alabama has one member in the Opposition; Missouri has no member on either of these committees. On these committees, there are fifty six members—thirty four in the Opposition, and twenty-two for the Administration; and, with this strong organization against us, we are chided by the member from Virginia with sitting demurely and silently, taking no part in legislation, making no proposition, but pouncing upon theirs—relieving ourselves of responsibility, and ungenerously throwing it upon our adversaries. Sir, this is not a matter of our seeking; and if gentlemen find themselves unequal to the task they have undertaken, do not let them blame us with their misfortunes.

The member from Virginia [Mr. RANDOLPH] asks who it was, in the other branch of the National Legislature, that voted against extending our laws and giving protection to the citizens of Louisiana. This allusion, sir, is directed against the President of the United States, who, it appears, had, at that time, the same constitutional

scruples relative to this business, that were entertained by Jefferson, and many others of the most worthy men of this nation. But, at the same time that he gave this vote he was as much in favor of the acquisition of Louisiana as any man then in the Senate, as his official acts will abundantly show. But when, let me ask, did the member from Virginia fall so much in love with the People of the Western States? And more particularly let me ask, what burst of light has drawn forth all these affectionate regards in favor of the Louisianians? Is it since the year 1822, when he said the framers of the Constitution mistook the policy of this country [by admitting the Western States into the Union, on an equal footing with the original States? When he said we of the West might do to rule People under the Rocky Mountains, but we should not rule him? In 1822 we were not, in the member's opinion, entitled, or, at least, ought not to be, to equal privileges on this floor; but in 1828 he becomes so extremely fond of us, that an unimportant conscientious vote of the present President of the United States, is viewed by him with indignation, yea, feeling indignation, and the whole sympathy of his nature is awakened and alive to our interest, prosperity, and happiness.

But, lest I should be misunderstood, permit me to read an extract from the member's speech, made in the debate on the apportionment bill, February the 6th, 1822.

"Mr. RANDOLPH said, he would again call the attention of the elder brethren of the Confederacy—the political Esau of our tribe—to the predicament in which they stand. We have heard a great deal of the wisdom of the men who framed the Constitution under which we now sit. I have much faith in their wisdom, an unshaken and unchangeable faith in their virtue; but I will believe experience against the word of Solomon himself. I then say, that, in my feeble apprehension, they committed an error, fundamental and fatal, as practised upon since by their successors—they made a provision for the admission of new States into the Union."

Yes sir, in the year 1822, it was an error, fundamental and fatal, in the opinion of that gentleman, for the People of the West to have the same weight in the councils of the Nation that was enjoyed by the elder Esau of the tribe. And, sir, who is it that held this language relative to the Western People? Who is it that manifested this feeling of proscription towards us and our posterity? Sir, it is the man who is now at the head of the Opposition to this Administration; it is the man who was placed, by you, sir, at the head of the principal committee of this House. Yes, sir, he was placed there by aid of the vote of the very People that he has derided and abused, and, if ill health had not prevented, would have been in that exalted station. It is the man that is entitled to more credit, if it is right that this Administration should go down, for his efficiency in effecting that object, than any three men in this nation. This is not a hasty opinion of mine; it is one long held, and often expressed. I have been an attentive observer of his course ever since the first organization of the party to which he belongs. From the moment he took his seat in the other branch of the Legislature, he became the great rallying officer of the South. Our Southern brethren were made to believe that we of the North were political fiends, ready to oppress them with heavy and onerous duties, and even willing to destroy that property they held most sacred. Sir, these are not exaggerated statements relative to the course of this distinguished individual. He is certainly the ablest political recruiting sergeant that has been in this or any other nation—

[Here the Chair interposed. It was not in order to use terms of reproach, or speak disrespectfully of any member of the House.]

Mr. V. said he had no such intention, but was only

H. OF R.]

*Retrenchment.*

[JAN. 29, 1828.]

using as strong terms as he could to describe the powers of the individual as an able and efficient rallying political partisan. I disclaim any thing else, and will cheerfully take back any offensive words that I may have used in the heat of debate. My object is to state truths, yes, great truths; and God forbid that I should, here or elsewhere, manifest any feelings towards any man, but those of honor and propriety. I will then proceed: this same member, and in the same debate from which I have already read an extract, in speaking of Ohio, and its admission into the Union—and this I wish the members from Ohio, particularly those of the opposition, to pay some attention to—used the following terms:

"A vast augmentation of weight, in this House and elsewhere, was now to be given to some of the States—and of all the States in the Union to the State of Ohio—which State—but not by his vote, he believed he stood alone on that occasion—he would not dress himself in borrowed plumes, he would claim no credit for others' liberality. The subject had been referred to a committee, of which he [Mr. Randolph] was chairman. For some cause, not necessary to state, it was afterwards put into other hands: in fact, to two individuals, was entrusted the marking out the boundaries of that State, out of which arose the existing dispute between her and Michigan. They had a carte blanche, and they won the game accordingly. That great State, one of the greatest intriguers who ever wormed himself into any Department of this Government, said, he was laying off for the purpose of clipping the wings of Virginia. Little did I then dream that I should ever politically live to witness the fulfilment of this prediction, although I foresaw it must come, and took my measures accordingly."

It will be perceived by this extract, that the member from Virginia, in this debate, prided himself in voting against the admission of Ohio—indeed, he has heretofore prided himself, I believe, in voting against every new State that has been admitted into this Union. Here let me ask, with what propriety he can now come forth and can chide the chief Magistrate of this nation, because he thought it unconstitutional to tax and extend the laws over the citizens of Louisiana—opinions at that day held by Thomas Jefferson, the pride of Virginia and the nation? But I will read an extract taken from the same debate, before alluded to, and then let the House judge which of the two, the member from Virginia or the President, has held the strongest language on the subject of the acquisition of Louisiana. In speaking of that State in the debate on the apportionment bill, in 1822, the gentleman from Virginia said—

"We were then called on, Mr. R. continued, by some of the very men who had a hand in framing the Constitution, and whose wisdom has been so loudly and not unjustly applauded, to pause before we signed that treaty admitting vast regions of country into the Confederation. We were forewarned, but not forearmed, said he, as is proved by what we are now experiencing, and what we are now beginning to experience. I repeat—for we are yet in the green tree—and when the time comes when the whole country is filled up, if these things are now done in the green tree, what then will be done in the dry? I, for one, although forewarned, was not forearmed. If I had been, I have no hesitation in declaring, that I would have said to the imperial Dejanira of modern times, take back your fatal present. I would have staked the free navigation of the Mississippi on the sword, and we must have gained it."

These, sir, were in 1822, the feelings of the member from Virginia towards Louisiana. His modern conversion every man in this House and in this nation will not be at a loss to comprehend and appreciate.

I have another document, of more authenticity, as it

is sanctioned by the name of the member from Virginia. It is a letter dated the 17th of May, 1824, dated from the ship *Nestor*, at sea. It will be recollected that this letter made some stir once on this floor. It was written in favor of Mr. Crawford—to this I have no objections—my objections to this letter are of another character. I repel the assertion, that the Western People, as a People, ever had any feelings towards that distinguished individual, than those of respect and gratitude. And, sir, was it just in the member from Virginia to proclaim to the world that we were his accusers and persecutors; that we, like the hounds of Acton, had assailed him by whom we had been cherished and fed. Sir, it is injustice to the Western People, to attribute to them any such feeling, but, lest I should be misunderstood, I will read an extract from the letter itself. Here Mr. V. read the extract.

"And it is a matter worthy of notice, that the very People, at whose prayers and entreaties, and to save whom from utter ruin he has pursued a certain line of conduct, have been his most virulent accusers and persecutors for that very conduct, which has contributed at once to their relief, and at the same time been servicable to the Government, by rescuing a large debt from the almost total loss which would have followed a rigid exercise of his authority. He has availed himself of discretionary powers, reposed in him by the law, for that purpose, and with that intent, to mitigate the severity of the sufferings of our Western fellow citizens, whose clamors, had he taken a different course, would have dissolved the present feeble and distracted Administration of our Government, and Acton like, he is assailed by the very hounds that he has cherished and fed."

Now, Sir, as it regards the individual to which this letter alludes, I can say for myself, that in the course of my life, I have never written but two or three political essays, and they were in his favor, and that at a time when he was not my choice for the office of Chief Magistrate; but I threw in my feeble mite to try to arrest the current of calumny and detraction that was bearing down upon this persecuted man, in successive torrents, that at last overwhelmed him. It is true that, from the succession of attacks, and the boldness with which they were published to the world, many good and honest men in the West did believe that he had almost exhausted the Treasury to get into power. But, Sir, under all this calumny and detraction, he still retained many enlightened and firm friends, who never for a moment believed him guilty of the smallest dereliction of public duty. I thank God that the public moral, and feeling of the country is restored in favor of this once injured and persecuted individual. Let it not be said of the West, as a People, that they are chargeable with the persecution of Mr. Crawford. They are the last People on earth liable to such a charge. Yes, his celebrated report, in favor of the Western land debtors, will be remembered with gratitude, and the memory of its author will be cherished by generations to come as a noble act of a disinterested and generous man, laboring to rescue their fathers from a debt that they were totally unable to pay. Sir, I never think of the fate of that man, but I am chilled to the bone. By calumny and detraction, he was not only politically, but physically, and mentally destroyed. The noblest and best feelings of our nature, possessed in such an eminent degree by that high-minded and honorable man, were laid under contribution by his defamers and abusers, and made the dagger that pierced him to the heart. I was going to say more on this subject, but I forbear; I have no disposition to harrow up feelings and recollections that ought to be buried—no; forbearance is a noble quality, and I obey her dictates.

AN. 29, 1828.]

*Retrenchment.*

[H. or R.]

There is another individual, whose character has not been permitted to escape in this debate; and who has been held up to the American People, not only here, but elsewhere, as one whose principles were to be avoided and detested—I mean the elder Adams. Sir, that distinguished patriot committed errors in his political course through life, there can be no doubt—many of his political doctrines were not my doctrines; but, from the justice that has been done to him by all parties throughout the United States, since he has been gathered to his fathers, I had supposed he might have been suffered to sleep in peace with his compatriots and compeers, Washington and Jefferson. Mr. V. said, pointing to the Declaration of Independence, the hallowed corps that there surround him, and the distinguished stand that he there occupies, ought to shield him from abuse and detraction. I envy no man his feelings who has the heart to assault the humblest individual amongst that group of worthies; and, assault them as we may, for effect, or not, they will still live fresh in the hearts of their countrymen. Yes, John Adams will be pointed out by living fathers, and living mothers, to their children, in generations yet unborn, as the friend of Washington, the companion of Jefferson, through life and in death, and the ablest and most efficient defender of our National Independence—when his defamers and abusers shall be swallowed up in forgetfulness. Sir, I am aware that I am wandering. It is not my wish so to do, but to answer the arguments and repel the assaults of those that have preceded me. The member from Virginia [Mr. RANDOLPH] talked very pathetically about the poor man; his pound of sugar, peck of salt, &c. Now, Sir, I would be glad to know when all those feelings came athwart the member? Are they since the Huskisson dinner at Liverpool? They do not comport with what the member is reported to have said after the excursion in the Dublin steam packets. Mr. V. said he would read for the information of the House, the member's sentiments at that time.

[The CHAIR said it was out of order, and again admonished the gentleman from Ohio, that personal allusions could not be admitted.]

Mr. V. said, he had no wish to read any thing that was out of order: but, after the member from Pennsylvania [Mr. INGHAM] had, on yesterday, read the letter of Levitt Harris, going to impeach the character and motives of the President, he thought it would be admissible for him to read the paper referred to; but, as he had no disposition to do or read any thing contrary to rule, he would submit to the decision of the Chair, and speak of the fact from memory alone. The member from Virginia, at the time and place to which I had last alluded urged the People to keep down the dregs of society. Verily, John Bull must have stood perfectly astounded, to hear a Virginia democrat haranguing the nobility of England, to oppress and keep under the lower orders of society. Yes, give them another wrench of the screw, or they will not only prove blue but black ruin. Sir, these were the feelings of the member in 1826, but they have materially changed in 1828.

The member from Virginia, [Mr. RANDOLPH] has informed us that he has witnessed the progress of salaries under this Government, and has referred particularly to that of the Attorney General, which at the time of his entering into public life, was only \$1200. Now, sir, for the benefit of the member, as well as the House, I will inform him how it came to be increased, as well as almost all the other salaries of the officers of the different Departments. If the member will examine the files of the *Intelligencer*, of the 18th November, 1803, he will find that it was himself that made the motion to have it increased to \$3,000, together with many other motions

for the increase of salaries generally throughout the different Departments.

A few more words, Mr. Speaker, and I am done with this subject. I will now, as I always have done, vote for any inquiry relative to the correction of abuses, or the economy of expenditure. I am not particular whether the amendment or the resolution as proposed by the mover, shall succeed. I will cheerfully vote for either; and I trust that either will be found to answer the ends of correction, if indeed correction is needed; and if not, I hope those that have thought otherwise heretofore, will come forth and declare to the world, that the disbursement of the public money has been faithfully made. The member from Virginia has said that this is not the time. Sir, I hope the house will think otherwise, notwithstanding he has told us that the great matter must first be attended to—that is, they must first get the power, and all their energies must first be directed to that great object. Will the member be so good as to inform us, what great benefits are to result to this nation, when the power shall fall into their hands? Will State rights be again restored, agreeably to the Virginia construction of the constitution? If so, we want to know it. The country have a deep interest in resisting these doctrines that are to follow the halcyon days of the new dynasty—when all may either walk, ride, or drive through the mud up to the hub, shouting buzza in favor of the Southern policy of no Roads, no Canals, no Manufactories; but Cotton and Tobacco, the Richmond party, and General Jackson forever?

Mr. PEARCE regretted that the debate should have taken this course, and also that there should have been any debate upon these resolutions. It appears to me singular said Mr. P. that such a debate should have existed: for the friends of the Administration are in favor of the proposed inquiry, and those who are opposed to the Administration, ought not to be opposed to the inquiry which these resolutions will authorize. But, Sir, although I am in favor of this Administration; and have ever been from the commencement of it, and am well persuaded I shall be to its termination; more especially if those who are now in power shall administer the affairs of this country, as they have administered them since the Administration commenced, let it not be understood, or inferred, that, because I do vote for the resolutions, I am influenced by the same considerations which govern others, who have participated in this debate—their motives are different from mine; and, but for the range of this debate, the House would not have been, at this time, troubled with any remarks from me. Sir, as the friend of this Administration, I wish the conduct of those in power might be closely investigated, and the more extensive the inquiry, the more pleased I shall be. If their conduct will not withstand any investigation that can take place, they are not entitled to the confidence of the People, and ought not to be honored with it. I know they are willing to meet it, are anxious for it, and if it were practicable, would be willing, to speak in borrowed language, that a full and complete history of their whole proceedings should be written in sun-beams, in the heavens, that all the world might read it. Sir, I do not vote for these resolutions because I think there are any good reasons for the adoption of them, or that those who are opposed to us will be silent, if, upon a full investigation, it shall be found that there have been no useless expenditures, and the public interest has in nowise suffered, for the last three years. Those who are disposed to arraign this Administration will clamor, will, if possible, poison the public mind, and prejudice the People, if, upon a fair trial, its measures should be found to have been dictated by the best policy, the men in authority as able as any men who have heretofore filled the places which they now fill, and the men themselves as pure as angels. I

H. OF R.]

*Retrenchment.*

[JAN. 29, 1828.]

have no pledges to redeem; I have been brought here by nobody, and have made no promise at home, that, in the event of my coming, the National debt would be extinguished; and I might further add, that I have not, since I came here, received any instructions relative to the subjects embraced by these resolutions, and shall consequently act according to my own convictions, let the consequences which may follow be what they may. The doctrine which inculcates the necessity of immediate payment of a Nation's debt, is, abstracted from all other considerations, a popular doctrine; but, whether it is now expedient to apply, or a sound policy would require, that any greater portion of the Nation's revenue should be applied to the extinguishment of the public debt, than by law is annually applied, is certainly at least questionable, as the interests and concerns of this nation are such as to make it necessary that a part of its revenue should be applied to other purposes. We learn from high authority, that it is, wrong to leave for posterity those burdens which we ought to bear; yet, at the same time, we know, it would be unwise to take upon ourselves the whole of those burdens, part of which belong to, and ought to be borne by, future generations. The war of the Revolution was not for the three millions of People that were engaged in it, not two of which are now in existence, but the benefits and advantages that were to result from it, were for them and their posterity. As those who were then on the stage were to participate in the benefits of American Independence, as well as succeeding generations, it was wise as well as just, that the debt of the Revolutionary war should have been paid by those who fought, and by all those who were soon to realise the anticipated advantages of the American Revolution; and the consequent policy of our ancestors was to pay, themselves, such a part of this debt as they could conveniently pay, and leave to others who were to share in the benefits, the payment of a part. Hence, we find that some part of that debt is unpaid, and the payment of which is left to those who are now in existence. To further illustrate the view taken, suppose that, at the time of the purchase of Louisiana, instead of the sum paid, it was found expedient to have given one hundred millions of dollars, nay, five hundred millions of dollars—and there are men in this country who are now prepared to say, that it would have been better to have given that sum, than not to have possessed ourselves of that Territory—the payment of this sum of money must inevitably have imposed upon this country a very heavy debt; but for whom would the purchase have been made—for whose use and benefit? Why, sir, for those who were living at the time of the purchase, and for future generations—for all those who should be citizens and inhabitants of these United States, for hundreds, for thousands of years to come. Would it then have been wise or politic to have taxed one generation for the payment of a debt contracted for the use and benefit of so many generations? Suppose the acquisition of this Territory had been the result of a war with France or Spain, or both, and the expense of that war had imposed upon our country a debt, in amount equal to that mentioned, the question would again recur, ought the same to be extinguished by one generation? Let those who think the People of this country or their rulers have no other objects to direct their attention to, but the payment of the Nation's debt, answer these questions. Has the attention of the present Administration, as well as those which preceded it, from 1815 to 1825, been directed to no other object, but the payment of the Nation's debt? Ample provision has been made for this payment, by all these Administrations, and for sustaining the credit of the nation, but all of them have had other objects in view; if they had not, the revenue and resources of the country have been such as to have long ago extinguished the public debt; but the extinguishment must have been made under such circumstan-

ces, as to have left the country in a condition truly deplorable. From that time to the present, we have maintained at least the skeleton of an army, large enough, however, in time of peace; part of the revenue of the country has been applied to the cultivation of military science, to provide against future contingencies; part to the support and increase of a navy; part to the erection of fortifications along our coasts; and some part to internal improvement, and commercial facilities. What, sir, is the present debt of this Nation, compared with these great objects? In war, with all the resources of the nation, be they ever so great, can you at once, or in time to meet the exigency of the occasion, organize an army with the skill and military science, discipline and experience, which the present organization of our army will possess in the event of a war; build or purchase such a navy as we shall soon have under the present plan of progressive increase; or can you in a moment line our frontiers with fortifications, or render the cities and towns on our seaboard impregnable? The question of internal improvement, or the policy of the measure, is now settled, never again to be disturbed. And to what better purpose can a part of the revenue of the country be applied, than to harbor improvements, to the making of roads, the constructing of canals, uniting the different interests of the country, furnishing facilities of intercourse to every portion and section of the Union, and establishing a chain of union, which neither party, nor faction, nor intrigue, can sever? What, Sir, is the argument in favor of the payment of the National Debt: we should, say gentlemen, be better prepared for war. But will this be the case, if the resources are drained, and the country stopped in the prosecution of those grand objects, the accomplishment of which is so necessary to prepare us for war? This House has already determined, by a very decided majority, that, popular as the argument is in favor of paying the National Debt, they would not sell the interest of the Government in the United States' Bank, to hasten the extinguishment; nor will they, as I believe, abandon those great objects now commenced, and in favorable progress, in the prosecution and completion of many of which the country has so deep an interest.

The argument, Mr. Speaker, in favor of the payment of our National Debt, has been enforced, or rather an attempt has been made to enforce it, by the gentleman from North Carolina, [Mr. CAMERON] by comparing a nation in debt, with an individual, or the head of a family in the same situation. What prudent head of a family would not pay his debts, who consulted his own interest, as soon as his resources would admit of it? In answer to that gentleman, as with an individual, so with a nation, the soundness and correctness of the policy of the one as well as the other, will depend on the circumstances of the case; and if the individual does not pay an exorbitant interest—if his lands are rising in value—if he is in the neighborhood of a good market, where he can turn at all times the product of his soil into money—and, to use a term that will be well understood by most, if not all the members of this House—if betterments are necessary, it may be necessary for him to apply a part of his income to the erection or the making of those betterments, reserving enough to pay the interest of money, and gradually extinguish the principal, than apply the whole of his income to the payment of his debts, more especially when it is not necessary to do this, to sustain his credit; the doing of which would be an abandonment of other interests, as important, and more important, than the payment at once of the whole of his debts. And, in reference to the debt of this Nation, it has been shewn by my friend from Pennsylvania, now near me, [Mr. STEWART] that a part of it is not yet redeemable, and the contingency upon which it was to have been paid, does not yet exist; that the provision now made for the annual extinguishment of



JAN. 29, 1828.]

Retrenchment.

[H. OF R.]

both principal and interest, will in a very few years wipe away the whole. I vote not for these resolutions, influenced by the popular argument arising from the payment of the National Debt; ample provision is made for that; and the same is sinking as fast as the Government ought, or can sink it, in justice to other interests.

This is my view of this subject, these are my sentiments—sentiments which I avow here, and will maintain elsewhere. This Administration is not, in my opinion, to be put down by the declaration of the gentleman from Virginia, [Mr. RANDOLPH] that the second Adams, if he does not avow the doctrine, is pursuing the policy of the first Adams, that a national debt is a national blessing—an Administration, short as it has been, that has applied thirty three millions to the payment of the national debt, and has extinguished twenty-three millions of the principal. If it were necessary to vindicate the first Adams, I could tell the gentleman from Virginia, that the first Adams never did declare that a national debt was a national blessing. This was the language of a distinguished Federalist in '98—a gentleman from New York, Gouverneur Morris, who was a member of this House at the time the declaration was made; and I do not think it either liberal, or charitable, or just, to make any President answerable for all that may be said, if for any thing, by those who constitute the majority in either House during his Administration. I repeat, Mr. Speaker, it is not the arguments of gentlemen, grounded, under existing circumstances, upon a more speedy extinguishment of the national debt, which induces me to vote for these resolutions. The arguments drawn from this subject will do better elsewhere than here. They may be powerful weapons under the direction of stump orators, and they are just such arguments as we had a right to expect from those who, in the language of the gentleman from Tennessee, [Mr. MITCHELL] had just arrived, "hot from the oven of their constituents."

Mr. Speaker, although I am in favor of retrenchment, if any can be made, without serious injury to the Government, or to those who are concerned in the administration of the affairs of this nation, and will vote for any committee, which can be raised to look into this subject, I will not, in the quoted language of the gentleman from Maryland, "go as far as he who goes farthest." As my friend from Maryland [Mr. BAXTER] is not now in his seat, and as three from that State have addressed the House since these resolutions were submitted for our consideration, permit me, Sir, to say, that I refer to that gentleman who has introduced his horse into this debate, although he has not, like Heliogabalus, conducted him, *in propria persona*, into this hall. I deal in no such wholesale declarations. I will first enquire how far it may be necessary to go, and will first learn how far he does go who goes farthest, before I shall be prepared to say that I will "go as far as he who goes farthest" in reducing our own compensation, or the pay or emolument of others. I would first enquire how far the compensation of members could be reduced without injury to the Government, or detriment to the People. I will not agree to such a reduction of the pay of members as to leave our seats to be occupied by two classes of our citizens, the most wealthy, and the poorest of our citizens, only one of which could afford to come here—whose reward would be the gratification of their own ambition; and the other would come, having a greater regard to their own promotion or their personal aggrandizement, than the prosperity or happiness of their country. Some gentlemen appear extremely unwilling to say one word about our own compensation, and think it necessary and lawful to reduce the salaries of every officer of the Government; but the moment the compensation of members is referred to, they would have us wrap ourselves up in our own consequence, and, availing ourselves of the powers with which we are clothed, say to

the nation and to the world, hands off! We are told by the gentleman from Tennessee, who addressed the House a few days ago, [Mr. MITCHELL] that no man can come to this House without a great sacrifice on his part, and that, since the last adjournment, he has made more money by his profession, than he would realize should he remain a member twenty years. From this declaration, we learn that the gentleman's services are duly appreciated, and his talents properly estimated, at home as well as abroad; and I trust, sir, that the nation will give him credit for his patriotism, his devotion to the best interests of his country, and will one day reward him for the monstrous sacrifice he makes in becoming a member of this House. I envy the gentleman's success and patronage, and perhaps but a very few men could be found, who would be a member of Congress, under such disadvantageous circumstances. But the sacrifice on the part of every member who comes here, is not so great as that gentleman's. Notwithstanding the views of gentlemen, I would extend our inquiries to our own compensation, and to the expenses of this House. Where is the man, who, in this Government, who, in this District, fills a place, and receives a salary, that can save any part of the compensation he receives? Many of those who have fortunes, exhaust them during the time they remain here; and those who have not, leave to their children poverty, as the only legacy they can bequeath them; if they live long enough to educate their children, they have the benefit of that education, if not, they must depend upon charity and friends for a support and education which they cannot derive from any estate of those who have received those salaries at Washington, which it is now proposed to retrench. The men here, sir, appointed to do the business of the Government, are not to be censured because they cannot live upon less; they are not to be blamed for the expenses of the place, and for the high price at which every thing sells; they are here, and are obliged to live as others live. On the score of emolument, there is not a man who holds an office in this City, from the first Secretary to the lowest Messenger, whose situation is an enviable one, or to be coveted. Many of the mechanics of our principal cities receive as much, and live as well, and are sure to leave their families in a better situation. Let, however, the business of retrenchment commence; let gentlemen ferret out the abuses of the Government—perhaps, on inquiry, some may be found; let our inquiries extend to our compensation, and to the expenditures of this House, and if any should be found, they will not be chargeable to this administration. The officers of the Government receive the same compensation under this they received under former administrations; the members of this House receive the same pay they have for years received, and although but a little will be gained by the proposed inquiry, let it take place; neither the administration or its friends have any thing to fear.

In the zeal of gentlemen to retrench, the Military School at West Point has occupied their attention, and violent hands have been laid upon it. I did hope that this institution, which is more creditable to this Government than any other in it, and which, I had supposed, was the favorite child of the nation, would have been spared. I, also, Mr. Speaker, have attended one of the annual examinations of that School, and can, with other gentlemen who have spoken, bear witness to its merits, if its merits are not generally known. Until the commencement of this debate, I had supposed they were. We are told, sir, by the gentleman from Tennessee, [Mr. MITCHELL] that it is the nursery of Aristocracy, created for the education of the rich man's son, and a place where the widow's son or the orphan boy cannot enter; or, if he does enter, cannot long remain; established for the education of the sons of members of Congress, and



H. or R.]

*Retrenchment.*

[JAN. 29, 1828.]

those who are high in office. I would say to the gentleman from Tennessee, that he is mistaken—that he has been misinformed—that, although I shall not question what he has said, in relation to the sons of those coming from his own State, his remarks will not apply to those who have been educated at that School, citizens of the State which I represent. Let the gentleman examine the catalogue of graduates, and he will find that there are men who have had the benefits of this School, and shared in its honors, who were not sons of members of Congress, or those in power. Let the gentleman examine the Army Register, and he will also find that the best and most meritorious of our officers are graduates of this School, who were the sons of widows, or orphan boys, the sons of those who had nothing but poverty to leave to their children for an inheritance, and are indebted to this institution alone for the education which they received. To avoid, if possible, the recital of names, who is the gentleman, who has now the principal superintendence of your fortifications, and who discharges his duties with so much credit to himself and justice to the nation? Who is the aid of your Commander-in-Chief? Who is now the assistant to the Chief Engineer? And I might extend the inquiry to a very great length, of men who are ornaments to their country, and men who, but for this School, would never have received the education and advantages which they derived from it. I once entertained the opinion—an opinion formed without much reflection, that the doors of this institution ought to be opened to the poor only, and the sons of the wealthy should be debarred, and stated my views to the Vice President of the United States, in the first conversation I ever had with that distinguished man, and learnt from him that others had expressed the same opinions; but, said he, to make this a School for the indigent, would render it less valuable to them, as they would not be excited by the same spirit of emulation; that genius was to be found in all grades of society, all classes and ranks of men; and it was the object of the Government of the United States to enlist into its service the best talents, whether found among the rich or the poor. Further reflection has satisfied me that the views of the late Secretary of War were correct. Genius is not confined to any grade of life; it is found among children of the asylum, and is not a stranger to the princely palace. At this institution, a soldier's son—yes, sir, the son of a Sergeant in the Army of the United States, receives the first honors, while the sons of two gentlemen, who have been Speakers of this House, are unable to pass through the ordeal of an annual examination. If, sir, favoritism exists in other institutions, it has no abiding place in this: for, here they all rise or fall by their merits or demerits, and there are none who are the sons of the poor, and none who are the sons of the rich; for no such distinctions are kept up by the officers of that institution. The students themselves soon find of how little use they are. Sir, if I had a son old enough to be admitted into that Academy; if I had any influence with those in power—I know I have none—if my friends had any, it should be exerted and called into operation, if necessary, to procure for that son an admittance; this I would do without property. If, on the other hand, I had the wealth of my friend from New York, [Mr. VAN RENSSELAER] (and I may be permitted to call him so, whose philanthropic spirit makes him the friend of mankind) the most wealthy man in this House, if not in this nation, I would not, like that gentleman, send my son to a private School, where the same sciences are taught; but, if influence were necessary, I would resort to it, to procure for him a place at this School. What greater benefit could you confer upon the son of the rich, as well as poor, than by teaching both that, in this country, the road to preferment is open to both, and the highest honors are within the reach of both—that po-

verty is no embarrassment, and wealth furnishes no facilities? What better practical lessons, what more useful, or which are better tests of the excellence of our form of Government, and the blessings which our free institutions confer, than those which are taught at this institution? What better plan to fire the ambition of the poor, and excite the emulation of the rich, than the system in force at this School, where the Senator's son and the widow's son are placed upon an equality, and both are told that, in this country, that, at that School, the "mind is the measure of the man?" So long as that useful and distinguished officer, now the superintendent of this institution—an officer whose talents and acquirements are such as to qualify him to discharge the duties of any post or office in this Government, or recognized by our laws, and who has peculiar qualifications for the office, the duties of which he now discharges in a manner as creditable to himself as satisfactory to the nation—shall preside over this institution, so long will the great advantages which the nation has derived from it be dispensed, and so long will the nation continue to realize them. In justice, Mr. Speaker, to the head of the War Department, and that responsibility may rest where it belongs, I hope to be indulged with a few words as to the mode in which appointments are made. There is allotted to each State as many Cadets as there are Representatives and Senators; and, in those States which elect by districts, one to each Congressional district. In making the selection, it is reasonable to suppose that recommendations of members have, with the Secretary of War, great weight. Then, sir, suppose that those abuses, referred to by the gentleman from Tennessee, [Mr. MITCHELL] have existed—let it not be understood that I make any admissions—who is, or ought to be, responsible for these abuses? And on whom should the censure fall? Not upon the President or his Secretary, but upon the members. In justice to the useful, as well as distinguished officer now at the head of the War Department, I will further state, what I know to be true, when every thing else is equal, it has been his uniform practice to give the preference, in the selection to be made, to the son of him who is poor. Having met some of the objections to this institution, and, in fact, all that I have distinctly heard, and shown that it is not such an institution as it has been represented to be; that neither this Government nor administration ought to be censured for its fostering care towards it; that the present administration has pursued the same course towards it that others have done; that the expenditures are the same—for I did understand the gentleman from North Carolina, [Mr. CANAN] to withdraw the objection he made on account of the fifteen thousand dollars paid the supernumerary lieutenants, or to admit that, under former administrations, similar appropriations were made, and the same amount paid—it becomes necessary to inquire, what was the object of the Government of the United States in the establishment of this institution? What are the benefits which are derived from it? And whether the objects contemplated have been, or will be, attained? It has been stated, and truly stated, by those who have preceded me in this debate, that this institution was projected by Washington, and founded by Jefferson. I would add, that it began to flourish under the auspices of John C. Calhoun, to whom it seems to have been as dear as the apple of the eye, who was devoted to it, and, on all occasions, evinced his devotion. The moment we declare, by any vote or act of ours, that this institution is an useless one; that it is liable to those imputations which have been cast upon it, that moment, sir, your Vice President, if not shorn of all his beams, is deprived of half his glory. Look into the correspondence between Washington and the Continental Congress, and you will find him continually urging upon that body, pressing upon them, the necessity which existed for the employment of

JAN. 29, 1828.]

*Retrenchment.*

[H. OF R.]

skilful engineers. They were not to be found in the country, for there were no military schools; recourse was had, and necessarily, to foreign countries, as has since been had, for that military skill which was not to be found at home; and military science was then, as it has since been, imported, but not then, nor since, so as to answer all the requisitions of the Government; and, knowing the necessity for such schools, its establishment was among the first recommendations of the first President of these United States. The fortifications which were commenced in '98—some of which were finished, most, if not all, have since been found useless, if not worse than useless: for their erection has been the cause of trouble, as well as expense, in pulling them down—show the necessity of such a school. Many of the disasters which, during the late war, attended the American army, show the want of such a school: for, at that period, the graduates were few, and not one-tenth part of the number required could be found. I might add, for I think I should be warranted in the declaration, that, to the military skill which was drawn from this school, are we mainly indebted for many, if not all the brilliant victories of our army, achieved during that war. Perhaps, sir, the commander in chief would acknowledge, that, for whatever share of honor or glory that was acquired in the battles of Chippewa, and of Bridgewater, in the defence of Fort Erie, and in the memorable sortie from that fort, the army was greatly indebted to the sons of West Point. The monument by him erected at that Point, to the memory of the gallant and lamented Wood who fell in that sortie, is the best evidence of his estimation of the efficient service of those sons, and their country's obligation. Sir, the frequent calls that have been recently made upon Congress for an increase of the corps of topographical engineers, might be referred to as further evidence of the utility of this school, and of the advantages which it will confer on the nation in time of peace, as well as war. The young men who receive the honors of that institution, do not, from necessity, join the army; it is optional with them to do it or not: there are many of them who do not, but return to their friends, and engage in civil pursuits. Are there no benefits to be derived from the education of these men at this school? Yes, sir, their knowledge will not be as water spilt upon the ground, but, even in the ranks of our militia, and at the heads of our militia companies, it will show itself, and the whole militia of the country will share in its benefits; thus, if not making regular soldiers of our militia, extending to them a knowledge of the art of war and a knowledge which, without the aid of this school, could not be well acquired in time of peace. Not to extend my remarks in relation to this institution farther, but in a few words to present to the House its advantages, and the arguments in favor of continuing the patronage it has ever received—if, in peace, it is good policy to prepare for war, we must still continue our patronage. If the internal improvements, long since commenced, are to be further prosecuted, we must continue our patronage; if the system of fortifications commenced, and now in a progressive state, are to be completed, this institution must receive, and continue to receive the patronage of the Government. If it be correct to discipline, and make more efficient the Militia of the States, this institution must be maintained. And, Sir, if vandalism should ever commence its inroads upon this land, destroying whatever is valuable in the institutions of this country, created by a salutary and liberal policy, I pray God, that this institution will be the last spared monument, and will remain until long after others have felt its contaminating touch, unaltered from the imposition of its withering hands.

Now, Sir, what are the other subjects of retrenchment which the zeal of gentlemen to do the republic some service, as well as their patriotism, have directed our atten-

tion to? Why, Sir, there are too many Auditors, one at least of them can be spared. The 5th, we are told by one gentleman from Kentucky, [Mr. CHILLOW] must now be an useless officer, and that office ought to be abolished; but in this attack, the gentleman from Kentucky is met by a gentleman from Pennsylvania, [Mr. BUCHANAN] who tells him that this officer is the most important officer of the whole of them, and enumerates the duties of the incumbent; the next day, another gentleman from Kentucky, [Mr. DANIEL] in his place, tells the House, that, upon the whole, it is best to spare the 5th Auditor, but, as to the 4th, he must surely die. Why this shift, and sudden change? Is the 5th less obnoxious to gentlemen than the 4th Auditor; if so, why! And do gentlemen know any thing about the duties of either of these officers, and whether they are not as numerous and as onerous now, as they heretofore have been? I once held an office under this Government, held it until I came here; the duties of which made me acquainted with some of the duties of the 5th Auditor, and, so far from his having nothing to do, the wonder was, that he should be able to discharge one half of the duties which the office has devolved upon him. What, sir, are the duties of that officer? He is the Agent of the Treasury, and Agent of all the suits brought by the United States, against hundreds, nay thousands of individuals, almost every year; these he has to superintend. With every clerk, every marshal, every attorney, of the United States, in the twenty-four States, and their Territories, he is in constant correspondence, from each of whom he receives at least six reports a year, from some of them more than that number; he has charge of the whole light-house establishment, those built, as well as those ordered every year to be built; he superintends a great share of the moneys disbursed to the civil officers of this Government, as well as the settlement of their accounts. I have not now, perhaps, Mr. Speaker, referred to one half of the duties of the 5th Auditor—on a former occasion, and it was when the bill was under consideration for an increase of the Postmaster General's compensation, I stated to the House, that I thought the duties of this officer were such as to authorize us to increase his salary. I think so now, and would vote for a bill reported for that purpose, with as much cheerfulness as for any bill that could be reported to this House. With the duties of the 4th Auditor I am not so well acquainted, but have understood that he has to settle the accounts of all the officers of the Navy, and that is but a small part of his duties. Neither of these offices were created by the present Administration, nor by any law passed since the commencement of this Administration, nor were the salaries of the incumbents fixed by any law passed since—let gentlemen inquire, before the attention of the House is directed to these officers, whether the same causes do not now exist for their continuance, which existed at the time they were created. But, as another ground of complaint, and I suppose as a charge against this Administration, we are told by the honorable gentleman from Kentucky, [Mr. DANIEL] the clerks in the Departments do not, like the laborers in that State, work from sun to sun; and he has once been at one of the offices, and did not find the clerk with whom he had business at his desk. Sir, they do not work from sun to sun, like the laborer in the field, nor do they so work any where else. Are there not Banks in Kentucky, and do the cashiers and their clerks, like laborers in the field, work from sun to sun? Do the clerks in the State or Treasury Departments in that State work from sun to sun? These men, like other men of sedentary habits, must have a little time to eat, a little time to sleep, a little time for recreation or exercise—without which such men could not live. The gentleman from Kentucky has been more unfortunate than other men. I never went to one of the public offices, during office hours, without finding the clerks at their

H. OF R.]

Retrenchment.

[JAN. 29, 1828.]

posts. Perhaps, when the gentleman called, the clerk whose business it was to give him the information required, was sick. We all know, Mr. Speaker, what the duties of the clerks, as well as the Heads of the Departments are, during the time Congress is in session. For nearly one half of a session, this House is inundated with resolutions calling for documents and information, and to comply with the calls made, these clerks are often employed nights as well as days. Were their salaries fixed, or their appointments made, under this Administration? No, but let it not be said, however, that, as a friend of this Administration, I object to any investigation as to them. If any thing can be found to be retrenched, let it be done.

But another charge against this Administration is preferred, and, consequently, another reason for inquiry is given, by the gentleman from North Carolina. The waiters of this House are employed by members in folding the Anti-Jackson Convention Address, written by Chapman Johnson, to be sent off to the South, to produce a re-action in the public mind. If there be nothing in those addresses which are unanswerable, the gentleman ought not to be alarmed. He says he is not, and that the South will do her duty. And, if so, why has Chapman Johnson's name been brought into this debate? The waiters of this House are paid by the day; and, if not employed in folding these addresses, they would have been doing nothing. Ought the gentleman from North Carolina [Mr. CARSON] complain, when the same waiters have been employed in folding extra Telegraphs, containing billiard table speeches, which, as the gentleman from North Carolina has intimated, in his reply to my friend from Ohio, [Mr. WRIGHT] have had a wonderful effect, and have wrought great changes in the public mind? If the People receive light from one source, and are willing to receive it from another, let it not be withheld. But, sir, if there be any abuses in this House, who are answerable for them? The President of the United States? No, sir; but we the members; and let, therefore, the Committee extend their inquiries to the contingent expenses of this House, and the appropriations which are made to meet them. We ought to look into them, more especially as I am told there are some gentlemen from Kentucky, whose conscientious scruples will not permit them to receive the penknives that are laid on our desks, and who carry to their constituents certificates signed by the Clerk of this House, that they did not receive them. From present appearances, we shall not adjourn until the return of the season for that wholesome beverage, soda water, which we have been in the habit of drinking at the public expense. The Committee can inquire whether this cannot be dispensed with. I am anxious about this, because this, as well as the knives in some sections of the country, is put down to the charge of this Administration. We have called for charges and specifications, Mr. Speaker, against this Administration, and have pledged ourselves to meet them. If, when gentlemen had preferred all they are to bring forward, and we do meet them satisfactorily to unprejudiced minds, would it be unreasonable in us to require them forever after to hold their peace? Will gentlemen in the Opposition agree to this? It is not unreasonable in us to require this at their hand. Now, sir, let us attend to all these charges, and what are they? The appointment of Mr. King, the payment of John A. King, the money paid John H. Pleasants, the construction given by the President of the United States to a section of the Constitution referred to in his first Message on the Panama Mission. These are all the charges which were first preferred. There are others which were subsequently preferred to which I shall call the attention of the House when I turn my view to him who preferred them. The appointment of Mr. King was not solicited by him,

and was by him accepted with reluctance. It is within the recollection of this House, that the mission was, in the first place, offered to a distinguished individual of the State of New York, who was then, as he is now, the Governor of that State. When he declined it, the acceptance of Mr. King was considered rather in the light of a favor conferred upon the Government, than on him: as it was generally acknowledged that of all the men in the nation, he was the best qualified to settle the difficulties then subsisting between this nation and England. But Mr. King became sick, and in consequence of sickness, was unable to adjust, or to attempt the adjustment, of our difficulties with England. His sickness continuing, he asked to be recalled, was recalled; and, shortly after reaching his home, died. Then, sir, for this sickness of Mr. King, to which any man who is sent abroad is liable—for this act of God, this Administration is to be put down. I have nothing more to say in relation to this charge: let the People, let a candid world judge of it. John A. King was left at the Court of St. James, as Chargé d'Affaires, returned to this country, and was paid for his services as others have been paid under all the preceding Administrations, for similar services, as was abundantly proved by the documents submitted to us last Winter. If in this the Administration has done wrong, so have all which preceded it. John H. Pleasants received, as the bearer of despatches, the usual sum, and no more. He was destined for South America, was prevented by sickness going the whole distance, employed a gentleman to finish what he had commenced; the despatches were delivered in season, and the service was performed to the satisfaction of the Government. And why do gentlemen so often rely upon this as a charge against this Administration? Why does the gentleman from Virginia [Mr. FLORE] so often refer to this transaction, to put down this Administration? Is it because he has nothing better to allege, or because he has no great friendship for John H. Pleasants? Who is John H. Pleasants? A son of Virginia, an Editor of an Administration paper, published, too, at Richmond, acknowledged by all to be a man of first rate talents. A son of one of the distinguished citizens of that State—his father for a number of years a member of this House, a member for a number of years, of the other branch of the National Legislature, and afterwards Governor of the State of Virginia; who has received, if not all the honors, the highest honors that Virginia could confer upon him. He now holds an office under this corrupt Administration. Suffer me, Mr. Speaker, to refer to another charge, which was omitted in the emendation made—a charge made by the gentleman from North Carolina [Mr. CARSON.] Mr. Rochester, we are told by him, after he was appointed Secretary of Legation, remained in the country, was receiving the money of the Government, and electioneered for an important office in the State of New York. It is true, sir, that Mr. Rochester's name was used for an important office, but it is also true, that he was not in that State at the time of his nomination; that he was not in New York at any time before the election; and it is also true, that he did not know that his name was so used, until within a very short time before the election took place. For services as Secretary of Legation he was entitled to pay from the time of the ratification of his nomination by the Senate; perhaps he received pay from that period. He was at all times ready to embark for South America, and the gentleman from North Carolina knows the reason why the mission did not set sail before Fall—it was in consequence of the sickness, the prevalence of the yellow fever, at the place where the Ministers were to assemble. It is unnecessary at this time to go into a discussion on the propriety of the Panama Mission; it has been fully discussed; it has received the sanction of both Houses, and has been approved by the

[Feb. 29, 1828.]

*Retrenchment.*

[H. or R.]

nation. What would not have been said against this Administration, if the invitation to attend the meeting at Panama had not been accepted? Because, Sir, the meeting has not taken place as was expected, is the Administration to be inculpated, when its failure was owing to causes over which we had no control?

I come now, Mr. Speaker, to another charge preferred by the gentleman from North Carolina [Mr. CARSON]—a charge of ignorance or corruption, because the Executive of the United States does not construe the second paragraph of the second section of the second article of the Constitution of the United States just as he does. That gentleman, after quoting from recollection, a part of the President's first message, in which he says, if the gentleman's quotation be correct, (speaking of the Panama Mission,) although the appointment of Ministers was within his constitutional competency, he preferred, for reasons given in the message, laying the subject before the Senate. Now, the gentleman from North Carolina says the President must be ignorant or corrupt, for such a construction of that part of the Constitution referred to. Sir, all I can say on this subject, is this, that here is a case in which doctors disagree—the President of the United States is on one side, and the gentleman from North Carolina on the other; it is a question about which great men may differ. The Senate of the United States were also divided; it would not be altogether decorous for the President of the United States to say, because he differed from the gentleman from North Carolina, that he is ignorant or corrupt, and perhaps the imputations of the gentleman from North Carolina are not altogether correct. Admit, Sir, the President's construction was incorrect, the consequences contended for do not follow—the President might have innocently erred. I confess, Sir, it is not within my constitutional competency to decide, when such men differ. This is all I have to say relative to this charge. There is one charge against this Administration, which I have seen in the newspapers, which the gentlemen opposed to us have omitted. I regret this, because it would be improper for me to make charges for the purpose of answering them, and I regret the more, because, in the omission, they may have unintentionally done injustice to their friends. I will, in passing, refer them to it: The Secretary employed a clerk in one of the Departments to carry the laws of the United States to Vermont—his influence with the members of the Legislature of that State was so great, that the exercise of it prevented the election of a gentleman to the other branch of the National Legislature, who professed great friendship for this Administration, but who was suspected not to possess all he professed to have, and who, as subsequent events have shewn, did not possess all he professed to have. I refer gentlemen to this, because I should like to have all at once, and do not like to meet things piecemeal. Perhaps, Mr. Speaker, I might as well now, as at any other time, meet an objection made by an honorable member from Virginia, [Mr. FLOYD] which has been made by another gentleman, whose remarks I have not yet noticed. At first I thought it best to reserve my remarks upon this objection until I came to the other gentleman's remarks. Mr. Adams, we are told by the gentleman from Virginia, claimed an outfit for going from Russia to Ghent, and this too was in 1815, not, of course, under the present Administration. Four thousand five hundred dollars only were allowed; in the settlement of his accounts, while he was Secretary of State under Mr. Monroe, the claim for the balance was persisted in by him, and the question of allowance, or not, was referred to the law officer of the Government, the Attorney General of the United States, who considered the case so clear, that he unhesitatingly reported in favor of the allowance; it was, in the settlement of his accounts at the Treasury Department, allowed and paid. This, Sir, strange as it

may appear, is exhibited as a charge against this Administration. Does the honorable member from Virginia set his own opinion up in opposition to the Attorney General of the United States? Does he say that opinion was incorrect? But still, it is a charge against this Administration, this allowance to Mr. Adams under the Administration of Mr. Monroe. It appears to me, Sir, that, in making this charge, the honorable member has travelled out of the record. Mr. Monroe is not now on trial, and we cannot try one case in the bowels of another. I have always been told, that what was pertinent to the issue, was admissible evidence, and that alone. To what shifts are gentlemen driven in order to pull down this wicked Administration; to what straits are they forced? Let us take cognizance of the case, what does it amount to? Why, that Mr. Adams conceived that he was entitled to 4500 dollars, in addition to what he received, and that the authorities of the Government thought he was entitled to it, and the same was paid him. Where, from this view, can we find the evidence of the charges which are brought against the Administration? Where the sinecures? Where the increased salaries? Where the increase of officers? A few Clerks have been added to the Departments, and some have been dismissed, as the Departments to which they were attached did not require the number which had been employed. But neither the President nor his Secretaries did this—it was the result of Legislative enactment. The Postmaster General is the only officer in the Government whose salary has been increased; I well recollect this: the gentleman from Pennsylvania, who cries aloud on all occasions—a gentleman from Georgia, not now here, but at this time the Governor of that State, [Mr. FOSBERT] and myself, formed the trio that voted against it. I was not opposed to an increase, but was opposed to so great an increase—not because I did not conceive the Head of that office entitled to it, but because we were legislating for the office and not for the man; and that the incumbent would not, as some gentlemen had prayed the Revolutionary soldiers would, live forever. I stated then, and I repeat it now, that no man did, or could, hold that officer in higher estimation than I did. But why should the House be detained by this war of words, this parade about extravagance, profligacy, and corruption, since we are told by the gentleman from South Carolina [Mr. McDUFFIE] that no committee that we can appoint will be able to find any thing in the proposed investigation to find fault with—the very limb upon which the mover of these resolutions stood, has been cut off by the gentleman from South Carolina, and he suffered to fall having nothing left for his support. Another gentleman [Mr. RANDOLPH] is apprehensive that, so far from the proposed investigation furnishing any thing to condemn the Administration, it may result in keeping up a sinking cause, and consequently this is not the accepted time. He gives his friends (the honorable gentlemen from Kentucky) [Mr. CHILTON and Mr. DANIEL] a rap over the knuckles, in telling them that young doctors are not called upon for their medicine; raw hands who have just signed the portage bill, must learn to follow the directions of others, but must not pretend to lead or direct in any thing.

With a few remarks in answer to the gentleman from Pennsylvania who had the floor yesterday, [Mr. INGRAM] I will leave this discussion to other hands; and if, in following that gentleman, I am obliged to travel out of the record, let the error rest with him, and not with me: for surely, if the gentleman has wandered in making his attack, I shall be excused in wandering from the question now before the House, in defending. It is certainly to be regretted that the gentleman from Pennsylvania had not been influenced by the advice which he was so willing to give to others. We are told by him that this discussion ought to be confined to what is before the

H. of R.]

Retrenchment.

[JAN. 29, 1822]

House, and ought not to be extended to what is not before the House; that we ought not to defend ourselves against charges when none are made; that this Administration is not answerable for the offices which have been created, nor the salaries which are paid those who are in office; the proposition is to inquire into the expenditure of moneys at the disposal of the President and his Secretaries, to see if there have been any abuses; that in the settlement of the accounts at the Treasury, there are some accounts the settlement of which the President directs, without specifications—into these would he look. We will see, by following the gentleman from Pennsylvania, whether he has confined himself to what he deems to be the proposition before the House. John A. King is again brought before us, and the gentleman has intimated that the settlement of this account, and the payment of the money which he received, was a matter of secrecy; that, when it was known that these accounts were settled, and the sum paid was also known, the Secretary of State issued his mandate, and every Clerk in his Department was called before him, each one expecting to be dismissed, and each asked, did you give the information? did you, or you? and told that, whenever it should be found out who did give the information, that he who gave the information should be dismissed. And the gentleman would have it believed that the settlement of these accounts was a private settlement, and the Administration had an interest in keeping it from the public: that these were accounts settled, too, and paid by direction of the President, without specifications. Sir, the gentleman from Pennsylvania is mistaken; there was no secrecy, there could have been none; it would be idle for a moment to believe there could have been any; the accounts were settled, and the money paid, not by the direction of the President, and not without specifications; and the gentleman ought to have known this, as we had the whole transaction before us last Winter, but in conformity with the law of the land and the settled usages of the Department; and there is no foundation for the parade which the gentleman has made, relative to the calling on and threatening the clerks for divulging this secret: this I am authorized to say. It was well known that John A. King came to this city to settle his accounts; his business here was notorious. While here he was at large, and nothing like secrecy did, and nothing like secrecy could mark the transaction. The settlement of those accounts was at all times subject to our inspection, liable to be laid before us when called for, and laid before us, in fact as soon as the call was made. Where, then, is the abuse, and if none, why is this transaction referred to, and these suggestions made, but to poison the public mind? And if the gentleman is disposed to regard at all the professions with which he commenced, and the advice he was so free to give others, why does he refer to the settlement of Mr. Adams's accounts, under Mr. Monroe's administration, and reiterate the charge of the gentleman from Virginia, unless for an effect here or elsewhere? Is this, sir, confining the discussion to what is before the House? What has the detached parts of the letter read by the gentleman to do with the proposition before the House? Nothing; yet still they make no charges, and we were not called upon to defend. The gentleman, in his candor, tells us, he is not willing this House should try what belongs to the People to try, and what they will try, this Administration; yet, for fear they should well and truly try, with the same candor we are told, that, in the late election, the spirit of the Constitution was violated, and the Administration is compared to a man who breaks into his house, who is entitled to no indulgence from him, after this forcible entry, for the good care he has taken of the house and furniture while in possession; and that, in the trial of this Administration, it is necessary to go back to the election, or to a period anterior to it. Now, sir, all these remarks are uncalled

for, and according to the gentleman's own declaration, do not belong to the proposition before the House; they must then have been made for the benefit of those tries (the People) who are to try this Administration. As to the late election, inasmuch as we spent six weeks, the first session of the last Congress, in discussing the resolution of an honorable gentleman from South Carolina, [Mr. M'Duffrie] to alter the Constitution, and in that discussion, fully investigated the late Presidential election; and discussions for the benefit of the People have been had, relative to that election, from that time to this, the gentleman might, with propriety, have refrained from the remarks which he has made, as he has always been at liberty to disclose all he knows, calling in question the purity of that election, and if he had known any thing, has never been in want of a disposition to make the disclosure. What will satisfy the gentleman? It is impossible to tell. In answer to extracts from two messages of the President, read by my friend from Ohio, [Mr. WATSON] recommending economy in all our appropriations, he tells us, that this was intended for political effect, and, consequently, the President is entitled to no merit for the recommendation. If he had not made the recommendations, then this Administration would have been a profligate and prodigal Administration, and must of course have been put down. Do what they will, the gentleman's objections to them remain—if the act be good, then the *quo animo* is bad, and if the *quo animo* is good, why then, in truth, the act is bad, as is shown in the missions to England and Panama. If both the act and the *quo animo* are good, why then, Sir, the spirit of the Constitution was violated in the late election for President. What, I ask, in God's name, can or will command the respect, or merit the approbation, of the gentleman from Pennsylvania? And further, if the affairs of the General Government have been well and faithfully administered, he would have us look at the attempts to influence the State Legislatures. Printers of the laws have been dismissed, and the only reason assigned for the dismissal of one, was his abuse of the Administration that employed him, referring, as I presume the gentleman did, to the case of Isaac Hill, of New Hampshire. If the Administration be prepared to assign as good reasons for all their acts, as for this, they will stand higher in my estimation than they now do; the employment of our enemies is bad policy, and no administration can be sustained by it. Some of the editors of the public journals which print the laws, are now in open hostility to the Administration that gives them their patronage. The patronage of the Administration belongs, all other things being equal, to those who support the Administration; and I am pleased to learn from the gentleman from Pennsylvania, that those in power have adopted or, if you please, are about to adopt, this principle. When General Jackson is made President, we shall not complain if he does the same; by doing it he can satisfy but a few of the hungry expectants—a different course would disappoint the whole. But, sir, what are these attempts to influence State Legislatures? We have been referred to the case of the removal of one of the printers of the laws, and I have referred to the case of his dismissal. I know of no such an attempt. I have heard of State Legislatures proscribing individuals, because they would not worship this idol, and I would refer the gentleman to the case of William Clarke, late Treasurer of the State of Pennsylvania. Connected with the charge which the gentleman has made, of attempts on the part of this Administration to influence the State Legislatures, he has referred to the employment of John Binns, of Philadelphia, to print the laws, and to furnish the stationery and printing for the customhouse; and, if he had the power, he would brand him with infamy, for libeling a distinguished individual, whom he charged with the murder of six militia men. John Binns is not now on trial

AN. 29, 1828.]

Retrenchment.

[H. OF R.]

id if he was, he would not require my aid, to vindicate  
 am from any aspersions that may be cast upon him; he  
 not here to answer for himself, and if he were, could  
 ot: for we are privileged men, and not accountable for  
 hat we say. John Binns and the gentleman from Penn-  
 sylvania are not, therefore, on an equal footing; if they  
 ere, he could vindicate himself; if he libelled General  
 Jackson, are there not persons the gentleman has libelled?  
 or he too has published his pamphlet for the benefit of  
 the People. John Binns is a respectable magistrate in  
 the second city in the Union, and has the confidence of  
 the People, to as great an extent as the gentleman from  
 Pennsylvania. John Binns once belonged to the same  
 party in Pennsylvania that gentleman belonged to, and  
 it was successful; John Binns once belonged to a party  
 in that state which opposed that gentleman, and his party,  
 and put them down. John Binns will show the gentle-  
 man, in less than one year from now, what he has done,  
 he will do again, and the gentleman will find himself a-  
 gain in the minority.

[Here the SPEAKER called Mr. FRANK to order, as  
 personalities could not be allowed.]

I ask pardon, Sir, and will desist, although I would  
 have been pleased to have run the parallel further. Let  
 us, Mr. Speaker, for a moment, turn to the contingent  
 fund, or money annually appropriated to meet the con-  
 tingent expenses of this Government: for this is the fund  
 which is liable, if I understood the gentleman from Penn-  
 sylvania, to such gross abuses, and from which, as one  
 would suppose from the tenor of his arguments, a good  
 share of the patronage of the Administration is derived.  
 How stands the case? By the Constitution, "no money  
 shall be drawn from the Treasury, but, in consequence  
 of appropriations made by law; and a regular statement  
 and account of the receipts and expenditures of all  
 public money shall be published from time to time."  
 No moneys can be drawn without appropriations. And  
 who makes the appropriations? Not the President and  
 his Secretaries, but Congress. A reference to the Treas-  
 ury estimate for the current year will perhaps best ex-  
 plain the nature of the contingent expenses, and the fund  
 provided for defraying of them. The whole amount asked  
 for, is \$ 8,990,380 44—and of this sum, the following sums  
 to defray the contingent expenses of the Department of  
 State:

For Books,	\$2,000
Binding Books,	500
Stationery and Parchment,	1,500
Mediterranean Passports,	1,500
Blank Personal Passports, Circulars, &c.	1,000
Fuel and Candles,	900
Newspapers for the Office and Agents abroad,	500
Translations of Foreign Languages,	350
Forage for Messengers' horses,	200
Expenses in distributing Congressional Docu- ments,	300
Wages of a laborer,	300
Miscellanies,	1,000
Extra Copying of Papers,	1,000
Printing in Newspapers, and in Pamphlet Form, the Laws of the first Session of 20th Congress,	13,500
Distribution of the Acts of Congress through- out the States and Territories,	3,000
	\$ 27,550

Now, of the whole of this sum, amounting to twenty-  
 even thousand five hundred and fifty dollars, not one  
 cent of it is at the command of the President, nor can  
 one cent of it be paid or expended in a way to escape  
 our examination, and not to be open to our inspection.  
 Let the committee ascertain, if the Standing Committee  
 on Expenditures in the Department of State has not al-

ready done to their satisfaction, whether this sum, the  
 usual appropriation, has not been applied to the usual and  
 ordinary purposes, and settlements made in the common  
 and ordinary form—whether vouchers have not been taken  
 for all the money paid, and whether secrecy veils any part  
 of this expenditure. An examination of the acts of Con-  
 gress will show, that this is the usual amount appropriat-  
 ed for that Department, and the other Departments and  
 offices have, to defray similar expenses, annual appro-  
 priations. I have referred to the State Department, be-  
 cause it was the first mentioned in the Treasury estimate.  
 In addition to these appropriations for the Departments  
 and offices, a sum of money has heretofore been asked  
 for, and appropriated—sometimes fifty thousand dollars,  
 but seldom less than half that sum, to defray the contin-  
 gent expenses of foreign intercourse; but this extrava-  
 gant Administration require for the year 1828, no appro-  
 priation whatever to defray this expense. The gentle-  
 man from Pennsylvania has, no doubt, amused the House  
 with his statement of moneys paid, and accounts directed  
 to be settled by the President, without specifications, but  
 did not inform the House in what cases this was done,  
 and how often it was done, or whether, under this Ad-  
 ministration, it had been ever done. Sometimes, our Mi-  
 nisters abroad find it necessary to employ men to go from  
 one Court to another, on private business, which the in-  
 terest of the nation requires should be kept secret. For  
 this they are paid a stipulated sum, and in the settlement  
 of the Minister's accounts, this sum paid by them out of  
 the contingent fund for foreign intercourse, is directed by  
 the President to be allowed without specification, and  
 this is the only money, to my knowledge, which is paid  
 in this way. It has not been, under any Administration, a  
 frequent occurrence, and I am not aware that, under this,  
 there has been a case of the kind. So much for these  
 payments, and this source of Government patronage.  
 And, as this Administration asks for no appropriation for  
 the contingent expenses of foreign intercourse, how do  
 the charges, imputations, and suggestions made, stand?  
 If, then, Mr. Speaker, the Administration be not answer-  
 able for the number of officers, and the amount paid them;  
 if the contingent expenses of the different Departments  
 and offices are not larger than they have heretofore  
 been; are paid in the usual way; if those in power ask  
 nothing for the contingent expenses of foreign inter-  
 course, what will they be called upon next to answer to?  
 After all, to give to the world the gentleman's objections  
 in a few words, he does not like this administration, and  
 those now in office must be turned out, and a change  
 must take place, or the Government will be destroyed,  
 and the country ruined. I will trouble the House no  
 longer; and if I have occasionally travelled out of the  
 road in the course of my remarks, I have had to follow the  
 gentleman from Pennsylvania, and this is my apology for  
 so doing.

Mr. BELL addressed the House to the following effect:  
 When this discussion commenced, I did not suppose that  
 any thing could possibly occur which would draw me into  
 its vortex. It is not, my fault that I am now induced to en-  
 gage in it. I feel, however, driven to the necessity of throw-  
 ing myself upon the indulgence of the House, for a few  
 moments, by what has been thrown out in the course of  
 the debate. I trust I shall not indulge in that discursive  
 range of remark which has distinguished the course of  
 gentlemen who have preceded me, on both sides of the  
 question.

On a motion to lay the resolution on the table, I voted  
 in the affirmative. Although the House could have felt  
 no interest in the motive of that vote, yet it was, perhaps,  
 due to myself to have explained the reasons which influ-  
 enced me in giving it, (without being prompted to do so  
 by the insinuations of any gentleman,) that it might not  
 appear to be inconsistent with the vote I may now give,



H. or R.]

Retrenchment.

[JAN. 29, 1828.]

and the course I shall steadily pursue in the future stages of this measure. Now, no other alternative is left me. The question has been significantly propounded to some of the more prominent gentlemen who voted as I did upon that question, Did they mean to stifle inquiry while they continued to urge the charge of prodigality and abuse in the public expenditures, against the administration?—Without supposing for one moment, that my vote could be of sufficient consequence to attract the attention of any gentleman, upon this or any other question, yet, as I would not rest under any censure which may be attempted to be cast on others, I answer to the interrogatory for myself—No. And if a direct charge of such an unfair intention was intended to be made, I answer, that the gentleman who made it could not have believed it true.

When the original resolutions were introduced by the gentleman from Kentucky, I saw in their ill-digested form (and when I say this, I do not mean to say that I could have given them a better shape) the substance of a proposition for a general retrenchment in the expenditures of the Government. To a well-timed proposition of that nature, I beg leave to say, I would never be opposed. Inquiries into supposed excesses in the regular and ordinary appropriations for the support of Government, or into the abuses supposed to attend their disbursement by its officers, will always be productive of some good in Government, constituted on whatever principles it may, although no immediate legislative enactment of a remedial nature may be the result of them. The very discussions which attend propositions for such inquiries, serve to keep alive a spirit of jealousy and watchfulness in the People in regard to that, which, when properly managed, constitutes their strength, and which, under evil auspices, may be converted into the material of their weakness. For, in the estimate of a nation's strength, this paradox intrudes itself—that which forms the chief sinew of its power, may, at the same time, become the source of its greatest debility. National wealth (if I may be permitted a common-place argument) can no where be as safely and properly exhibited as in the hands of the People who created it; and there it should remain, except such portion of it as may be absolutely necessary for the protection and free enjoyment of the balance. When, therefore, a nation shall have arrived at that point in its organization, when it deliberates upon the expediency of abolishing certain institutions as useless or improper, and of curtailing certain expenditures as extravagant, we may take it for granted that the annual *modicum* of the People's wealth, which is absolutely necessary to be drawn from their pockets, is already large enough, and that no new institutions will be created, and no additional exactions enforced. But I go farther. I would have supported a well-timed proposition of this nature, for a better reason. I have entertained the opinion, as I do now, that the expenditures in some branches of the public service would bear retrenchment without injury to the interests of the country, and to the very great relief of the People. I have thought that the career of this Government, during a late administration, was marked with a wasteful appropriation of the public revenue, and that the present administration has entitled itself to still higher distinction in the same prodigal course. I believe, too, that the present administration contemplated, at one time, still greater eminence in this way, than they have since thought it prudent to attain. I am of opinion, that, for a part of this extravagance, the Executive officers of the Government are alone responsible, and that Congress may well come in for the balance of the responsibility. How this responsibility should be divided between those two departments of the Government, I will not undertake to determine; nor will I at this time, be drawn into a specification of instances of the extravagance in the Executive officers of the Government; neither will I be forced, upon this oc-

casione, into an argument of the specifications that others have thought proper to make in the course of this debate. In speaking of the extravagance of the Government, I beg leave to state, that my opinion, if it may be regarded as of any consequence, has been formed upon facts which I have never heard disputed; and what I may now, or at any other time, say of the conduct of the present administration, will be found to be based upon ascertained facts, about which I expect to speak freely, without the imputation of joining in a hue and cry merely for party purposes. I despise a senseless clamor as much as any man, but I am not prepared to admit that this is one. The inquiry may shew how this is.

Whether a Government is extravagant or not, I look upon as a question about which gentlemen may differ according to the notions they may entertain of the policy of a Government in relation to its expenditures. Some are of opinion that the Government should array itself in some degree of splendor, believing that the respect and reverence of the People may be secured in that way, while others entertain the opinion I have already expressed upon that point. As to the question, whether, in the disbursement of the funds placed under the discretionary control of any of the Executive Departments of the Government, any part of those funds has been applied to illegal or corrupt uses, I concur in the sentiment expressed by a gentleman from Kentucky, [Mr. CLARK] whose dignified and manly course in this debate must gain him the respect of every gentleman upon this floor, although some of them may not agree with him in political opinion. That gentleman said, that upon the eve of the investigation, reason, justice, and Christian charity, require that the testimony should be heard before sentence of guilt should be pronounced. So let it be. But the question recurs, why is the proposition ill-timed; or, in the language so often and so emphatically repeated, why is this not the accepted time? Answering for myself, I can say, that I regarded the time as particularly unfavorable. Looking upon the resolution as intended to effect a permanent retrenchment in the ordinary expenditures of the Government, I believed that such a dispassionate inquiry into the various and intricate details as would be necessary to a judicious retrenchment, could not be expected at this time. I was also aware, that, whatever professions might be made by the supporters of the measure in the House—out of it, party views and party purposes would be said to be at the bottom of it. It further occurred to me, that the best temper imaginable, and all the forbearance that could be practised, would not be sufficient to prevent party feelings from mingling themselves with the consideration of the measure here, and that thus no important practical result could be attained. Looking at the measure in this aspect, I felt opposed to it on other grounds. Whatever may be the state of the great question between the parties out of this House, it is admitted that the opposition to the Administration has the majority in the House. Whatever measures, therefore, of an extraordinary nature, wearing the appearance of a party origin, the majority might bring forward, would subject them to the charge of attempting to put their adversaries to the wall, by the mere force of numerical strength.

Upon a point of honor and of common courtesy, therefore, might opposition to the resolution be justified. The joy of the generous huntsman is always in the chase; the game once overtaken, he calls off the pack that would worry, and, by slow tortures, kill it. So the generous, high-minded political opponent, is disposed to mitigate the severity of his blows upon a weakened adversary. I speak now in reference to the state of the parties in this House. How the question stands out of this House, must be determined by those without, by their own weapons, and in their own way, as it is fit and proper it should.



JAN. 29, 1828.]

*Retrenchment.*

[H. or R.]

But, again: If there be any one point in the American character better understood than another, it is the disposition to sympathise with, and take the part of the weak, whether guilty or innocent, when in the hands of an exulting and victorious adversary. It is the temper of humanity. The convicted traitor is forgiven by the humane crowd as he ascends the scaffold. The fate of the Royal captive is generously pitied, even by stern Republicans, when they hear the shouts of the conquerors; and so the falling statesman may sometimes cherish faint hopes from the violence of his pursuers. I would not add to the asperity of party feeling in this House, by having it understood that the cases I have selected to illustrate a common principle of our nature, are pointed with allusions to any individual whatever. Did the gentleman from Ohio [Mr. WARREN] think of this trait in the American character, the other day, when he invoked abuse upon the Administration, by provoking, in the most artful manner I have ever seen employed, upon any occasion, every gentleman who he supposed could be induced, at his call, to denounce it in harsh language? Did he seek to take advantage of this principle of our nature, when he sought to elicit a reiteration of the charge of corruption against the Administration, by the frequent use he made of that term as coming from others, when, I believe, not one gentleman on the opposite side of the question made any such charge in this debate, whatever may be the opinion upon that point, disclosed in other places? But, other gentlemen seem to me to have indulged in a course of argument calculated, I will not say intended, to accomplish the same purpose: for, although I have noticed much in the argument of some of them, of fair and manly reply to what has been thrown out by gentlemen opposed to them in political opinions, yet, it has appeared to me, that besides attacking their opponents in turn, there has been a bitterness of manner, and a point in their allusions, which could scarcely fail of widening the door of recrimination. I know, that the high-mettled courser disdains the use of the goad, and is ever ready to take the track without being spurred to it; yet, there should be some adequate manifestation of an intention to apply the spur before the leap is made. Here has been introduced a resolution, which may, if you please to have it so, be considered as implicating the Administration in extravagance and prodigality; and it may be, or has been, intimated by one gentleman, that it was honestly brought forward under the influence of the intoxication, produced by having drunk deep of the spirit of newspaper misrepresentation; yet, without stopping to inquire whether gentlemen on the other side of the question may not have been misled by having drunk from the same polluted stream, I would ask why call for specifications of charges against the Administration, when the very object of the resolution is alleged to be to inquire into the grounds of such charges? And why will gentlemen continue, as they have done, to proclaim their convictions of the purity of the Administration, and the absence of corruption, if they do not seek for some purpose, a discussion upon those points, when no gentleman opposed to the Administration, as far as my knowledge extends, has thought proper to afford a just pretext for any such discussion? But I do not wish to do injustice to the intentions of any gentleman. I would not do injustice to the gentleman from Ohio, especially. It certainly appeared to me the other day, as I think it must have appeared to every gentleman on this floor, that it was a principal object of his remarks to court a violent and abusive course, on the part of the opposition, against the Administration. I would not, however, do the gentleman from Ohio a voluntary wrong for a reason connected with my own repose. He is one of the last gentlemen upon this floor, whose notice I would be pleased with, in reply to any thing I may say; and as a proof of

my sincerity, if he will accept of a compliment from one who is a stranger to him, I will say, he seems to me to understand his business here perfectly well; and of his skill in political archery, I would say, he discriminates between the sound and the broken arrows of the Administration quiver, with as much judgment as any gentleman I have noticed practising with its bow. But to proceed with my explanation: I was opposed to the resolution, seeing that it must wear a party livery, because, with my approbation, (and I trust gentlemen will give me credit for sincerity, when I make the declaration,) no inflammable matter of that kind would be thrown into this House, to retard and obstruct the ordinary business of Congress, or to interrupt the decorum of debate during the present session. I desired, as, indeed, I thought every other member of this House did, from the frequent professions I heard upon all sides, that we should despatch the more important business confided to our care, and return to our homes. I deprecated the consequences of bringing the Presidential canvass into this House, and making this floor an electioneering Campus. We have already had a specimen, in the two last days' debate, of the consequence of introducing such matter into this House. We have already had a match exhibition of reciprocal attack and reply. We have already reached the very verge of order and decorum. Perhaps, sir, we have advanced one step beyond their boundaries. To what end will a further indulgence of this course lead in the discussion of this or any other measure of a like inflammable character? As the passions of the opposite parties kindle by collision—as they will—we may expect to hear from one side of the House, a glowing description of the dangers of military despotism, while, from the other, we will present the picture of a great nation sinking by corruption. When, from the other side, shall be held up to public view, the evils to be apprehended from the elevation of a Military Chieftain; on this side, you shall hear of the ills that will ensue from establishing a succession, by adhering to the line of safe precedents. When we shall have carried this war or crimination and recrimination to the highest pitch to which party feeling can ascend, all we shall be able to accomplish will be, perhaps, to degrade the character of the Congress of the United States, consume ourselves in the heat of controversy, and vomit forth, through the channel of the newspapers, upon the People of this Union, the poison of our own gall, to embitter and stir them up to a like useless rage.

"It is not, nor cannot come to, good."

No opinion will be changed by such a course, and the People are too enlightened to authorize the belief that the relative strength of the parties out of this House can be affected by it. I would say to the Opposition, to which I profess to belong, that they have nothing now to gain by such a course, though they may not lose. To the friends of the Administration I would say, if they will allow me, that they cannot, by means like these, give a counter current to public opinion, if that is necessary to their success. I will say to the Opposition, again, that I trust they will have the firmness not to be intimidated to take a course which would be unbecoming the dignity of this House, or unworthy of the cause in which they are engaged; but while they deal out measure for measure, with their political opponents, they will never become the aggressors.

I feel it my duty, before I sit down, to notice one or two remarks which fell from gentlemen on the opposite side of the House. An honorable gentleman from Kentucky, [Mr. BUCKNER] in reply to a distinguished gentleman [Mr. RANDOLPH] who has taken part in this debate, remarked, in substance, that, when "the accepted time" arrived, so anxiously expected by that gentleman, he had long since made up his mind to retreat from the Capitol.

II. OF R.]

Six Militiamen.

[JAN. 30, 1828.]

If I do not mistake the allusion, or overate the apprehensions of that gentleman, I will say to him, that I know he will not forsake his country at the approach either of a domestic or foreign foe. On the contrary, if I am not greatly mistaken in him, he would not shrink from the presence of a tyrant, even in his strong-hold; and when "the accepted time" alluded to, shall have arrived, I predict that that gentleman, returning to his post here, with the manly purpose of guarding his country's rights, will then become convinced how greatly he had misconceived the true character of the individual so often alluded to. I am persuaded he will find that great man, though, perhaps, not perfect—as no man is—yet so nobly redeeming any slight faults he may have, by his generous devotion to the interests of his country, by his tact in civil government, as well as in military command, that even the most unrelenting of his opponents will feel some regret that they ever felt it their duty to encourage apprehensions which turned out to be so destitute of any foundation.

The Tariff has found its way into this discussion. Upon a subject of so much difficulty and importance, I would at no time feel myself competent to manage the argument, either for or against it. I am, therefore at this time, wholly indisposed to enter into any examination of the questions connected with it, but I do trust in God, that no gentleman on this floor—I must be permitted to express a further hope—that no friend of his country, will be found here, or any where else, who will seek, for any purpose, to connect a subject of such intrinsic interest, with a contest, involving, in my opinion, separate and distinct principles and objects. I do not mean to state, that any gentleman in this House has sought to connect these subjects—far from it. I only express a hope, that no gentleman will ever make himself obnoxious to such a charge.

Mr. Speaker, although opposed to the resolution originally, for reasons I have attempted to make intelligible to the House, yet I fear we have advanced too far now to recede. Expectations are created, that something will be done, without farther delay, in the work of retrenchment. At all events, an inquiry, a rigid inquiry, must be prosecuted—and I hope for the best results. I am free to declare, for myself, although I would lop off, without compunction or regret, every institution and office, which may be opposed in its tendency to the liberty of the People, or which may create unnecessary burdens upon their honest gains, yet would I forbear to touch either one or the other, which may, upon inquiry, appear to be essential either to the liberty or to the prosperity of the country. And since it has become necessary that this inquiry must be gone into, I rejoice that so large a majority are of opinion that this is the auspicious period, and that so much of the talent of the House has become pledged to assist in it. I look upon the vote taken upon the motion to lay this resolution upon the table, as a pledge, not only of the perseverance with which the work of retrenchment will be prosecuted, but of the success which will attend it. And I trust that we shall all, exercising a spirit of mutual forbearance upon those points, upon which the interests and feelings of parties may be connected, zealously co-operate in effecting something for the good of our common country. For my own part I can only promise that I will aid in the enterprise, by working as a common laborer in the trenches, if it be necessary.

Mr. Speaker, I will ask the indulgence of the House no longer.

After an ineffectual motion to adjourn, Mr. DORSEY, of Maryland, took the floor, but had not proceeded far, before a motion for adjournment was made and carried.

WEDNESDAY, JANUARY 30, 1828.

## THE SIX MILITIAMEN.

The SPEAKER laid before the House a letter from the Secretary of War, transmitting the proceedings of the Court Martial which tried certain Tennessee Militia at Mobile, in December, 1814, together with other papers connected with the subject, which were called for by this House some days since.

The letter was read.

Mr. SLOANE moved that the communication and documents be laid upon the table, and printed.

Mr. WICKLIFFE expressed a doubt whether it was necessary to print all the documents accompanying this communication—perhaps the member from Ohio [Mr. SLOANE] might be better able to say than he was—but as he wished to have an opportunity of looking at them, he would suggest to the gentleman to withdraw his motion for the printing.

Mr. SLOANE replied, that the chief bulk of the documents consisted of the muster roll and pay roll which the gentleman from Kentucky [Mr. WICKLIFFE] had himself introduced into the call.

The SPEAKER reminded the gentlemen that a motion to lay on the table did not admit of debate—but that, if the gentleman from Kentucky wished to reply, his only mode would be to have the motion decided.

Mr. WICKLIFFE having moved for a division, the question was first taken on laying the communication and documents on the table, and carried in the affirmative. And the question being then on the motion to print—

Mr. WICKLIFFE moved to postpone the printing; and said, he would briefly state his reasons for this motion. The House had before it in discussion a resolution, [Mr. CHILTON's] which completely blocked up the game of legislation; and, in this state of things, the House is called upon to print these documents for public information. I wish it clearly understood that, so far as I act in this matter, it is not from any fear of having the truth, the whole truth, and nothing but the truth, fully exposed to view. But I appeal to the candor of the gentleman from Ohio, [Mr. SLOANE] not to press the printing at this moment. Let me refer to the facts. When these documents were first inquired for, we were informed by the official, or at least semi-official organ of the Administration, [here Mr. W. pointed to the Reporter's desk of the *Intelligencer*], that no such documents existed in the Department of War. Subsequently, however, some time in the Summer, they were discovered, in some obscure pigeon-hole, I suppose, in that Department. Now, Sir, as the effect of the call for these papers (I do not say the intention—I speak only of the effect—it is not parliamentary to reflect on the motives of gentlemen) has respect to individual character, and as I cannot shut my eyes and ears to all that is passing around me, I have no doubt that, before this resolution was introduced, these papers had all been inspected at the Department, and I therefore cannot but understand the effect that is anticipated. I ask, then, is it fair—I appeal to the magnanimity of the gentleman from Ohio to say whether it is fair—when the character of an individual is assailed, not to let his friends have an opportunity of looking at these documents, in order that they may judge whether there may not be something else in the War Department, bearing on the matter to which they refer, is order that, if there is, (and I do not say there is) that also may be obtained, and then the whole be printed at one time, and all go together to the world. If you print them now, the effect will be to assault the character of a distinguished individual, both morally and politically, and what, Sir, may be the result on the public mind? It will be recollected that, among the documents I wished to obtain, was the order of Governor Blount, detailing the regiments of Tennessee Militia. Is that among these docu-

JAN. 30, 1828.]

Retrenchment.

[H. OF R.]

ments? The Secretary of War tells us he has furnished all the documents within the scope of the resolution, that is, as he understands it. Now, Sir, when the printing of papers is not calculated to facilitate legislation, but only to effect the character of an individual, I ask again, is it not fair, that we shall see whether there may not be other documents, which may be called for, and which might have an effect in illustrating those we have obtained? I do not say there are such documents. And, if this was an ordinary subject of legislation, a proposition to amend the militia laws, or any thing of that description—if individual character was not to be involved, I should not resist the printing. But when it is impossible I should be deceived as to the effect of the documents, I appeal to the magnanimity of the gentleman and of the House, to say whether it will not be better to defer it?

Mr. BARTLETT now moved to lay the motion to print upon the table. The motion prevailed, and Mr. SLOANE's motion to print the communication and documents was accordingly laid upon the table.

#### RETRENCHMENT.

The House then proceeded again to consider the resolution of Mr. CHILTON on the subject of retrenchment, and the question being on the amendment of Mr. BLAKE, (virtually a substitute for the other)—

Mr. DORSEY rose and said, he tendered to the honorable members of the House the expression of his thanks for their kindness, shown him on yesterday, by concurring in the motion for adjournment. If, said Mr. D. the forbearing course recommended by the gentleman from Tennessee, [Mr. BELL] had been adopted, at an earlier day, I should not now have addressed this House. In the range which this debate has taken, there has been much said, which requires observation and refutation. It is too late, now, sir, to forbear discussing these exciting topics. But, without his most judicious advice to forego a spirit of crimination, I shall do so. It is in accordance with my settled purpose, never to add to an excitement leading us astray from what we owe to the dignity of this House, to the reputation of this nation, to our own self-respect. What I shall say will be of a vindictory character; it will breathe the spirit of justification, not that of implication. It is a source of congratulation that the gentleman from Kentucky has originated this inquiring resolution. As a citizen of this Republic, attached to its form of government, and its perpetuity, he is entitled to my thanks: for, sir, there is no resource upon which this government can, in time of great national danger and trial, rely with so much confidence, as on the attachment and affections of its citizens—these attachments and affections, so indispensable to its strength, can only be produced and strengthened by the settled conviction that its paternal care distributes the benefits and advantages of its institutions alike to all fitted by habits and education to participate in them. The nation, to submit with patience to the requisitions made on them for the support of the government, must be satisfied that those who administer the government administer it with a due regard to economy. The nation, attached to the simplicity of our republican manners, reprobates every departure from them, and marks with its reproach all those who seek to assimilate it in practice to the tinsel, the extravagance of royalty. As a member of that party which deems that the public interest and the preservation of our institutions require the re-election of the present Chief Magistrate, I thank him for bringing to the trial the imputed errors of the present National Executive. For, sir, it cannot be concealed, that, since the last Presidential election, imputations on the political purity of those who now administer the Government have been industriously propagated throughout the nation; that they have been received with eagerness; that the credulity of the

American People has been imposed on by all the wily arts of party warfare; that the discontented and disappointed politicians of the day have labored to teach the People to look to the President and his Cabinet as usurpers of the elective rights of the People; as elevating themselves to power by bargain and intrigue; as aping the splendor of royal magnificence; as encouraging a lavish expenditure of public money, to reward political partizans; and employing the patronage of the Government to warp and corrupt the public sentiment, so as to ensure a continuance of the national power in their own hands. The honest and retired citizens of this country, who are only interested in the pure administration of the Government, and the continuation of its blessings, unacquainted with those dark and secret springs of action which gave life and strength to those weighty denunciations, have become alarmed, and tremble for the safety of this Republic.

These jealousies and distrusters have been here, sir, fostered and reiterated. My honorable colleague, at a very early day of the session, in his resolution directing an inquiry, assigned, as a ground for the investigation required by the resolution, that rumors of an improper application of the public money had spread among the People. The honorable member from Pennsylvania has denounced to the nation a particular act of intolerance in the Treasury Department—"the transfer of the contract for stationery for the Collector's Office of the Port of Philadelphia to the Editor of the Democratic Press;" and has submitted a resolution of unprecedented inquisitorial character, demanding not only copies of all the official, but of the Secretary's private correspondence, in relation to this substitution. This latter resolution, notwithstanding its unusual and reprehensible generality, as well as that of my honorable colleague, was sustained by the friends of the Administration. In unison with these previous inquiries directed by this House, I shall vote upon the present occasion. That resolution, or that amendment, which gives to the inquiry the greatest range of action, shall be my choice. Let our constituents be relieved from that torturing anxiety and suspense engendered in this political warfare for power, which now disquiets them as to the structure of our Government, the expenditures of the public money, and the political integrity of those who now administer our national affairs. They can only learn through the press the acts, the motives, and the policy of the Federal Government. Scattered throughout this vast continent, having but little intercourse with the Capital of this extensive Empire, feeling the pressure of the national authority but feebly, they can only learn the doings, the policy, and the motive of this Government, through the public journals. Our own experience, the experience of all free Governments, incontrovertibly prove, that this active agent for the dissemination of knowledge, in all times of high party excitement, partakes of that complexion which best serves the triumph of that party, of that chief, whose elevation to power it prefers; and that, in pursuit of this triumph, it misrepresents, it libels, it denounces, the policy, the acts, and the motives, of their political rivals. The freer the institutions of the Government are, the more active, the more criminating, the more vindictive, are these misrepresentations and these libels. This spirit of detraction and misrepresentation of men in power is coeval with our Government. The like imputations of corruption, prodigality, and assimilation of our republican institutions to monarchy, and expansion of the Executive power of the Government, were charged on those who administered it under Washington, the founder of this Empire, on Adams, on Jefferson, on Madison, on Monroe. They are the *materiel* of political warfare, and they have been hurled, at all times, and on all occasions, against those who are in, who administer the Government, by those who are out, but wish to burst open the

H. of R.]

Retrenchment.

[JAN. 30, 1823.]

doors of honor, of power, of wealth, for themselves.—Against this branch of this Government have those who labored for revolutions in the Administration, directed all the artillery of the press.

In a Government like ours, predicated on law, confidence must be reposed somewhere. Our Constitution reposes it in the Executive Department. From its analogy to monarchy, it is always an object of distrust and jealousy. It is presumed to affect the splendor of royalty; to stretch its prerogative; to extend its patronage to sustain its power; to lavish the resources of the nation, to reward its partizans. This jealousy, invigorated by our devotion to our republican simplicity, to a restricted executive prerogative, to the purity of our institutions, and hatred for a profuse expenditure of that money drawn from our labor, has been constantly invoked in every struggle for political power that has distracted the American People.

The first Administration of the illustrious Washington had not passed, before it was charged on his Administration that its policy was devoted to an assimilation of the practice of our Government to the most corrupting parts of the British Government; that the war debts of the Revolution were funded, and the public debt created, to bring strength to the usurpations plotted by the Federal Government on State rights; that the army, raised to check the savage incursions on the frontier settlements, was adopted in conformity with the policy of creating a standing army; that, having a funded debt and army, the piratical depredations of the Algerine corsairs were greedily seized on, as an apology for creating a navy; that the excise on whiskey was introduced to add to the support of the Government a swarm of officers; and that thus, a public debt, an army, a navy, the excise, the four prominent features and engines of the patronage, corruption, and expenser, of the British Government, were grafted on the American policy. The monarchical tendencies of these national measures, were not the only accusations made against this illustrious man. He was charged with affecting the splendor and folly of royal audiences; and the levees which were held at his house, to gratify the anxious and laudable curiosity of his countrymen, to see the great benefactor of the American People, were traced to a disposition, on his part, to imitate royal levees. He, too, was charged with an encroachment on the treaty-making power, and assuming that it came within his constitutional competency to give instructions to his Ministers abroad; to negotiate treaties with foreign Powers, without first submitting his instructions for the approbation of the Senate: he, too, was charged with drawing the public money for his own private purposes; and it was published, that the day on which he should retire "ought to be considered as a national jubilee; for, from that day, would the name of Washington cease to legalize corruption." And such, sir, was the acrimony of party spirit in his day, that there are now distinguished political characters, high in the confidence of this people, who have recorded upon the journals of this House, that their confidence in him was diminished.\* These expressions of

opinion were sustained by acts of national legislation, highly offensive to the feelings of that distinguished and unequalled man; as they were predicated on an avowed distrust of his patriotism and prudence. In 1797, although the Executive of the United States, by the Constitution, is entrusted with the command of the naval and military armament of this country, they denied to him the control of an armament, fitted out for the protection of American vessels, against the hostilities of the French marine, and restricted his discretion by legislative directions. Yes, sir, under these distracting rivalships for the succession, did distinguished statesmen embitter the peace, destroy the quiet, and lessen the confidence of the American People in that man, whose whole life was distinguished by his devotion to our Republican Institutions, by an ardent attachment for the happiness of that country which was elevated to the rank of an independent nation by his instrumentality; by that pure disinterestedness that never sought pecuniary gratification. Of Mr. Hamilton, that gallant soldier, who participated in the dangers of the battle with his beloved commander; that able and professed statesman who aided in the formation of the Constitution; whose writings allayed the hostilities against its adoption; whose investigating, powerful, and profound sagacity, established those great statistical principles which it is now political heresy to deny; whose political and private integrity is now eulogized by his former revilers; language was ransacked, vituperation exhausted, in portraying, in the most repulsive colors, his imputed political heresies and domestic errors. If such a President as Washington, and if such a Minister as Hamilton—and such a Ruler and such a Minister no other nation ever boasted—were charged with the most damnable political errors, I ask you, can such a President and such a Minister as we now have, expect to escape the foul libels engendered by this over-heated political atmosphere. Let the nation be satisfied that all who administer the affairs of this nation, are doomed, by the very genius of our Constitution, to be reproached by the revilings of their political enemies, and charged with anti-republican propensities; with a disposition to grasp power; with prodigality in the employment of the public money. The quiet and enquiring judgment of posterity has done justice to their memory; and the history of their persecutions affords to the present age an instructive monition against indulging in that credulity which tends to lessen the confidence which distinguished public services naturally inspire, and to teach us to examine into the secret motives of those who labor to withdraw the public confidence from the public functionaries.

The first Adams succeeded to the Presidency after an animated canvass. The French Directory demanded, as a preliminary to the reception of the American Plenipotentiaries sent to treat of peace, a *douceur*—"much silver." The despatches received from them, detailing these propositions, so degrading to our national sovereignty, were published. The indignant voice of the American People re-echoed throughout this continent: "millions for defence—not a cent for tribute." The Congress put on the armour of defence by laws providing for a provisional army; Washington was placed at the head of it; and the distinguished heroes of the Revolutionary war were again called to command. Yet this army, headed by these patriots, embodied to resist the humiliating demands of the Directory, were denounced as the instruments of power, designed to crush the spirit of inquiry, and to be directed against the liberties of the country. The influence of Washington on the public opinion had ceased: for he announced to the world that he cordially approved those measures of resistance. These denunciations produced, on the side of the friends of the Administration, a corresponding acerbity of feeling; and, as it most generally happens that

\* Mr. D here had reference to the proceedings in the House of Representatives, on the 15th day of December, 1795, upon an Address to President Washington, on his retirement from office, the last and pregnant paragraph of which was as follows:

"May you long enjoy that liberty which is so dear to you, and to which your name will ever be so dear: May your own virtues, and a Nation's prayers, obtain the happiest sunshine for the decline of your days, and the choicest of future blessings. For our country's sake—for the sake of Republican Liberty—it is our earnest wish that your example may be the guide of your successors; and thus, after being the ornament and safeguard of the present age, become the patrimony of our descendants."

Upon agreeing to this Address, the following gentlemen voted in the negative:

"Thomas Blount, Isaac Coles, Wm. B. Giles, Christopher Greenup, James Holland, Andrew Jackson, Edward Livingston, Matthew Locke, Wm. Lyman, Samuel Mcclay, Nath'l Macon, and Abr. Venable."

[AN. 30, 1828.]

*Retrenchment.*

[H. OF R.]

in all conflicts of parties, much is done, which neither prudence or patriotism sanction, so, in this struggle, the measures adopted by the Administration to give strength and stability to their views, were the cause of the loss of public confidence. The Sedition and the Alien Law remain as historical beacons of the dangers, incidental to free Government, from the indulgence of political intolerance, and as illustrative of the violent and unconstitutional means which factions will invoke to prostrate their rivals: for these laws were sanctioned by those heads whose hearts and hands pre-eminently contributed to the establishment of our national independence. Yet, notwithstanding these laws, the authors of them now live in the grateful remembrance of this nation, for their political honesty. A grateful posterity, estimating their generous devotion to the cause of the country, forgive these errors of party collision.

Notwithstanding the great popularity which Mr. Jefferson acquired by the repeal of the war tax of the preceding Administration, and the prostrate condition of his political rivals, there soon sprung up men, who had contributed to elevate him to power, who denounced his Administration. He was charged with an undignified, impatience of attachment to France; with a hatred against England, that could only be satiated by her prostration at the feet of the French Eagles; with shaping his whole course of foreign policy with an eye to the gratification of these feelings of attachment and hatred. (We all recollect the celebrated saying imputed to a minister of his cabinet, when it sought to purchase from Spain the Floridas, "France wants money.") With a wasteful prodigality of the public money; for, sir, a gentleman, then of distinguished influence, the bitterest political enemy of the first Adams, as he now is of the second, the most zealous of those who toiled for the elevation of Mr. Jefferson, remarked, on the floor of this House: "Against the Administration of Mr. Adams, I, in common with many others, did, and do yet, entertain a sentiment of hostility, and have repeatedly cried out against it for extravagance and for profusion, and for waste, and wanton waste, of the public resources. I find, however upon consideration, whether from the nature of man, or from the nature of things, or from what ever cause, that that Administration, grossly extravagant as I then and still believe it to have been, if tried by the criterion of the succeeding one, was a pattern of retrenchment and economy. We have, sir, economised, until we have actually reduced the annual cost of a seaman from 472 dollars, as it was under the very wasteful expenditure of Mr. Adams' Administration, down to the moderate sum of 887 dollars." It was further said of him, that his restrictive policy, and the embargo, were recommended and adopted in aid of Bonaparte's continental policy to destroy the commercial resources, and thus prostrate the military and naval power of Great Britain—which alone presented a barrier to that universal conquest at which he aimed. That the great and leading measures of his domestic policy were to ensure the succession in the line of "safe precedents," and to elevate James the First to the Presidency. Yet, history has done ample justice to this illustrious statesman, while his errors, if any, and mortal remains, lie buried in one common grave—the recent funeral honors to his memory, throughout the nation, demonstrate the high estimation in which that statesman is held by his countrymen.

Mr. Madison succeeded in the "line of safe precedents." In those days of Southern influence it was deemed pre-requisite to the elevation to the Presidency, that the aspirant should have fitted himself for that high and arduous station by an intimate knowledge of our foreign relations and domestic policy. He was denounced, too, by many of his former friends, as deficient in energy, as sustaining the most extravagant doctrines of consolidation,

as one who had forfeited his claim to public confidence, by recommending a dishonorable compact; with fraud and corruption; that his Administration was prodigal and wasteful; that he called to his armies men of bankrupt fortune and ruined reputation, and in which army, it was sarcastically asked, "what man of honor would accept a commission?" That he acted in concert with France, and waged a war against Protestants, against the bulwark of our religion; that he was unfitted to command; that he was too much of a philosopher; that he could not look with indifference on the shedding of human blood; that his measures, also, were directed to ensure the succession of James the Second in the line of safe precedents. Yet he lives, and now enjoys the confidence of all.

Mr. Monroe come into power by acclamation. His tour of observation through the North, his disposition to soothe the spirit of party rancor, was traced as springing from that vanity which is flattered by public pageantries—to a servile disposition to propitiate political enemies. From that moment, an opposition sprung up to his Administration; three of his "lieutenants took the field for the Empire, while he sat as an incubus on the Government." Each assailed the Department of his rival—the system of expenditures, connected with the fortifications and the army—the measures of the Treasury—were alike subject to the bitterest invective. The friends of the Treasury sought reform, and were dubbed Radical. The army candidate was denounced as a latitudinarian, and designing to surround the National Government with a splendor and power destructive of the reserved right of the States. And, Sir, this spirit of opposition being thus engendered, his Administration was pronounced weak and prodigal: and, even upon the floor of this House, he was charged with using public money for private purposes. The nation recollects with gratitude his devotion to the cause of his country, and sympathises with him in his losses, the inevitable accompaniment of every Southern man, whose care is abstracted from his domestic concerns.

These historical facts are brought into view to the end that the public may appreciate the motives which give currency to these clamors against those who administer the Government, and to shew that, at all times, and by all parties, the same charges which are now made against the Government, have been made, and are, instruments used for party triumph—corruption, prodigality, and a fondness of splendor, are the practiced weapons of the Opposition; they may influence sentiment for a time, but a spirit of free inquiry and correct information will banish these delusions, demonstrating the innocence of the accused, and the daring and selfish motives which produce the imputations. Recollect that these Presidents were the founders of the Republic, that they had an active agency in the establishment of your Constitution, that they lived and toiled for the Republic at home in the gaze of the American People; and above all, that they came into power by the majority of the votes of the American People; but even thus sustained, and thus elected, they escaped not the fell spirit of detraction. The present Chief Magistrate came not into power sustained by such powerful appeals to the confidence and affections of the American People. His life had been spent principally in the service of his country abroad, in watching its interests and its rights in foreign courts. When at home he presided over a Department, of none or very limited patronage, and which addresses itself only to the patriotism and intelligence of the People. He had three competitors, of distinguished reputation, and alike endeared to the country. A gentleman of splendid talents, the bold and undisguised advocate of those constitutional doctrines which enlarge the sphere of Federal action, retired from the struggle in consequence of the unexpected move-

H. or R.]

Retrenchment.

[JAN. 30, 1838.]

ments of a State, upon whose powerful support his calculations on success were predicated. No election was made in the primary colleges—and this House, exercising its constitutional contingent power, called the present incumbent to the Presidency. In forming his Cabinet, he called to the office of the Secretary of State, that distinguished citizen who now presides over that Department, and it is understood that he offered to another competitor, the office of Secretary of the Treasury.

From this moment, a spirit of opposition, detraction, and misrepresentation appeared. It was charged that the election was effected by "bargain, management, and intrigue;" and the nation has been convulsed by a more angry state of political hatred than it ever experienced before. History informs us, that, of all the parties or factions which divide a nation, those are the most angry, which are founded on personal considerations. The parties heretofore existing in this country had their origin in a difference of opinion among the People, as to our foreign and domestic policy. In sustaining or resisting that policy, the rival politicians addressed themselves to the reason and understanding of the nation. An unprecedented unanimity existed among us all, as to the great and fundamental policy which the prosperity of this country required to be pursued by its rulers. The present parties of this country are therefore formed upon the preference of one individual to another. In all our attempts, therefore, to proselyte, a review of their character and of their talents is taken. In this review much is said—much will be said—of an irritating and offensive character. These are the causes of our disunion.

We also know, that, of all the elections which agitated the Roman Republic, those were distinguished by the highest excitements and the greatest convulsions of the People, which sprung from the union (*de coalitionibus*) of the disappointed rival candidates, to prevent the reelection of their successful competitor. Whether there be such a combination now, the People must judge. I will not say that such a combination does exist, but I will say, that such a combination has been avowed and boasted of. During the last Winter, in the many speculations which were made upon the probable result of the next Presidential election, and sent from this place, with a view to animate the friends of General Jackson, there was one letter which pre-eminently attracted the notice of the public. Its style was good; the estimates of their then strength, and of their future hopes, were plausible. It was published in the newspapers of the opposition with high praise. The authorship was assigned to a then distinguished member of this House: its supposed parentage was traced, by traits of language, to the honorable member. In this letter, then so cheered, we find this undisguised avowal of the principles of cohesion, which give life and activity to the present contest. This letter says—"To the friends of Jackson and Crawford, those of John C. Calhoun are added; and the union forms such a force of number, talents, and influence, that it would seem improbable that this can be effectively met by Mr. Adams and Mr. Clay, and their friends, aided by their united experience, ability, patronage, and official advantages, great as they are. Men are so very sincere in their dislikes, that the most opposite natures will coalesce to diminish the power of an object of a higher common aversion, and will surrender the strongest personal competition to unite for mutual safety."

What a precious confession! If this be true, we cannot be deceived as to the character of that resistance to the present administration, which, like the Roman elections, governed by the same principles of mutual interest, threaten this People with the most angry political strife: not that the settled policy of this country shall be changed, but that the mutual interest of these distinguish-

ed individuals shall be subserved, and, by their gratification, encourage those future angry appeals to this nation by the disappointed candidates—rivalships which have destroyed every elective Government.

[Mr. BUCHANAN here inquired of Mr. D. if he said that he [Mr. BUCHANAN] was the writer of the letter? Mr. D. replied that he did not say so; but that he did not say that he, Mr. B., was not the author; that he had not mentioned the gentleman's name. Mr. B. rejoined: I am not the author.]

Mr. DORSEY resumed. Mr. Speaker, in addition to this imputation cast on the cabinet in its origin, which no gentleman on this floor has attempted to sustain, all its measures have been treated with the jealous coloring of disappointed ambition. A sombre picture of European distress has been drawn by the two gentlemen from Virginia [Mr. RANDOLPH and Mr. FLOYD.] The squalid bazaroni of London, Italy, and the starving population of Ireland, have been exhibited here to excite our sympathy—their wretchedness is traced to the madness, the weakness, and folly, of their ministry. Indeed, the gentleman from Virginia [Mr. FLOYD] was not satisfied with this affecting picture of general distress, but he tortured our sensibility by telling us that in London one human being died every day from sheer and absolute want; and these deaths were traced by him to the prodigality of the Government: and, in the same train of thought, and the same fervid glow of language, he told us of the distress of the agriculturist. He did not trace this to the measures of the Government, but, in tracing the causes of European distress, he did point to the ministry as the cause of the evil; and possibly he may have anticipated that these suggestions of his might influence men writhing under the agony of pecuniary distress, to become dissatisfied with the present ministry, under the delusive hope that in the change of public servants they might find relief. He knows that the mind of disappointment traces existing evils, no matter how remote or unconnected, to the great object of its displeasure. He knows that, in his own State, the destructive presence of the Hessian fly has been enumerated as one of the great evils which has resulted to this People from the elevation of the present Chief Magistrate. He has addressed himself to the easily excited passions of our nature; for, on this floor, while argument and reason can be called to our aid, will any gentleman be found bold enough to contend that the agricultural depression can be relieved by any act or policy of the National Government? The evil is in the redundant productions of the earth, and the state of universal peace. They are not satisfied, sir, with the attempt to alarm our interests, but they seek also to awaken our fears for the perpetuity of this republic. The gentleman from Tennessee, with a confident belief in the truth of his prediction, warns us, sir, that this republic is rapidly descending to the "ocean of corruption," and that, unless our steps shall be retraced, our duration as a nation cannot number twenty years more. Is it possible that this republic—the world's hope—shall fall by its present corruption within such a period? Such a prediction, too, must have its origin in a mind highly excited, and displeased with those who have excluded friends from office. I am justified in drawing this conclusion, from the examination of the imputed abuses of this Government.

It has been stated that the contingent expenses of this House shew a wasteful expenditure of the public money. They have been contrasted with those in the latter years of Mr. Adams' administration. Different, indeed, is now the condition of this country from what it was then. Independent of the general causes of legislation necessarily attendant on the expansion of our commerce and territory, there are particular causes which at the present period accumulate the expenses of this House. The war has left a number



JAN. 30, 1828.]

*Retrenchment.*

[H. OF R.]

of claims unliquidated, and which can only be settled by the interposition of Congress. The Western lands are a fruitful source of legislation. The gentleman from Kentucky [Mr. CHILTON] says that the tables are weighed down with printed documents, not unfrequently interesting only to one individual. I did not suppose that a gentleman, just emerging from the "oven" of public opinion, would have ventured such sentiments. Shall not a citizen have his claim adjusted by this House? and, if he shall, must we not be instructed? and, if we must be instructed, in what manner can we be so well informed as by the printing of his petition? This doctrine is not in unison with the vaunted professions of devotion to the People, which these gentlemen are eternally echoing. Our per diem compensation requires reduction, and, sir, he elaborately so argued; yet, wonderful to relate, in his propositions, as originally offered, this retrenchment is not distinctly presented to the consideration of the committee to be charged with inquiring into the expediency of retrenchment. Yet he came instructed to press the policy of reducing the compensation—indeed, it would seem that other retrenchments engrossed more of the gentleman's attention than that of our compensation. I, sir, am decidedly opposed to it; the People are most generally satisfied that we shall have it; neither will I pay such a respect to any one quarter of this Union, excited by political controversy, where rival parties seek popularity by professions of economy and retrenchment, as to sacrifice to it the great public sentiments of the People. The gentleman from Pennsylvania advocates it—he lives in the enjoyment of "single blessedness"—it may suit him to serve upon a reduced compensation; although the sum we receive is not an equivalent for our loss, arising from the abstraction of our attention from private pursuits, yet it breaks, in some degree, the force of these losses.

It is objected that the number of clerks are too numerous. It may be so—yet do the gentlemen recollect that, during the session of Congress, the ordinary business of the Departments is suspended in the gratification of calls made on them for information sought for to guide legislation, or to act upon the public sentiment? Yes, not unfrequently are the Heads of the different Departments compelled to put into requisition every clerk to answer these calls within the time required.

The structure of our institutions is attacked, and the Military Academy is sought to be rendered an object of public jealousy, and the seeds of disunion, between the rich and the poor, between the plebeians and the patricians, is scattered, with more than Tribunitian industry. The West Point Academy, founded by Jefferson, is now described by his friends as an institution in its very principles aristocratic. The gentleman from Tennessee says that none but the children of the wealthy are educated there. It is not so; in its principles, it contains no exclusion graduated on rank. That there may be children of the wealthy educated there is true: and shall it not be so? Who contributes to it? Do not the wealthy? And shall they be excluded who do not contribute to it? But the children of the wealthy are not sent there from considerations of economy, but to prepare their children, by a previous course of study, to enter into the armies of their country: and it must be so, or the children of the wealthy will be excluded from the Army Register. This theory is confirmed by one single illustration. An honorable member of this House, who has expended thousands in giving to the poor the blessings of intellectual light, has now at that school a youth, who prefers to serve his country in her army. The gentleman has enumerated many instances, from his own State, in which the Representatives in Congress have had children educated there. If this be an abuse of the power and influence of the members, they are responsible to their con-

stituents. The War Department must act upon recommendations. The constitutional implication that the members of Congress are deserving of confidence, must influence that Department, and the sin of the abuse of the discretionary choice must rest on their head. I can only say, that, so far as my experience goes, the selections in the part of the State from whence I come, has, in every instance, fallen upon those without parents and without property—except the son of a gallant General, whose blood moistened the field of Eutaw, and whose anxious wish is, that one of his descendants might, if a war should ever again return, display the same patriotism and the same daring as his father. A principle of distributive justice regulates the selection now, and I, with others, can say that the claims of the friendless and the poor are listened to with a sympathising heart, and a disposition to foster and protect those whose genius, it is presumed, fit them for military command. The general utility of this institution, till the power of a selection was exercised by a political rival, was admitted by all. If its abuses have weakened the public confidence in it, this Administration has not to answer for it; it commenced in other days, when the late Secretary of War was a candidate for the Presidency. But why deal in this general accusation? Bring forth a direct proposition to pull it down.

The general policy of the Government, commencing at its earliest period, as connected with its foreign intercourse, is now objected to by the gentleman from Virginia, [Mr. FLOYD.] He contends that we ought to retrace our steps, and recall all our resident Ministers; that, whenever measures of conflict shall arise, [between us and Foreign Governments, that, then, and only then, ought it to be the policy of this Government to send a Minister abroad, and as soon as the cause of the mission shall cease, that the Minister shall be withdrawn. Permit me to say, that this is another lamentable instance of the spirit of reprehension. That gentleman occupies too distinguished a station in this House, and too much space in the eye of this nation, to hazard his reputation in sustaining any specific proposition embracing such a doctrine. He had an opportunity, a few days since, when the appropriation bill was under discussion, to originate a question testing the soundness and wisdom of such a Chinese system. Yet, then, the gentleman was silent as the grave, and acquiesced in the appropriation authorizing the continuance of our diplomatic intercourse. The very measures then thus sanctioned by him are now enumerated among the prodigal and wasteful expenditures of our national resources, to enlarge the sphere of Executive patronage; and thus to create distrust in the minds of the People against the Government! This being once created, the transition is rapid to a feeling of hostility against those who administer it. Is it right, is it just, to sanction and adopt measures, and then to object these very measures as grounds of reprehension against political rivals? The wildest reformer could not seriously entertain such a scheme of non-intercourse with foreign nations. To cultivate kind and friendly relations with foreign nations is essential, indispensable, wherever our commerce expands. They produce feelings of mutual good will, and open new and interesting sources for the mutual exchange of productive labor. Hence it is, that all nations, and at all times, have deemed it expedient to have resident Ministers abroad. These general topics of invective and reprehension, applying alike to all former administrations, and now, for the first time, exhibited to the gaze of the American People, to assist in that revolution which is designed to elevate General Jackson to the Presidency, are followed up by particular specifications of improvidence and prodigality. The Panama mission, discussed, and re-discussed, is again brought in review. Upon this subject every thing has been said that



H. or R.]

Retrenchment.

[Jan. 30, 1828.]

can be said, and can be found in previous debates, directly on its adoption, and collaterally in vindication of the measures of the administration. I shall say no more of it.

It is objected to the Administration, that the Government entrusted a great and important negotiation with the cabinet at London, to Mr. Rufus King, once a profound and sagacious statesman, an able and practised diplomatist, and intimately acquainted with the subject-matter of the negotiation, from his long participation with the treaty-making power—when the vigor of his intellect was weakened, his memory impaired, and his profound penetration lessened, from advanced age. Is the fact so? Who tells you so? Did the Senate of the United States avow such an opinion? He had lived for years in daily intercourse with them, having constant opportunities of testing the retention of the powers of his intellect, his memory, and penetration; and they have afforded the most conclusive evidence contradicting this imputed unfitness for the mission—for, these very individuals approved his selection, without which he could not have been sent abroad. But, even concede that to be true, which is denied, and which is proved to be untrue, so far as the opinion of his brother Senators is entitled to consideration, can blame attach to the President for being uninformed as to the extent of his intellectual decay—if they, having greater opportunities of forming a correct estimate of his fitness for the duties entrusted to him, should have erred in appreciating his fitness for the station? Here again examination removes all grounds of accusation. But it is said, that his mission was unproductive. Why, concede that it be so. If the appointment was in its origin wise, and the Minister, from any cause within his control, failed to consummate his mission, upon what principle of humanity, upon what principle of justice, is the President reprehensible for the inattention of his Minister? He must delegate power somewhere—he cannot be present—it can only be required of him, that his selection should be judicious, and that, if the duties assigned are not wisely discharged, that his Minister should be reprehended. But, leaving these abstract theories of duty and responsibility, let us see what are the facts connected with this mission? Mr. King, in his passage, sickened; his health became impaired. When returning health enabled him to assume his duties, the British Ministry were scattered throughout the kingdom. The Cabinet of St James afterwards selected two gentlemen to enter into the negotiations with Mr. King, and communicated a wish that the American Government would also unite another Minister with their Minister resident. This proposition was sent to our Cabinet, and while the President was deliberating on the expediency of selecting Mr. Gallatin, admitted by all parties to be the first American Diplomatist, to be Minister extraordinary, and to unite with Mr. King to bring the negotiation to a fortunate conclusion, information was received here of the increasing ill health of Mr. King, and accompanied with a request that he might be permitted to return home. It was granted. He returned, and died in the bosom of that country, to whose benefit he had devoted his life.

Such is the history of this mission, arrested by a destiny uncontrollable by the cabinet; and such were the causes that led to the selection and temporary residence of Mr. Gallatin, who would not consent to a permanent residence at the Court of St James, but who was willing to give to his adopted country the benefit of that political sagacity for which he has been so pre-eminently distinguished, for a limited period. These particular and limited missions, are in accordance with the continued practice of the Government; they are adopted upon questions of great magnitude, and of long protracted diplomatic discussion. Washington sent Mr. Jay Minister Plenipotentiary to negotiate a treaty with Great Britain, while Mr. Charles Pinckney was resident there. Mr. Adams sent Pinckney,

Marshall, and Gerry, to negotiate with the Executive Directory; they were not received. He again sent Davie, Ellsworth, and Murray. Upon receiving information that the Directory would negotiate, Mr. Jefferson sent Mr. Monroe to France, to treat, in conjunction with Mr. Livingston, on the acquisition of Louisiana. He sent Mr. Monroe to unite with Mr. Pinckney at the Court of Madrid; he sent Mr. Pinkney, of Maryland, to treat, with Mr. Monroe, at the Court of London. Mr. Madison and Mr. Monroe's practice has been in unison with this policy. It springs from the expediency of calling into the public service distinguished individuals, who can only consent to give a portion of their time to the cause of their country, or to unite their wisdom in pursuit of great and interesting benefits for their country.

It is objected that the appropriation for Mr. John A. King was inconsistent with the law and the practice of the Government. This subject has been before us; the ablest refutation is found in the official reports which I shall read.

"The compensation received by the several persons so appointed, (with the exception of Mr. John A. Smith and Mr. Watts, whose accounts are not yet closed, but will be finally liquidated on the same principles,) may be seen in the above abstract from the Treasury. From that abstract it appears, 1st, that the allowance of salary in the character of Chargé, in the cases there stated, has been uniform; secondly, that the allowance of an outfit has been most usually, but not always, made; thirdly, that, in some instances, the temporary appointment has been continued after the intervention of the session of a Senate, as in the cases of Mr. Purviance, Mr. Russell, Mr. Lawrence, Mr. Jackson, Mr. Brent, Mr. Hughes, and Mr. Sheldon; and, in two cases, (those of Mr. Erving and Mr. Harris,) after the intervention of several sessions of the Senate; and fourthly, that, in the case of Mr. John A. King, the allowance made to him was a medium between the highest and lowest allowances that had been previously made. The highest was made in the case of Mr. Russell, and Mr. Jackson, to each of whom, besides the outfit and salary of Chargé, a quarter's return salary was allowed. Mr. King was not allowed salary as a Chargé, during the absence of Mr. Gallatin, on his visit to Paris last Fall; nor was he allowed a quarter's return salary as Chargé. He was moreover the bearer of a Convention, the first intelligence of the conclusion of which reached the Department by his delivery of the instrument itself. Such a service is always regarded, in the transactions of Governments, as one of peculiar interest. He might have been, but was not, allowed the usual compensation made to bearers of despatches. An extract from a letter addressed by the late Secretary of State to the Chairman of the committee of Ways and Means, marked B, accompanies this report."

But, independent of this settled practice of the Government, there is a legislative recognition of the practice upon which the expenditure to John A. King was made. It appears, the Committee of Ways and Means, in 1824, doubting on the expediency of allowing outfits to Chargé des Affaires, under similar circumstances with those of John A. King, addressed a letter to the Secretary of State, inquiring for information as to the practice of the Government. To this letter Mr. Adams replied as follows:

DEPARTMENT OF STATE,  
Washington, 10th March, 1824.

"I have the honor of informing you, that outfits have usually been allowed to Secretaries of Legation, who have been left as Chargés des Affaires, on the return of Ministers Plenipotentiary to the United States, upon the termination of their missions.

They have not been allowed in cases of temporary absences of Ministers whether upon public concerns, or for their personal accommodation.

JAN. 30, 1828.]

Retrenchment.

[H. OR R.]

Instances of the allowance, in the cases referred to by your letter, are of Mr. Henry Jackson, on the return of Mr. Crawford from Paris, in April, 1815, and Mr. J. A. Smith, on my return from London, in June, 1817; also, of Mr. C. Hughes, on the return of Mr. Russell from Sweden, in 1819, and of Mr. A. H. Everett, on the return of Mr. Kustis from the Netherlands, in 1819."

With this information, that Congress voted the appropriation, and thus sanctioned the Executive construction and practice. Could it be expected that Mr. Adams, when called to the Presidency, should disregard the practice of his predecessors, and its legislative sanction, by denying to John A. King, the admitted compensation received by his predecessors? Firm and independent as he always appears in the discharge of his official duties, he had not firmness enough to disregard the deliberate and consistent opinions of the two branches of the National Government.

We advance now to another accusation of favoritism, that is in relation to John H. Pleasants—that he was instructed to repair to Rio Janeiro and Buenos Ayres, with despatches to our Minister; that he received pay for such service, and that he did not go to his place of destination. I understand the facts connected with this bearer of despatches to be these: That he took shipping at a Northern port, that he, too, sickened, and, meeting a vessel at sea, bound to Liverpool, took his passage in her, as the most likely, and the only means of preserving his life. He gave his despatches to the captain of the vessel, who delivered them to the authorities to whom they were directed, and he transferred himself on board the English vessel, and received an equivalent only for his direct voyage. Would it not be well for honorable men to inquire and ascertain the truth of accusations before they indulge in a spirit of crimination? But, *Graviores narrantur*. Yes, sir, the honorable member from Virginia, [Mr. FLOYD] who has for a long time occupied a seat here, whose statements and opinions are listened to at home and abroad with avidity, in the catalogue of the sins of the Government, has deliberately stated that the official dress of our Foreign Ministers has been paid for from the public coffers, and that a copper plate is preserved in the Department of State and furnished them, to shew the cut of their clothes!!!—another demonstration of the credulity with which every idle rumor is received. I undertake to say that there is not the slightest foundation for such statement.

[Mr. FLOYD here rose, and stated that he had been informed that such was the fact—that he had no intercourse with the Department.]

Mr. DORSEY remarked: The gentleman has the same intercourse that I have. As a Representative of the People, I have a right to ask information from every Department, and as I was astounded at such a statement, from such a source, I directed a letter of inquiry to ascertain if such was the practice, and received for answer that there was no such practice, no such expenditure. It is true that during the investigation of Mr. Monroe's claim in this House, it was stated that, in the contingent expenses of his mission (for which he received no outfit, and when he was not the Minister resident in France, that he was instructed by the Government to conciliate the good feelings of the Emperor, in reference to some great interest which was then depending between us and the Spanish Court) he charged the expenses of a Court dress in which Mrs. Monroe appeared at the Coronation. This charge was examined, criticised, and sanctioned, by the then Senate of the United States, under the Administration of Mr. Madison. This transaction is of other days—*requiescat in pace*. But a copperplate, yes, sir, a copperplate is "furnished to the Minister, to teach his tailor to cut his clothes, to make him look like a coachman—as his friend from Virginia said, like a livery servant." Ridicule may assail every thing; nothing is sacred from its

shaft. This civil uniform, adopted by the republican Mr. Madison, to save the Ministers from heavy expenses, incidental to a frequent change of dresses, adapted to the costume of the Courts in which the Minister appears, is denounced as aping Royalty, degrading the appearance of the Minister, and inconsistent with the simplicity of our republican character. A gentleman from Kentucky [Mr. DANIEL] has said, that a bearer of despatches sailed in the very vessel which carried the Ministers, in charge of despatches to those very Ministers!!!—a charge, if true, that ought to sink and degrade the Secretary of State; but, if not true, the world will pronounce the accusation bold and reckless of the feelings and reputation of that distinguished individual. I here, upon this floor, upon authority obtained in my representative capacity, assert that no such occurrence has taken place. The long catalogue of Governmental and Ministerial errors is reviewed, save those of the private accounts of Mr. Adams, while abroad, and which were settled and sanctioned by the proper officers of the Government, before his elevation to the Chief Magistracy, and which are now dragged from the archives of the Treasury, to add to the political excitements of the day. These will be reviewed by others. Proud indeed ought the friends of this Government and of this Administration to be, when here, with all the appetite for censure, and all the materials to cull from, so little can be specified, and that little so easily refuted. Indeed, it is not to be wondered at, that they ask why we demand specifications? It is because specifications can be answered. Generalities infuse distrust, and are not susceptible of refutation. Innocence can be proved when charges assume a specific character. Innocence may fall a victim to doubts, to jealousies that are impalpable: One is the shield of conscious propriety, the other is the weapon of destruction, wielded by political rivals.

I now turn to the gentleman from Pennsylvania. He says that he will not try here either the question of the purity of the election, or the wisdom of the measures of the present Administration; that the People are now trying them; that the great issue is made up, and that the spirit of inquiry pervades this land. It is all true; the issues are made up—one is, Did the present Chief Magistrate ascend into power by "bargain, intrigue, and management"? Is the Administration wise or provident? The other is—Is General Jackson's temper suited to the mild genius of our Government? Do his acquirements fit him for civil rule? Has he respected the Constitution of his country? And will not his elevation to the Presidency, effected only by the glare of military renown, be a precedent fraught with danger to the future liberties of this country? But, sir, interesting as these issues are, there are collateral issues of a character not less agonizing; one of them is—Has not a most foul plot been formed, to sacrifice the political reputation of distinguished individuals, whose names are entwined with every thing that is brilliant and profitable in the modern civil history of this People; to the end that disappointed political rivals may triumph? One other is—who are the authors of this plot, and does not the Hero of Orleans countenance it, by circulating cruel imputations on the political integrity of his triumphant rival? One other issue is—If there was management and intrigue resorted to to effect the election, were they not used by the now enemies of the Secretary of State, to enlist him under the banner of the sword? Here I will not say one word in support of these collateral issues. The excited feelings of the people are subsiding; the nation, restored by recent developments to its sobriety of thinking, will seek for information. I am willing to yield, for the government of the People, now charged with these issues, all the light and instruction that is within the control of this House; yea, even willing to take off injunctions of secrecy, and to un-

H. of R.]

Retrenchment.

[JAN. 30, 1838.]

fold the secrets of the prison house, if there be any, shewing either the opinions of eminent men, as to constitutional law, or the means by which Indian treaties may be made. I am no advocate for economy in diffusing intelligence. The gentleman from Pennsylvania tells us, that although the allowance to King, as *Chargé des Affaires*, may be in conformity to the practice of the Government, he would enquire whether considerations of ulterior political objects might not have conduced to it. He would try the *quo animo* with which it was done. I ask the gentleman in what moral or legal school his doctrine is to be found? An admitted legal act; an act done in conformity with a man's imperious duty; springing from the imperative obligations of the laws of society, to be questioned and tried in the forum of "intent"—"motive" the "*quo animo*." The motive of a legal act can never be questioned. The highest obligation of a citizen to society is obedience to the law. It is only when he acts in violation of the law, by doing that which the law prohibits, or omitting to do that which the law commands, and you are called to decide on his innocence or guilt, you enter into a consideration of the motives which led to the omission or commission, in order to ascertain his innocence or guilt. The "*quo animo*" with which he acts, then becomes great and controlling; but never till now did a legislator or judge attempt to inquire into the motives of a legal act. The settled principles which regulate public judgment, new theories, wild and cruel, are started, to try the present Administration by. The gentleman may soon see that, when you investigate the "*quo animo*" with which an act is done, what a door to malice, to uncharitableness, may be opened; even the gentleman himself may become a victim to his own doctrine—even he may be suspected of a want of fairness—of candor—of an attempt to impose on the public judgment. Yet all of us know, that, in the ardor of debate, the most self-possessed and practised debater may be guilty of omitting interesting parts of a quotation, which, if quoted, would present the meaning of the writer in a very different aspect from that in which it appears when torn from the omitted passage. Let us illustrate this by the gentleman's own argument. To sustain his imputation that Mr. Adams had called this Government a penurious Government, the gentleman read that part of the celebrated letter written by Mr. Adams to Levitt Harris, in which he says—

"Divided among ourselves, more in passions than interest, with half the nation sold by their prejudices and their ignorance to our enemy, with a feeble and penurious Government, with five frigates of a Navy, and scarcely five efficient regiments for an Army, how can it be expected that we should resist the mass of force which that gigantic Power has collected to crush us at a blow?"

And omits this clause—

"The ordinary horrors of war are mildness and mercy in comparison with what British vengeance and malice have denounced upon us. We must go through it all—I trust in God we shall rise in triumph over it all: but the first shock is the most terrible part of the process, and it is that which we are now enduring."

The letter, as read by him, contains a harsh censure upon his country, and a spirit of despondency. The whole contents of the letter, as read by me, deprecates the want of unanimity among the People, the inefficient armaments prepared for resistance, yet a confident belief in the virtue of his countrymen, and a conviction of ultimate victory. Here, this omission is an equivocal act; it may have been the result of accident or design. Here, the intent of the omission, the *quo animo* with which it was done, is a fair subject of inquiry, and I fear that, on this, conflicting opinions will be entertained here. But I understood the gentleman as saying, that it would have been liberal in Mr. Adams, at a time of great emergency, when the resources of the country were al-

most exhausted, during the late war, to have forborne pressing the claim for his outfit, which Congress had refused to sanction. This forbearance would have been patriotic, but certainly unexpected. Mr. Madison, unsolicited, gave it to him; upon the faith of it, his arrangements had been made at St. Petersburg. He was in a foreign country, at a period of war, when every thing was at the highest price. Yet, if he be liable to censure for insisting upon the retention of his right, and refusing to yield up a portion of the perquisites of his appointment to the common cause, let those only censure him who are innocent, and not liable to the same reprehension. If I mistake not, the gentleman from Pennsylvania was in Congress during that very year in which Mr. Adams received this outfit, and which he is censured for retaining. I have never heard that the gentleman from Pennsylvania gave up a portion of his per diem to the cause of his country! It is said of Sallust, that he employed his eloquence to paint the vices of these very crimes which he himself practised. Here again the gentleman's doctrine of *quo animo* will be resorted to; it will be inquired, if the intent of the honorable gentleman was to excite popular indignation against the Chief Magistrate, for omitting to give up a portion of his salary to his country; while he himself refused to practice such munificence?

The gentleman says, that the patronage of the Government has been wielded to sustain itself; that printers have been removed, and the editor of the Democratic Press, a "venal wretch," has been substituted for Mrs. Bailey, as the contractor for the public stationery, for the office of Collector of the port of Philadelphia. Why, concede that the Government does use its patronage in favor of its friends. Have not all parties done so; and does not the gentleman from Pennsylvania hold a prominent rank among the politicians of his own State, who advocate and practise the doctrine of exclusion against their rivals? Has he not approbated the improvement of the "condition of the press," introduced in the other branch of the Legislature, by the exclusion of its former printers, because they do not join in singing political Hosannas to the Military Hero? If I, advocating these doctrines of exclusion of political rivals from office, should denounce here my opponent, for pursuing the same course, my constituents would charge me with hypocrisy and dissimulation. They would inquire into the intent, the "*quo animo*" with which such denunciations were made; and, I feel confident, that they would trace it to an attempt, (abortive it would prove) to impose on their credulity, and to excite indignation against rivals, for adopting my own policy. But the editor of the Democratic Press is a venal wretch; it may be so, for aught I know. I know him not. I read his paper, and receive from it instruction and amusement. I have read, during the Summer, in that paper, some strictures on the honorable member from Pennsylvania—some editorial, and some on the responsible signature of Jonathan Roberts. That editor does write with a most keen pen; and his ink is sometimes tintured with much cayenne pepper, and not a little gall. I will not say to the honorable member, *Hinc illic lacrymæ*, but I ask the gentleman, is it either dignified or manly, to pour on the head of an absent rival—yes, sir, a literary rival—such terms of reproach? Sir, the gentleman says, he is the author of a base forgery. I presume he alludes to the letter professed to have been written by the unfortunate Harris to General Jackson, imploring mercy; and how does the gentleman know it to be a forgery? It appears that there was one written—received; but its contents have never been given to us by the distinguished individual to whom it was addressed. The published letter surely breathes such supplication, and embodies such arguments, as such a deplorable situation would naturally

JAN. 30, 1828.]

Retrenchment.

[H. OF R.]

suggest. If he meant, in its publication, to convey the idea that such a letter might be written, there is no impropriety in it; if he gave it the positive character of authenticity, it is reprehensible. But whether it be a true copy of a letter written or not, it does exhibit a strong and powerful appeal for mercy; the letter, whether authentic or not, presents all the considerations that could be urged to stay the severe doom pronounced on the miserable Harris. These statements have had an influence on the public sentiment, unfavorable to the cause which the gentleman advocates. Such is the contradictory spirit of our nature, that we reprobate in others what we practice, and revile our enemies for their zeal in the cause to which they belong, while we toil to raise ourselves to the high eminence of distinguished partisans.

The inquiry made at the request of the other gentleman from Pennsylvania, [Mr. KARNER] has been this moment answered. The correspondence between the Secretary of the Treasury and the Collector of the Port of Philadelphia, has been given to us. It contains instructions, if Mr. Binns will furnish the stationery on as favorable terms to the public as others, to call on him for it. Sir, the Head of the Treasury Department, whatever may be his notions of State policy, has too much mildness of character, too much benevolence of feeling, to indulge in proscription. He is the very last man in this nation who ought to be censured by the friends of General Jackson. He has suffered them to remain in office; and, by the use of their patronage to embody all those who hold office under them, to turn him and his friends from office. They hold power by his sufferance, and that power they wield for his political destruction! Look, sir, at the Custom House of New York—presenting, if the public journals speak the truth, the warmest and the most active enemies of the Administration. Yet, the gentleman from Pennsylvania, knowing this forbearance, denounces the Department for intolerance. Again, the ‘intent’—the ‘*quo animo*’—with which this denunciation is made, returns. I fear that the People may trace it to a spirit which does not proclaim the whole truth, when the truth would be advantageous to political rivals. But the gentleman says, that a distinguished member of the Cabinet vaunted that the power and patronage of the Government would be used to corrupt and influence the public opinion. He makes this member of the Cabinet to say, “give us but patronage, and we will have power!” I am ignorant, if such a sentiment was ever avowed. In the paucity of the grounds of crimination against the Administration, I am not surprised at the avidity with which every newspaper rumour is embodied, and, in debate, given form and feature. I would protest against giving credit to every newspaper rumour. None of us could stand such an ordeal. Even the gentleman from Pennsylvania, notwithstanding his public services, might be weighed down by irresponsible rumors. But even conceding that the imputed boast be true, men do not proclaim their crimes on the house-top; aspiring Ministers, seeking their own elevation, do not avow that, to ensure their success, they will corrupt and destroy the Republic by an improper use of the patronage of the Government. The imputed language is equivocal. Here, again, we must resort to the intent—the *quo animo*—of the Speaker. Reason says, that, if he designed injury, he would not vaunt of it. Charity—says, that the sentiment intended to be conveyed, was, “give us but patronage, and we will so use it as to convince our People that it is used for the public good, and that, by thus satisfying them of the purity of our motives, we shall acquire power.” Political hatred will give another *quo animo*, no matter how repugnant to the uniform concealment which conspirators against their country seek, and say that the sentiment was an open avowal of that political corruption which was to be practised, to ensure a continuance in power.

The gentleman from Pennsylvania has again denounced the Head of the State Department for tyranny towards his Clerks. He tells us that some of them disclosed Jno. A. King's accounts; that they were sent for, interrogated, and warned of the consequences which a repetition of similar disclosures would bring on their heads: that he had heard so, and that he believes it to be true. Be it true. This specification illustrates that, in the alembic of party, acts meritorious and praiseworthy are changed into accusations most foul. A clerk—a subordinate clerk—upon his own responsibility, without consulting the head of that Department, undertakes to give copies of an official paper, and this to the enemies of the head of that Department, for misrepresentation—as now proved—and this violation of official duty is justified, and he who did it is praised. I ask the gentleman, what right has a clerk to act without the direction or approbation of the chief of the Department? If he has a right thus to act in one case, he has a right to act in all cases: his discretion must be his rule of action. It would be degrading to the intelligence of you, sir, or of this House, to attempt to expose the folly of this imputation—weakest of the weak, and the most desperate of the desperate, enumerations which have been conjured up against the Cabinet; they alike serve to shew the bitterness of the attack and the impregnability of the Administration, where reason can be called to our aid. But, if such be the facts, and this clerk is permitted to enjoy his office—and that he is I have no doubt, for, if otherwise, the gentleman from Pennsylvania, intimately informed of the slightest movements of the Cabinet, as much so as a Parisian police officer could be, charged with the “espionage” of his Government, would have known it; and, if he did, we are sure that neither his charity nor patriotism would have concealed it—what a forbearing precedent does it establish. Will the gentleman and his friends, when the doors of honor and confidence shall be burst open to them, follow it? Others may believe that they will so act; I do not: for I understand they already avow, as one great attainment sought by the revolution in the public sentiment, is that of cleansing the “Augean stable.”

The gentleman says, “that the motives of human action are easily discernable—that ours may be traced; that the enemies of retrenchment always interpose the reduction of the per diem between the contemplated reform and the officers, and that thus, out of humanity to ourselves, we spare them.” Is it true that we have interposed the per diem? The mover of the resolution, the gentleman from Pennsylvania, [Mr. BUCHANAN] and the gentleman from Virginia, [Mr. RANDOLPH] have interposed the per diem, and advocated the reduction. The intent, the *quo animo*, with which they have so acted, it is not for me to decide. It is a question to be settled between those gentlemen and the gentleman from Pennsylvania; it is for them to vindicate their own motives, and to rid themselves of the charge of insincerity, imputed to the advocates of the per diem reduction. But I will say, that the motive—the *quo animo* of this imputation on us, is to exhibit us to the nation, as the advocates for the perpetuity of abuses, if any exist in the Government. This imputation, however, is negated by our course. But we are told this is not the accepted time for reform; that we must wait till General Jackson comes in. What, not the accepted time?—when we are told that the political body is charged with poison, and becoming so rapidly corrupt that it cannot survive twenty years; that the prosperity of our constituents is sinking under the errors of our Government; that all the sufferings and corruptions of the European world are thickening on us. And yet, sir, the authors of these painful anticipations tell us that this is not the accepted time. Let them beware lest the People shall doubt their sincerity or their patriotism, if they are actual believers in these forebodings of national evils and

H. or R.]

Retrenchment.

[JAN. 30, 1828.]

calamities. The dictates of patriotism require investigation. If they forbear to investigate, their sincerity may be doubted. We must wait for the annunciation of Gen. Jackson's triumph before we re-invigorate the Government, by removing the causes of its threatened decay. But suppose that annunciation shall never come, what is to be done. Are the abuses still to accumulate? Is it so certain that his elevation will come, that political doctors (as the gentleman from Kentucky has been styled by the gentleman from Virginia) shall not administer restoratives to the tottering political patient, unless he shall see and superintend the prescription, when, more especially, the imputed distemper requires immediately some wholesome curative? Indeed, we had learned that the "combinations for mutual interest" were nearly completed; but we did suppose that they were to be ratified by the People.

But, sir, it is said that "you cannot expect the present Heads of Bureaus to give you correct information; that you cannot expect, from our natures, that we will make developments restraining our patronage." Be it so—it is still no reason against an inquiry; the same officers will be continued under a new Administration, and then they will be influenced by the same lust of power or patronage, or they will be turned out, and successors appointed, who are to learn the duties of their office, and therefore not as capable of judging as the present incumbents, and liable to the same bias of love of patronage and power. But General Jackson may instruct them as to the requisite number of officers that ought to be retained. He would answer you, that, "retired at the Hermitage, it could not be expected that I could learn any thing of the dull routine of official business; it is impracticable for me to communicate any information; go to the officers appointed by me, and seek from them information." Thus delay will then give you incompetent officers, liable to the same influences which control the opinion of all men entrusted with power. Therefore, this is the accepted time. If you move not now in this inquiry, it will be said that you excite distrust by general denunciations, and when called upon to sustain them, you retire from the proffered, the courted investigation.

The gentleman from Pennsylvania [Mr. INGHAM] gives a particular direction to the inquiry. He says he means not to "involve the principles and practice of the Government, yet it is important that the nation should know what sums have been paid from the contingent expenses of foreign intercourse, usually denominated the secret service fund." It is important that the People should know how much of it has been drawn. The objects for which it may have been drawn, from the very genius of the Government, and the policy for creating the fund, can never be known. It originated under the first Administration of Washington, and has continued ever since. It is essential that it shall continue, in peace, as well as war. It is necessary to procure information in the time of peace, if peace is to be interrupted—in war, what are the contemplated movements of the enemy. All Governments sanction the procurement of information by the employment of spies. I recollect that, in another House of Legislation, a prominent statesman avowed that he had advised the present Secretary of War to use bribes with the Chiefs of an Indian tribe, to procure a ratification of a treaty, and that he sustained this advice by a recurrence to the settled policy of all Governments. The Secretary of War, however, could not be induced to adopt the policy recommended. But, independent of these considerations, affecting the peaceful relations of nations, there are commercial considerations, not unfrequently demanding accurate information for the Government, which can only be procured through secret avenues, opened by the Government's addressing itself to

the interest of individuals. Hence Washington, as early as 1794, employed a portion of this fund; and his practice, I believe, has been followed by his successors. I unite with the gentleman, that the nation ought to know what sums have been drawn, and by whom, and before I sit down, I shall move an amendment, eliciting such information, and carrying the call back to the time of the creation of this fund.

The gentleman from Va. [Mr. RANDOLPH] says that "he will not contribute to inflate the canvass of the political ship, as long as an improvident Pilot remains at the helm. That with an eye directed to the next Presidential election, he will forbear doing any thing which may injure the cause of the People, and thus enable the present incumbents to remain in office." I know not his meaning of this metaphorical language. To me, however it does seem to imply, that no measure of great national interest will be sanctioned by him, lest it may give popularity to the Administration. This principle of resistance to measures of Presidential recommendation, has been attributed to the Opposition. Those prominent individuals, who attempt to marshal the public sentiment, are aware that the members of a Government become popular, as they contribute to the present or future interests of the nation, or as they add to its present or future glory. Hence it has been said, that the Opposition have sought to arrest all measures recommended by this Cabinet. To this cause, and to this cause only, can we trace the undisguised and consistent resistance of the Opposition to the great interests recommended for Legislative approbation. There is another cause of resistance. In all local divisions of party, there are timid men, who seek to side with the strongest party. To exhibit the Administration in Congress in a minority, will produce a moral influence over those vacillating politicians. It is, therefore, policy to wait a more favourable opportunity, for the coming of a more accepted time for the consummation of these great interests. If the moral of the honorable gentleman's metaphor is not misconceived, it is the first time that these doctrines, so destructive of the interest of this People, have been openly and publicly avowed. It is for the nation either to sanction or reprobate them. The first and direct fruits of such a policy, has been the immense loss which the nation has sustained in the refusal to change a portion of the public debt from a stock bearing 6 per cent. to one of 5 per cent. Yet these objectors to this transmutation, denounce the Government for a want of economy!! They, who have let a favoured few of the public creditors riot on the public revenue, invoke the indignation of the People against their rulers, for improvidence!! I hope, I do trust, that the attention of this People will now be directed to a correct estimate of the prudence of the rival parties. I, sir, am for this inquiry being directed to one committee. The reduction, to be satisfactory, must be graduated on some uniform principle—uniformity cannot be attained from various committees. I now move to amend the resolution of the gentleman from Indiana, by adding the following amendment:

"Resolved, That the said Committee [Ways and Means] be instructed to inquire into the expenditures which have been made since the 1st of July, 1790, from the several annual appropriations for the contingent expense of foreign intercourse, and which may be settled, at the Treasury, without specification of object: and also, the payments which have been made from the preceding period, from the appropriations annually made for the contingent expense of missions abroad, and which have been settled in the usual manner, according to law."

This was accepted by Mr. BLAKE as a modification of his amendment.

Mr. WICKLIFFE rose, and said, it had been so often repeated in this House, by those who had preceded him

JAN. 31, 1828.]

Tariff.—*Militia Court Martial.*

[H. OF R

in debate, that it was not their intention to have engaged in the discussion of this resolution, at the time of its introduction, that, if he were now to declare his original disinclination to have said any thing upon the subject, he might claim something of sincerity, but nothing of novelty in the remark. The character of this debate, said Mr. W. considered in reference to the subject, is unprecedented. Upon a proposition of inquiry into the expediency of retrenching the expenditures of Government, if consistent with the public interest—an inquiry into the propriety and practicability of a more efficient application of the funds of the nation to the discharge of the public debt, we have permitted ourselves to be drawn into an angry discussion of the Presidential election. A discussion, embittered by party feeling, which can end in nothing but the extension of that breach which now divides the members of this House.

I have had the honor of a seat on this floor for some time. My own experience convinces me, and I think that of every member ought to convince him, that something useful in the business of retrenchment might be done. I confess, sir, the magnitude of the task has heretofore deterred me from moving the investigation. We all agree that there is, or may be a necessity for the exercise of this power, which alone belongs to Congress. But, "who shall bell the cat?" is the question. Undertake it who will, he will find himself surrounded by difficulties, and assailed by the leeches of the Treasury. But, sir gentlemen on the side of the Administration, upon this subject, have displayed a morbid sensibility. They exclaim, you have attacked the purity of the Administration! The character of the members of this Administration is assailed and we are willing that you shall push this investigation; we call upon you to specify your charges: we are willing to try the Administration. One gentleman, [Mr. DORSEY] in the confidence which belongs to him, of which I do not complain, exclaims, "we will throw open the doors of our prison house, and invite you to enter and investigate its secrets; and if the Administration be guilty, punish them—if innocent, let the world know it, that they may receive the reward due to their virtuous actions." Sir, I will do no such thing. I plead to the jurisdiction of the tribunal.

This Administration is now on its trial before the People. I will do nothing to deprive them of the exercise of that power, which of right belongs to them; nor do I wish to do any thing which shall prevent a fair, candid, and impartial decision. I will not change the issue, and stake the result upon the fate of an inquiry into the expediency of reducing the expenditures of this Government, or of correcting any abuses which may exist in the disbursement of the public money. There are more important questions involved in the contest, and I will tell the gentleman from Maryland, [Mr. DORSEY] that it is not a contest for men or money; it is a contest for principle, for liberty. It involves one of the dearest rights of this People. They have taken the subject into their own hands, and if this House would, they could not wrest it from them. It involves no less a matter, than an alleged disregard of their will by their agents, and it belongs to them to right themselves, if the injury has been inflicted. Tell me not, then, there is no principle involved. It is a contest who shall govern—the People or their agents. Nothing we can do in this House, upon the subject, will prevent a decision of this Presidential election by the People. We can't decide it. Mr. Speaker, we will not be trusted with its decision. Whatever I may say, which will have reference to the Presidential election, shall be in reply to remarks which have fallen from gentlemen in this debate, and I deeply regret that I feel myself compelled to do that much. I have not sought or provoked this discussion.

[Here, at the request of Mr. BASSETT, and on account of the lateness of the hour, Mr. WICKLIFFE yielded the floor, and the House adjourned.]

THURSDAY, JANUARY 31, 1828.

## NEW TARIFF.

Mr. MALLARY, from the Committee on Manufactures, to which was referred sundry memorials, petitions, and remonstrances, in relation to an increase of the Tariff of Duties on Imports, by way of protection to Home Manufactures, made a report in detail, containing the examinations made by the Committee, of persons under oath; and accompanied by "a bill in alteration of the several acts imposing duties on imports."

The bill was twice read, and committed.

Mr. MARTIN, of S. C. stated that the Clerk employed by the Committee to take down the testimony was well acquainted with all the papers containing it, and more competent than any other person to arrange them. In taking the testimony, the order of subjects had not been observed—but each witness was examined on all the subjects on which he was called to answer, and then dismissed. This caused the testimony to be deficient in that orderly arrangement which was desirable; and he thought the information would be presented with greater clearness, if the testimony should be classified the testimony of all the witnesses on one subject being placed together and then that relating to another subject. The Clerk had been instructed by the Committee, and was prepared and fully competent to attend to the duty of such collocation. Mr. MARTIN concluded by moving that the testimony be printed under his superintendence.

Mr. TAYLOR objected to this motion, as it was not in order to alter any testimony once reported to the House by one of its Committees.

Mr. MARTIN asked if the gentleman could possibly suppose he wished to have the testimony altered?

Mr. TAYLOR disclaimed any such meaning—all he said referred to interfering with the order or arrangement of the testimony, as coming from the Committee to the House.

The motion was negatived; and it was ordered that 6000 copies be printed of the bill, report, and all the testimony.

## MILITIA COURTS MARTIAL.

Mr. WICKLIFFE asked the consent of the House, before taken up the resolution of Mr. CHILTON, to permit a motion for disposing of the communication from the War Department, respecting the Six Militiamen—a motion for the printing of which communication had yesterday been laid upon the table.

Leave having been granted by the House,

Mr. WICKLIFFE moved that the communication and documents be referred to the Committee on Military Affairs, and be printed.

Mr. DORSEY wished him to state the reason of referring them to the committee on Military Affairs, and moved a division of the motion.

The motion having been divided, and the question being on the reference to the Military Committee,

Mr. WICKLIFFE said, that his conduct in relation to these papers had not only been made the subject of much newspaper comment, but had been greatly misrepresented in the correspondence of some of those Washington letter-writers, whose productions are sent abroad from this place unto every quarter of the United States. In some of these letters he had been represented as greatly dreading the publication of these documents; and even here he had been so far misunderstood (he did not say voluntarily) by the Reporters of two papers, (the *Intelligencer* and the *Telegraph*) that



H. OF R.]

Retrenchment.

[JAN. 31, 1838.]

one of them had made him say, that the publication of these papers would be attended with injurious effects to the individual referred to, and the other had represented him to declare that "he dreaded the effect of it." Neither of these reports of his language was correct. He had, since yesterday, had an opportunity of examining the documents, and he could frankly state that, from the publication of them, neither Gen. Jackson nor his friends had any thing to fear.

Mr. BARTLETT expressed his opinion that a more appropriate reference of this communication would be, to send it to the Committee on the Militia.

The question being first put on the reference to the Committee on Military Affairs, it passed in the affirmative. The printing was then ordered, *nem. con.*

#### RETRENCHMENT.

The House then resumed the consideration of the resolutions of Mr. CHILTON, together with the amendment of Mr. BLAKE.

Upon again taking the floor—

Mr. WICKLIFFE remarked: On yesterday [said he] I endeavored, in the remarks which I made, and which had been elicited by the course of the debate, and particularly by some of the remarks of the gentleman from Maryland, [Mr. DONNER] and by the gentleman from Ohio, [Mr. VANCE] to distinguish between the question pending before the House and the question depending before the people. I endeavored to direct the attention of the House to the nature of the inquiries proposed by the resolution; and, if possible, to abstract it from other topics which had been dragged into the discussion—with what effect or with what motive, it is not for me to say. One remark might not be unprofitable. On my way to this place, it was my good fortune to journey with a distinguished individual, a friend of the Administration, wending his way to the Seat of Government of a neighboring State, as a member of one of those Conventions which have of late fulminated their anathemas against the Military Chieftain. In the course of our conversation, this gentleman seemed to admit that the "signs of the times," as manifested by the ballot boxes, were adverse. He looked to the events of the present session of Congress with anxious hope that something would transpire, on the part of the friends of Jackson and Reform, which would produce a reaction in public opinion. I will not say that such a desire exists in any member who has participated in this debate. If a hope any where exists, that the friends of the one candidate or the other shall do wrong to the People, that advantage may arise to the cause of either candidate, I pray it may be disappointed. I have not courted this discussion, neither will I shrink from it. If those who differ from me in opinion think it incumbent on them to pronounce eulogies on the present Administration, I will not interfere with the discharge of their duty, or leaven the pleasure and satisfaction which they enjoy. But, sir, if they pursue the policy of skilful tacticians, and carry the war into the enemy's country, they must not complain if, seduced by their example, I do the same. How far it is consistent with the public interest to reduce the expenditures of Government; whether any of the offices might be abolished, or the salaries lessened; I am not, at this time, prepared to give an opinion satisfactory to myself. When the investigation takes place under the resolutions, we will have facts and data upon which to make up our judgments, and base our future legislation. If I am called upon now to form an opinion, compelled by the reiterated demands from the other side of the House, to specify the objects to which I would apply the pruning knife, I might do myself, as well as others, injustice.

I am not prepared to say, in the language of some gentlemen, that this is the most economical Government

upon earth—that there is no necessity for retrenchments—that there have been no abuses in any Department. I think my colleague, who sits near me, [Mr. BUCKNER] did not fairly meet the views of the mover of these resolutions. It is true, that gentleman, when called upon to specify the offices which in his opinion might be abolished, among others, referred to one of the Auditors—he was understood to have designated the Fifth Auditor—an officer admitted to be burthened with duties. Is this the case with some others of the corps? But, says the gentleman, "to use a Western phrase, to take the scalp of an Auditor seemed to have been determined upon." Now, sir, if that be the case, and one has to lose his scalp, I do not know that a better selection could be made than that of the Fourth. If that officer can find time to discharge all the extra official duty which has of late been assigned him, and leisure to enlighten the public with essays in the newspapers, and in pamphlet form, such as have been ascribed to him, I think it very likely his official duties are not very onerous. Are gentlemen prepared to say there are no expenditures—I mean such as have the apparent sanction of Congress—which might not be reduced? Take the War Department for example. There is a single item in the expenditures in the accounts from one of the Bureaus—the Indian Bureau, it is called—for contingencies, \$98,000. (I speak from recollection; a reference to the document on the Clerk's table will correct me if I am wrong.) What has been done with this money? Who has expended it? For what objects has it been used?—Are questions worthy of investigation. I have heard something of a Kickapoo Embassy during the past year. I have seen some of the fruits of this mission, in sweet, loving, and kindly speeches, made by the Minister to our red brethren of the forest. I believe the public would like to know what has swelled an item in the accounts to \$5,000, about which we have lately read something in the newspapers. I should like to know the pay and emoluments of this Minister Plenipotentiary. Whether he received or was allowed an "outfit?" We have heard of some treaties made, and a failure to make others, all under the head of contingencies in the Indian Department. We must stop this practice of making Indian treaties, under an implied power to use the contingencies of the Department. The gentleman from Maryland, [Mr. DONNER] in the course of his remarks, incidentally alluded to the Treaty of Washington, concluded by the Secretary of War, with the Creek Indians. There are some points on which I should like to be informed, connected with that transaction. By the original Treaty, the Creek Indians ceded all their lands within the limits of Georgia, and also relinquished their right to an immense territory in Alabama—for which the United States were to pay \$400,000 in money. By the Treaty of Washington, we retroceded all the lands in the State of Alabama, and part of the lands in Georgia, and stipulate to pay an additional sum, in money, annuities, and expenses, of near \$600,000. We are now called upon to appropriate more money, fifty or sixty thousand dollars, I believe, to purchase the lands within the limits of Georgia. This may all be right. I do not say that it is wrong; but, sir, I have been informed that important information was within the reach of the treaty-making power, in this case, as to the terms upon which these hostile Creeks, as they have been called, were instructed to treat with the United States—terms, I have understood, much more advantageous to the United States than those embraced by the treaty. I do not know the nature or extent of this information; nor do I believe Congress knew it when the treaty was ratified, and the money appropriated. It might not be unworthy our notice, if we pass this resolution, to look into another branch of the War Department. Not with a view to detect abuses—no, sir; in the branch alluded to, I believe justice is done the United



JAN. 31, 1828.]

Retrenchment.

[H. or R.]

States, according to law; and the remedy, if one is needed, belongs to the legislation of this House. It is a department whose principal duties are those of disbursing public money. The average amount of its disbursements is about \$400,000—to do which it costs this Government upwards of \$92,000. I do not charge this exclusively to the fault of this or any other Administration. By the legislation of the first session of last Congress, one thing I do know, that, upon the recommendation of the War Office, we passed a law, by which the expenses of this branch of the Department was greatly enhanced. I think this expenditure could undergo a little pruning, without injury to the public service.

On the subject of reducing the compensation to the members of Congress, I have but little to say. If you will allow me, Mr. Speaker, to encroach upon your prerogatives, I would now propound the question to the members of this House. All who are serious in this business, hold up your right hands? [Here it was said by some one, in an under tone, that there was not a single hand up.] I view this [said Mr. WICKLIFFE] as all talk. Whether there have not been misconstructions, if not gross abuses, under the law fixing our compensation, might be worthy of investigation. Yes Sir, abuses I call them arising under our legislation, under the administration of a former presiding officer of this House, have taken place, and yet we are told they have not existed any where. I allude to the accounts of a former member of this House, as settled in 1823 and 1824. That gentleman's accounts had been settled for his services for several years. He claimed compensation for 1100 miles travelling. In 1823 and 1824, although the space between the city and his residence had not increased, yet, by the aid of "constructive journeys," the addition of 500 miles is made to the 1100, and he is paid by the then presiding officer of this House, for 1,600 miles, computing the distance by the river route, and is permitted to draw \$1,800 as back rations, not before claimed. This may be a sound construction of the law. I do not believe that I would be justified in giving it this construction. Whether that construction will now prevail, depends upon you, Sir. At all events, I am willing that an inquiry shall be made upon the whole subject. If it is deemed expedient to lessen the compensation of the members of Congress, I will not be deterred from doing my duty on other subjects, for the little injury which it may inflict on me personally. I can vouch that coming to Congress has not been a money-making business with me. Upon the subject of the printing of this House, I do not complain. We have an immense quantity done, and it is well done. My colleague [Mr. BUCKNER] is correct when he says, that the time to check this abuse, if it be one, is when the motion for printing is made. We should then probably, expend as much upon the discussion of the motion, as the printing would cost the Government. We print more than we all read, and more than is useful. We have lately adopted the practice of printing extra copies for the benefit of home consumption. I allude particularly, now, sir, to those numerous splendid surveys of roads and canals, which answer the very valuable purpose for "looking glass papers," and play things for the children of our constituents at home. Printing of that description, and the Georgia primer, which has been so universally read by nobody, has cost this Government upwards of ten thousand dollars since the last session of Congress. If I were to descend into particulars, Sir, I should be much more tedious than the exhausted patience of this House would justify. I have been led into the detail, in obedience to the repeated calls from our opponents in this House.

The sound and economical administration of the affairs of this Government has been the theme of eulogium by every one who has addressed us on the other side of

the House. How does this business stand, Sir? In turning our attention to past expenditures, and testing their propriety by their utility, I am inclined to the opinion, that, in some instances, we have not been governed by the "strictest economy." We paid, within little better than two years past, for dropping cards at London, about \$56,000

Sending cards to Guatamala, about 20,000

For returning *non est inventus, versus* the Congress of Tacubaya, &c. about 40,000

By the report from the State Department, of last year, and what I have learned this year, the sum of \$7,700, or thereabouts, has been paid out of the contingent fund to "persons other than clerks in the Departments," for services rendered. This sum will be found, on examination, greatly to exceed the expenditure of any previous year. Why is this? Have we not clerks enough to do the public business? Are they not competent? If this be the case, appoint others; but I claim the privilege, in behalf of the Congress of the United States, to create the office and fix the compensation. I discover, by reference to the estimates for the Department of State, a new source of patronage has been drawn within the vortex of this Administration. The amount is small, but, nevertheless, it may perform its office. I allude to the sum now annually expended for distributing the laws of Congress. Heretofore, the acts of Congress have been distributed by mail, without expense to the United States. Why this change? I do not know. I have not been informed. In casting my eye over the names of the individuals who have shared this portion of the patronage, I discovered the name of a gentleman who was charged, with what correctness I know not, with being the bearer of despatches from head quarters, relating to the election of a Senator of one of the United States. I adverted the other day to a circumstance upon the introduction of a resolution of inquiry to the Committee on Roads and Canals. I name it now to shew what perhaps will not be controverted, that that there does exist in the Executive Department of every Government, a disposition to enlarge its patronage and extend its power. Out of an appropriation of \$30,000, at the last session of Congress, to improve the navigation of the Ohio river, when the Government had already two superintendents on that and the Mississippi river, under pay, skilful and vigilant men, the Administration manufactured a new office, with a salary of six dollars per day attached to it, and some gentleman in Pennsylvania, of high standing, (and I presume political influence) was appointed. He may be, for all I know, very competent—I know he cannot be more so than those already in the employment of the Government. What has been done I know not, except that the report from the Treasury Department informs us that 9000 dollars of the money has gone out of the Treasury. I have mentioned these things, Mr. Speaker, with a view of showing that my colleague had probable cause for the introduction of this inquiry. They may be all right, and susceptible of the fullest explanation.

A gentleman from Pennsylvania, [Mr. STRAWNER] in the course of the remarks with which he favored the House, inquires very emphatically, "What have we done? The session is half gone, and we have passed but a single bill." This statement is to go forth to the public, that Congress have been idle and inattentive to its duties. I have an answer; if it were confined only to this House, it would be sufficient; and that is, we have had the pleasure of hearing this session, the second edition of the gentleman's views upon the interesting subject of the National debt, connected with the still more interesting one of Roads and Canals. But, sir, I have a more satisfactory answer for the public, and it is, that we have done much. Yes, sir, nearly twice as much as we did, in the same time, at the first session of the last Congress.

H. of R.]

Retrenchment.

[JAN. 31, 1828.]

My colleague [Mr. CLARK] called the attention of the House, to what he was pleased to term the immense loss the nation sustained by the failure of the stock bill in the Senate, last year. What has this to do with the subject of retrenchment? Nothing. That bill, which proposed an exchange of six for five per cent. stock, failed, as many others do at every session, for the want of time to act upon it. How far it would have been successful, might be determined by the failure to make a similar exchange of six per cent. for four and a half per cent. The shortness of the period at which the new stock was made redeemable, did not invite the cupidity of stock-jobbers—of course, the loss to the nation is altogether uncertain. Its failure was unjustly charged, at the last session, to the "factious Opposition." I hope it is not wished to debit their account next Summer, with the same item.

My colleague [Mr. BUCKNER] does not more deeply deplore the course of crimination and recrimination which has marked this debate, than I do. With him I regret the introduction of any topic which is, in its connexion with the Presidential election, calculated to interrupt the ordinary course of public business. I might ask him, Who called forth the ghosts of the six militiamen? For what purpose were we troubled with that subject? Is there any member who wishes me to answer these questions?

The gentleman from Virginia [Mr. FLORIN] and my colleague [Mr. BUCKNER] have introduced, in this debate, the dress which has been prescribed for our foreign Ministers. I do not notice it for any other purpose than to enter my unequalled dissent to the opinion expressed by the latter gentleman—that the dress prescribed is within the limits of republican simplicity. What is this truly republican dress? A coat, covered with lace, costing about 750 dollars; a cocked hat, and white feathers. Is this the emblem of our republican simplicity? It resembles more the miserable apings of royalty.

A motion was made by the gentleman from Virginia, [Mr. RANDOLPH] to lay the resolution on the table. I do not think the reasons offered, or that gentleman himself, have been fairly treated, in his absence from this House, occasioned by sickness. It is not my purpose to vindicate him. He needs not my vindication. One gentleman from Ohio [Mr. VANCE] was pleased to present him to the American People to use his own language, as, "the leader of the Jackson party." After a night's laborious search for scraps and shreds of speeches, said to have been made by him, he has spread them before us in bold relief. Why is this done? Does the gentleman believe the American People are so credulous as to believe that the political opinions of any one man, however distinguished, which he may select, as at war with the feelings of the West, are the opinions of what he has been pleased to call the Jackson party? I protest against the gentleman's right to make up for Mr. Adams and Gen. Jackson an issue upon the correctness or incorrectness of the opinion of any other politician. Let me tell that gentleman, that the Jackson party, as he has been pleased to call it, has no leader. The People lead in his cause. They will no longer trust this all-important subject of choosing a Chief Magistrate in the keeping of your politicians. They feel as though they had been wronged, and they intend to right themselves. The member from Ohio has told us that the gentleman, [Mr. RANDOLPH] if this Administration falls, deserves more credit for its downfall than any other three men in the nation: and, sir, he has honored him with the title of Recruiting Sergeant of the Jackson party.

[Mr. VANCE rose to explain. He had confessed, Mr. V. said, that that was a hasty expression, and had taken it back as such, upon the call of the Speaker.]

Mr. WICKLIFFE resumed: I recollect very well that the gentleman said he took back his words; that did not remove the impression which it was calculated to make

here and elsewhere. But, sir, in the opinion of the gentleman, the member from Virginia is viewed, and has been viewed, by others who act in opposition, as mainly contributing to the downfall of the hopes of this Administration. This may account for the reason why such powerful efforts have been made, first, to destroy him physically, and next, politically. Of this I will say no more: He who has withstood the fire of the Commander-in-Chief, is in no danger from the light troops.

One more remark in answer to my colleague, [Mr. BUCKNER.] He did not, in so many words, say, but he meant to say, that, if ever General Jackson should be elected President, (which he most fervently prayed to God might never happen,) he did not wish to be here. He had made up his mind to retire. He did not wish to witness the long faces which would present themselves in this Hall. What is it that the gentleman so much dreads? I can assure him he will not find a worse pilot at the helm of State than we now have. I hope we shall not have worse times. If my friend's fears are of a personal character, and I do not think he can entertain such, I can only offer to him the same consolation which the Highlander gave the affrighted American prisoners, during the Revolutionary contest, when asked to tell them what would be their fate if the United States failed in the struggle. "I canna' tell ye man, his majesty is a merciful man, he will not hang lower down than Colonels, and a few atrocious characters." The questions of internal improvement and domestic manufactures have been alluded to by my colleague, and a prediction of their downfall is presented to our minds if ever Gen. Jackson shall be called to preside over the destinies of this Republic. Efforts have been made elsewhere to produce the impression that it is the object of Gen. Jackson, and all who support him, to destroy and break down the great interests of the country. This I pronounce a libel upon the whole course of his public life, and the opinions of his friends. It would be strange, indeed, if, among the numerous advocates for his election, there should not exist a difference of opinion upon the subjects alluded to. Are all who are found in the Administration ranks, of the true faith, according to the standard of the American system? The journals of Congress furnish us with the best evidences of the political opinions of the two candidates upon these questions, and to them I appeal. He who has maintained the honor and glory of his country in times of her greatest peril will not abandon her interests in times of peace. The same patriotism which gave life and energy and confidence to a few raw and undisciplined militia, and led them to victory and to glory, will direct the energies of this nation to the happiest results. The fate of these measures depends more upon the good sense and sound discretion of its advocates, in the halls of legislation, than upon the individual opinions of any Executive. I refer to the two last Administrations, I might say the three last. Were not the opinions, entertained by the two gentlemen who last presided over the destinies of this country, adverse to the exercise of the power of making roads and canals by the General Government, and hostile to the tariff? Yet the Representatives of the People, whose business it is to dispose of these questions at all times, pursued that course which sound policy, in their judgments, dictated. I will tell my colleague how these great interests may be destroyed—by too frequent legislation, by a partial legislation upon them. They may be endangered when demagogues seize upon them as a stalking horse to ride into power. My colleague, in a spirit of exultation, admonishes the gentleman from Virginia, that the Ancient Dominion is going for the Administration, and he will find himself in a minority in his own State. I entreat my friend not to lay that "flattering unction to his soul." If it should happen, what then? The Administration must, according to their own rule, change its policy.

JAN. 31, 1828.]

*Retrenchment.*

[H. OF R.]

From some examples already furnished us, this would not be difficult to do, if it were necessary to success.

The gentleman from Ohio, [Mr. VANCE] told us "that the Administration party in this House had been proscribed." Proscribed by whom, sir? By the presiding officer of this House? O no, sir; the gentleman acquits you. Yet he will have it they are proscribed and unable to move. If any thing like proscription is known or felt by that gentleman, it must be a proscription by the People. The particular organization of the Committees of this House has caused the gentleman pain, and we have witnessed, in the fullness of his sufferings, the deep and lasting injury inflicted upon the nation, by an injudicious selection of your committees. His principal and melancholy affliction, is mainly occasioned by the selection of the Committee on the Judiciary. That committee, says the gentleman, furnishes evidence of personal, political, and sectional proscription. I use the remarks of the gentleman as near as I can remember them. A just tribute is paid by the gentleman to the head of the Judiciary Committee. That committee has undergone some few changes in its members, not for the worse I hope. His remarks, he tells us, are not personal toward the Speaker of this House. He admits the selection of the Chairman is such an one as he would have made; the gentleman must have some cause of complaint as to the other members of the committee. I am not disposed to complain, myself, of the gentleman's particular allusion to the members of that committee. I believe they are competent, and will discharge their duty. There have been some changes in all the committees, from what they were last year, and, among others, the gentleman himself has been reduced to the ranks. If it will console him, I promise, the first moment I can, to move, that he be made Chairman of the Military Committee by brevet rank. It may advance the public interest, which is committed to the charge of that committee.

The gentleman from Ohio has entered into the defence of Mr. Adams's votes, as Senator of the United States, upon the acquisition of Louisiana. It is difficult to perceive the connexion between this, and the subject under discussion. He has, however, disclosed to the American People, that which was not known to them before, when he tells us, "that Mr. Adams's opinions upon that subject, were the same as Mr. Jefferson's." He says they were mere constitutional scruples. I do not admit the correctness of the gentleman's premises or his conclusions. I will not enter upon the discussion of the constitutional power of the United States, to acquire territory and to govern it. Nor will I now stop to inquire, whether Mr. Adams might not have been influenced by other, and very different reasons, than those which have been assigned for him. One thing I will say, that he and Mr. Jefferson then entertained very different political opinions.

[Mr. BRENT rose, and requested that Mr. WICKLIFFE would give way, that he might correct a mistake, under which he, Mr. WICKLIFFE, in the opinion of Mr. BRENT, labored. Mr. WICKLIFFE yielded the floor.

Mr. BRENT observed, that he thanked the gentleman for yielding the floor, and affording him an opportunity to put him right in a matter-of-fact, which he was sure the gentleman had not intentionally stated incorrectly. It is a fact, said Mr. B. that Mr. Adams did vote for the acquisition of Louisiana; and he made a very able and very eloquent speech upon the subject, in the Senate of the United States. Mr. B. was about to continue his remarks, when Mr. WICKLIFFE rose and said, the gentleman must excuse him if he denied his right, on the present occasion, to wend a speech upon him.]

Mr. WICKLIFFE resumed. I did not, said Mr. W., introduce this topic into the debate, nor am I much benefited by the information which the gentleman has given

me. I confess it is news to me, and it will be news to the American People. In return, the gentleman will allow me to correct him in a matter-of-fact incorrectly stated by him, innocently I have no doubt. It is, that Mr. Adams did not vote for the acquisition of Louisiana. He had not taken his seat in the Senate when the treaty was ratified. The vote and speech alluded to by the gentleman, was upon the ordinary appropriation bill, providing, in part, the funds to pay the sum stipulated by the treaty. The political school to which Mr. Adams then belonged, held, if they do not now entertain the same opinion, that, after the President and Senate, the treaty-making power, had concluded a treaty, Congress was bound to vote the supplies. Mr. Adams voted against taking possession of the Territory. He voted against extending the laws of the United States over the Territory. Nevertheless, the Territory was taken into the possession of the United States, and our laws made to govern. What then ensued? A portion of our Western militia had been detailed, under the authority of the President, to take possession of the country. They rendered services under the orders of the President of the United States. After the services were rendered, Congress was applied to, to vote the money to pay them. Mr. Adams voted against the bill. Was there any constitutional objections to the passage of this bill? If this subject had not been forced upon me, I should not have touched it. The journals of the Senate will bear me out in all I have said. Yes, sir, and more.

The gentleman from Ohio has favored the House with a copious extract of a letter, written, or said to be written, by the member from Virginia, in which the name of Mr. Crawford is introduced. From the gentleman, Mr. Crawford has, on this occasion, as on former ones, received the tribute of respect justly due to his public and private virtues. The member from Ohio had Mr. Crawford prostrated, destroyed, physically and politically, by the unjust persecution of his enemies. Not only politically but mentally prostrated, says the gentleman. This imaginary destruction of the mind of Mr. Crawford, is perhaps inferred, by the gentleman from Ohio, from the fact, that this patriot and statesman has publicly avowed himself to be in favor of the election of the "Military Chieftain."

[Mr. VANCE desired to explain. He declared that such a thought was the most distant from his mind. He knew not the present opinions of that gentleman; nor did he know for whom he intended to vote. He had, indeed, heard something rumored upon that subject, but all reference to it was most distant from his mind when he addressed the House.]

Mr. WICKLIFFE continued. Who were engaged in the persecution of Mr. Crawford? I will not stop to inquire. I have by me the opinion of one individual, who thought then, and who thinks and acts now, with the member from Ohio, on the Presidential election, with which I will presently favor the gentleman. He will take it for as much as it is worth.

One other remark of the gentleman deserves a passing notice. He says neither of the parties claim for themselves to be the republican party exclusively. What particular name the gentleman shall please to designate his own party by, is no concernment of mine. It is not always that the character of a ship is determined by the colors which hang at the mast head; the best evidence will be her papers and crew, especially her captain. I will draw upon the gentleman's own friends, who act with him, for facts and evidences to determine the true character of the commander, and those on board. A gentleman\* of high standing, late a Senator of the United States, a native citizen of Massachusetts, intimately and extensively acquainted with the political character of the Chief Magis-

\* Hon. John Holmes, of Maine.

H. or R.]

Retrenchment.

[JAN. 31, 1828.]

trate, now his warm and zealous supporter, has given to the world his opinions upon the subject; hear him, in his own language. Of the elder Mr. Adams, he says:

"The old gentleman possessed very aristocratic feelings. He was in favor of taking all Executive power from the Senate, and vesting it in the President of the United States. The son was born and nurtured in these feelings, received his early impressions of men and things at the Courts of European monarchs, at an age when his mind and heart naturally conscious of high descent, were easily captivated with the splendor of royalty. He brought home these feelings, and he has carried them so far through life with him, he can't divest himself of them; and he appears awkward when he attempts it. He is naturally and habitually an aristocrat. Mr. Adams was the advocate of his father's alien and sedition laws, his direct taxes, his standing army in time of peace, his extravagant expenditures, his useless multiplication of officers, his sixteen midnight judges. He was the reviler of Jefferson, the father of the republican party, and of all his worthy and venerated compeers. He made a scandalous song about him, at a time when he was doing more for the Nation than any other man. He acted with the federal party, until he found, in the language of his father, that they were 'at the bottom of the hill.' The whole family, then, simultaneously, put round, or pretended to put round, and act with the republican party."

Again, he says of Mr. Adams:

"He has courted the federal party too much. His own friends and his father's friends are to be found among them. There is his first love, there are his warmest attachments. Rufus King heads the catalogue of his friends, and H. G. Otis, and other authors of the Hartford Convention, are on our list. The Editor of the Boston Centinel is made a printer of the Laws of the United States, by his influence, against the remonstrances of the republican members of Congress from Massachusetts."

"He has taken an important portion of the printing of the United States from the National Intelligencer, a paper which has the most extensive circulation of any one in the Union, because it supports Mr. Crawford for the Presidency, and has given it to the National Journal, of very limited circulation, because it supports him."

What says the same gentleman upon the subject of the persecution of Mr. Crawford, referred to by the gentleman from Ohio?

"He [Mr. Adams] has attempted to sustain the infamous ———, in his dastardly attack upon Mr. Crawford, in defiance of the moral sense of the People of this nation; and by some it is believed, that ——— was only the Punch of the puppet show, who spoke as he was prompted by the chief jugglers behind the scene."

Now, sir, let us, in order the better to determine the national character of this vessel, turn our attention to the crew. Here again I must draw to my aid the testimony of gentlemen on the same side, acting and co-operating with the gentleman from Ohio. Its competency or credibility will not be disputed. I extract it as the opinion of the Editor of the Salem (Mass.) Gazette, whose devotion and zeal in support of the re-election of Mr. Adams, none will question. To use a very common phrase, it is from high authority, and an undoubted source. I give you his words, when speaking of the Hartford Convention:

"It is believed [says the Gazette] that every member of that Convention, now living, is a friend to the re-election of Mr. Adams. At the time of his election, one of them (Hon. Mr. Longfellow) was a member of Congress, and gave his vote for Mr. Adams. The Hon. Mr. Olcott, another member, voted, in the New Hampshire Legislative Caucus, in favor of Mr. Adams: the Hon. Mr. Hall, another member, lately distinguished himself in the Ver-

mont Legislature, in support of the Administration; and Mr. Hall and Mr. Goddard were chosen members of the Harrisburg Convention. If all the Hartford Convention men should withdraw their support from Mr. Adams, his re-election would be desperate. The country was in danger of being overrun by the enemy, till the Hartford Convention men came forward to its defence; and if the Hartford Convention men withhold their support, the cause of Mr. Adams is lost."

The Essex Register, a kindred print, says:

"We would sooner trust any member of the Hartford Convention in office, than Levi Woodbury, or Isaac Hill, of New Hampshire, and the three leading patriots of Maine, who are fulminating their anathemas against the Hartford Convention." \* \* \*

Again:

"We ask the aid of no man who we are not willing to consider our equal, and on as fair ground as ourselves. \* \* \* This yielding to the current prejudice, and raising the hue and cry against those whose aid we need, is miserable policy. The Hartford Conventionists are said to be in favor of Mr. Adams; and so are all the leading Federalists of New England, except some few who never forgive an offence."

I will not give utterance to my feelings, which the meeting of that Convention gave birth to. I never think of it but with horror. The leaders of that Convention cowered under the triumph of their country, and retired sickened at its glory. I rejoice that they are against us. It increases the confidence I have in the justice of our cause.

With one more remark, I shall take my leave of the gentleman from Ohio. He was pleased to anticipate as possible, what he seemed to, and I have no doubt does deprecate, the election of Andrew Jackson, as President of the United States: "Then," he exclaims, "we will have the glorious privilege of driving through the mud up to the hub, huzza! for the Southern policy. No roads, no canals, no tariff: the Richmond party, and General Jackson forever." I believe I quote the gentleman's own words. Let me say to him, that, should he and his party triumph, then, indeed may he exclaim: "we have triumphed over the spirit of the Constitution; by power and patronage we have made ourselves popular; we have converted a minority into a majority; huzza for 'light houses of the skies,' national universities; the Representative is no longer palsied by the will of his constituents—we have established the line of safe precedents."

This leads me, sir, to the reflection of past events, connected with the gentleman's effort to fix the charge of inconsistency upon others. I do not say that gentleman is obnoxious to the charge. I was impressed, forcibly impressed, with the sound political principles which were embodied in the address of a meeting of the friends of the Secretary of State, at Columbus, in Ohio, at which that gentleman [Mr. Vance] presided, and which has been presented to the world under the high sanction of his name. It connects itself with this subject. The House, I hope, will permit me to read a few passages from this document.

"Were Mr. Clay withdrawn, the result as to the election by Electors, would, most probably be the same; or, if it were not, it would place in the Presidential Chair one of the present Cabinet—an event, which it was the first object of the friends of Mr. Clay to prevent; not in reference to the men, but to the principle. Under the strong persuasion that the public good, and a due regard for a fair operation of the Republican maxim of 'rotation in office,' required that the next President should not be taken from the present Executive Cabinet, it was determined to support Mr. Clay for that office, as the person combining at least as many qualifications as any other that

JAN. 31, 1828.]

Retrenchment.

[H. or R.]

could be named, with the same prospect of success. It was hoped that those who had the same general object in view would have sacrificed personal considerations, and united in effecting that object. It was particularly hoped, that the Western country would have presented an undivided phalanx upon this great public question; and it is deeply regretted, that another candidate should be named and supported in the West, with the same object, and for the same purpose. But, while the advocates of Mr. Clay express this regret, they pretend not to question the integrity of motive, or purity of intention, which has produced this unfortunate state of things: nor can they forbear to indulge the belief, that the diversion will be much less extensive, and mischievous, than is by some supposed."

My interpretation of this language is, that the great object which the mutual friends of the Western candidates (yes, sir, and the object of the candidates too) had in view, was the breaking down this "line of safe precedents:" this almost certain succession from the State Department, and to elect from the great body of the People a Republican, who would come into office uncommitted to parties, untrammelled by bargains; who would administer this Government in the spirit and simplicity of its institutions. Whether the gentleman has changed his principles, what new lights beamed upon his understanding after his arrival at the Seat of Government in 1824, are questions which it becomes me not to answer. I may be allowed to express my regrets that the gentleman helped "to place in the Presidential chair one of the present [then] Cabinet, an event which it was the first object of the friends of Mr. Clay to prevent." I quote the gentleman's own language.

The gentleman from Maryland [Mr. DORSEY] next demands a passing notice. That gentleman has, in the debate, distinguished himself by the zeal of his vindication of the immaculate purity of the men in power, and of their measures; and he has, in his accustomed brevity, undertaken specifically the vindication of the appointment of Mr. Rufus King; the payment of an outfit of \$4,500 to John A. King, for coming home; the payment of \$1,950 to John H. Pleasants, the Editor of the Richmond Whig, as pretended bearer of despatches from this Government to the Government of Buenos Ayres. Of each, in their order, I propose to say a few words. The appointment of Mr. Rufus King, I think, was an unfortunate one. The gentleman says he was taken sick. He forgot to tell us, however, that our Secretary omitted to furnish him with his instructions. Had he enjoyed good health, he was not authorized to act. So it was, he did nothing, returned home, and left his son, John A. King, in possession of the key of the bureau which contained the papers belonging to the legation, who remained in London without authority to do any thing until Mr. Gallatin arrived, a period of about sixty days. John A. King, for this service *pro hac vice*, is made Chargé des Affaires; and on his arrival the President paid him the sum of about \$6,500 out of a fund appropriated by Congress for other purposes, which payment, I contend, and will prove, was in violation of the usage of this Government, and against the express provisions of the act of Congress of 1810. By the Constitution of the United States, "no money shall be drawn from the Treasury of the United States, but in consequence of appropriations made by law." For the safety of our Treasury, and to guard against abuses, we make, annually, specific appropriations for specified purposes, and especially for the payment of salaries. We are compelled (to meet such contingencies as cannot well be anticipated) to appropriate a gross sum, which we denominate the contingent fund. Out of this fund I deny the power of the President to pay the salary of a Foreign Minister, or an outfit to a Chargé des Affaires for coming home. By the second section of the act of Congress, passed in 1810, as if with the view to prevent the payment of this

sum to John A. King, (for the law is as explicit as the English language can make it,) it is provided, "that, to entitle any Chargé des Affaires to the compensation therein provided, he shall be appointed by the President of the United States, by and with the advice and consent of the Senate." By the first section of the act, the President may allow to a Chargé des Affaires, on going from the United States to any foreign country, an outfit—not on his coming to the United States from a foreign country. This act will be found in the fourth volume of the laws of the United States, page 309. The President, in no case, even under this law, is authorized to pay an outfit or an infit, unless Congress, by law, shall first appropriate the money. He may, by the appointment of a Chargé des Affaires, impose the obligation upon Congress to appropriate; but, until this is done, he is not justified in taking money appropriated for other purposes. John A. King never was appointed by the President. His appointment never was confirmed by the Senate. He came from a foreign country to the United States. In fact, he rendered no services as Chargé des Affaires; and, for about sixty days, while he had the possession of the diplomatic port folio, he is paid the sum of \$6,500—a compensation at the rate of \$39,000 per annum. And this is the act of the Administration which the gentleman from Maryland justifies, and says is in strict accordance with the practice of the Government, and the laws of the land. If so, Mr. Speaker, it is high time we should change the practice, and amend the law.

John Hampden Pleasants, the Editor of the Richmond Whig, most loud in the praises of this Administration, and the abuser of all who will not sing hosannas to the powers that be, has had his drag upon the Treasury of the United States, for valuable services never rendered. This case, of all others the least defensible and most reprehensible, has found an able advocate on this floor, in the person of the member from Maryland. Take the gentleman's own account of it, and what is it? That Mr. Pleasants was employed to bear despatches (whether newspapers or not is not stated) from this Government to that of Buenos Ayres. He sailed from New York, and, after he had got under way, he left his despatches in charge of the captain, took shipping and sailed for Europe, for his health; for he, too, it seems, (unfortunately for the Administration, says the gentleman,) was taken sick. I agree this is rather an unfortunate affair. He, however, went to Europe for his health. It is admitted he never went to Buenos Ayres. What became of the despatches—of what they consisted—we are left to conjecture. Mr. Pleasants, however, survives his severe indisposition, and returns to the United States, and the Secretary of State, with a knowledge that he had not been to Buenos Ayres, paid him, out of the public Treasury—yes, sir, out of this most convenient fund of "contingent expenses"—the sum of \$1,950, for services which be never performed. I state the naked facts, and appeal to every member who hears me, to say, in his candor, can he justify this act?

The payment of the sum to King, it should be borne in mind, was while Congress was in session. Why was not application made to the Representatives of the People to appropriate this money? If it had been as much devoted as that Congress was to respond to the will of the Executive, I do not hazard much in saying that this amount never would have been drawn from the Treasury by a law of Congress. This business, by some means not known to me, became the subject of inquiry last winter. It seems that some of the clerks of the Department were suspected of having divulged or made it public. If I correctly understood the gentleman from Pennsylvania, they were, one by one, summoned to account, and a threat fulminated against the one who had given any item of this affair. The member from Rhode Island, [Mr. PEARCE] who seemed to speak on yesterday as one having authority,

H. of R.]

Retrenchment.

[JAN. 31, 1828.]

told us he was authorized to contradict this statement. I ask of him who authorized him? Will he condescend so far as to tell us? I should rather infer, from the course of the remarks of the gentleman from Maryland, that the gentleman's authority was not obtained from the fountain-head.

I understand the member from Maryland as impliedly admitting the truth of the statement. What, sir, has it come to this, that the officers of your Government, the Clerks of your Departments, dare not speak of the disbursements of the money of the People? If this be the case, it is high time for the Representatives of the People to apply the corrective. The member from Rhode Island made one other remark, which deserves notice. His words were, "That the patronage of this Government belongs to the party, and it ought to be used, and he hopes it will be used, to protect its friends"—yes, sir, to protect its friends. By the patronage of this Government is meant the money of the Government expended in the employment of suitable persons as agents or officers to do the public business; and I deny the right to use it for party purposes, for the protection of the friends of the party. When that shall be the primary object of any Administration, in the exercise of its patronage, we may not be surprised to see 1,950 dollars paid to a favorite Editor of a newspaper for services never rendered, and 6,500 dollars paid to a member of a powerful and influential family in a great State. The gentleman from Maryland says that, no sooner was the Administration organized, than the cry of "Bargain, intrigue, and management!" was heard from the ranks of the Opposition. These are not terms of my creation—I use not hard names. I look at things as they are, and form my own opinions, and act accordingly. Has not the gentleman done the Opposition, as he calls it, injustice, or rather his own friends injustice, in ascribing to the former the origin and the application of these hard names? Permit me to refer the gentleman to a document, in which he will find much useful political matter, and in which he will find used, as if in a spirit of prophecy, the very words referred to. It is the address of the State Committee of Kentucky, the friends of Mr. Clay, in the year 1824, who were zealously supporting the cause of that gentleman's election, most of whom, I believe, still adhere to him with a devotion I will not condemn. That committee, when invoking their fellow citizens to a united effort in the cause of their candidate, as necessary to prevent the election of President from devolving on Congress in 1824, close their labors with this patriotic and prophetic admonition to their fellow citizens: "Remember, that, after the choice of Electors once takes place, their voice will no more be heard in this contest. All will be carried by influence and intrigue, bargain and management. He who has the most extensive means of influence, and will promise the most favors, will have the prospect of success; and the nation will receive the President, not from the pure hands of the People, but from a club of political managers and intriguers." I hope in future the gentleman from Maryland will not rob his own friends of their just claims to political forecast, with a view of giving to his opponents credit for that they do not deserve.

The gentleman from Maryland has drawn to himself and his friends consolation, in the midst of all their difficulties, from the recollection of the fact, that the administration of Washington, of the elder Adams, of Jefferson, and of Mr. Madison, were opposed—ay, sir, and the gentleman leaves the public to draw the inference, that they, too, were opposed, by an "unprincipled faction." I wish I dare so far tax the patience of this House as to pursue the gentleman in this part of his remarks. I should like to dwell upon by-gone times, and to place to the proper account the events of those days. But I forbear. I will trust to other hands. Sir, I rejoice at the result of the

opposition to the elder Adams; it was seconded by sound heads and pure hearts, and its results were auspicious. Democracy triumphed, and the national vessel was brought round on her Republican tack. I admit that the success of the Republicans, under the guidance of Mr. Jefferson, gave activity to his opponents, and the hope of success increased the bitterness of their gall. May I ask the gentleman where was the present Chief Magistrate in that contest? I might extend this inquiry. I will not do it. When the second election of Mr. Jefferson prostrated the political hopes of certain men, we soon heard of "summersets, of adhesions given in." That contest, like this, was one between liberty and power, between the aristocracy and the democracy of the country. This contest, like that, I trust, will triumph in the success of sound principles. But, sir, the gentleman complains that the administration of the great and the good Mr. Madison was opposed. Yes, sir, it was opposed—and by whom? I call upon the gentleman to name them.

This Government, in defence of its honor, its national character, if not its national existence, was compelled to make that appeal which is the last, the most to be deplored among nations. A war was declared; that done, political clamor should have subsided, and party spirit subdued itself in the love of country. Many, very many, who did not approve the measure, like patriots, bared their breasts to the steel of the enemy. There were others, yes, sir, others, who, in the heat of political excitement, lost sight of the glory and safety of their country. The calamities and misfortunes of war were said to result from a "weak and penurious Government." In certain portions of this Union, a spirit was abroad to oppose every measure of the Government by which the contest was to be brought to a result honorable to the country. In Massachusetts, Rhode Island, and Connecticut, the principle had been asserted, that the militia could not be called into the service of the United States for offensive war; that they were only bound to fight when our enemy invaded our territory; that they were not bound to obey the orders of any officer of the General Government, unless the President, *in propria persona*, took the field and directed their operations. In plain English, that they would not fight the battles of their country. Such was the state of feeling in Massachusetts, that the Legislature resolved "that it was unbecoming a moral and religious people to rejoice in the victory of our arms."

I find by reference to the Journals of the Legislature of Maryland, that the gentleman from Maryland [Mr. DORSEY] introduced certain resolutions denouncing the administration of Mr. Madison in the boldest terms. Allow me to read from these resolutions a few extracts.

"Resolved, That the declaration of war against Great Britain, by a small majority of the Congress of the United States, was unwise and impolitic, and, if unsuccessful, the grand object contended for must be abandoned."

"Resolved, That the conduct of the Governors of Massachusetts, Connecticut, and Rhode Island, respecting the quota of militia demanded from them, respectively, by the Secretary of War of the United States, was constitutional, and merits our decided approbation."

These were the sentiments of the gentleman, and here are the grounds of his opposition to the administration of Mr. Madison; and because that opposition was unwholesome, and at war with the best interests of an agonized country, the gentleman has very logically brought his mind to believe that there is nothing pure, but all is selfish, in the opposition to the present Administration.

[Mr. DORSEY here desired leave to explain.]

Mr. WICKLIFFE continued: Sir, I shall soon close my remarks, and then I will, with pleasure, hear the gentleman.

Mr. Speaker, I have referred to this resolution in no spirit of bad feeling; certainly none to his gallant and



JAN. 31, 1828.]

*Retrenchment.*

[H. or R.]

patriotic State; the valor and patriotism of whose brave militia gave us much to admire at the battle of Baltimore, much more than it gave the enemy to be proud of. When the citizens of that State saw danger, they left their political leaders, and met it, and repelled the advance of an invading enemy. These political dissensions gave confidence to our enemy—taking courage, as if invited to our embraces, he enveloped your Capitol in flames. The Hartford Convention were in secret conclave: your President was pronounced by a member on this floor [Mr. KIRK] as deserving a halter. In the West, sir, we were bleeding at every pore. It was a struggle who would do most for his country, who should offer up his life in defence of her liberties. Disaster, defeat, and massacre, attended our efforts on the Northwestern frontier, in the onset. Hordes of savages poured in upon the defenceless inhabitants of our Southern frontier. Our commercial emporium was threatened—our property and our women offered as the “booty and beauty” of an exasperated soldiery; gloom every where overspread our divided Commonwealth. At this period, we behold the much abused “Military Chieftain,” the plain farmer of Tennessee, impelled by the ardor of his patriotism, his devotion to his country, to offer himself as a willing sacrifice for the safety of that country. Wherever he goes victory crowns his efforts; he inspires confidence in all around him; he creates the means of war, as the emergency demands. In the love of country he lost sight of self; resolved to “conquer or perish in the last ditch.” Sir, I will not extend the contrast. I do not give to the mighty spirit who commanded, the entire credit. No, sir; the men under his command—men who did not stop to enquire about the boundary line of their country, who cared not who commanded them, so victory crowned their efforts, share with him my gratitude, and, I trust, the gratitude of their country. I have done. I shall vote for the resolutions of my colleague. I would prefer the subject should go to a Select Committee, who will go to work, and, in good faith, apply the legislative energies of this Government to the reduction of the public expenditures and the correction of existing abuses.

Mr. LETCHER said: I have witnessed this debate with more pain and regret than any that has ever occurred in this House since I have had the honor of a seat. One more unprofitable, more intolerant, and less likely to effect any good for the country, has never occurred here or elsewhere. Sir, as the Representatives of a free and enlightened community, disposed to maintain the dignity and utility of debate, upon correct principles, we should pause, seriously pause, before we determine to prosecute this further. Where, when, and how is it to be ended? What profit will be derived from it? What valuable object attained? Is our time justly, correctly, and fairly employed, in reference to the important interests of the country, to be thus exclusively occupied in this digressive, angry debate? If a debate it can, or ought, to be called. I had always, Sir, until brought to a different conclusion by the present discussion, been led to believe, that a debate was only necessary where a difference of opinion, in some shape or other, existed, and that its main object was to enlighten, to convince, or to persuade. Such, however, Sir, does not seem to be the character or design of this. Its object, or rather, perhaps, its tendency, is not to illustrate any particular proposition, or to convince us upon any matter of disputed policy. It is, if not for the nobler, at any rate for the obvious and gratifying purpose of abusing and censuring some of the most distinguished men of the country. There ought to be no discussion upon the resolutions as offered, because there is no disagreement of opinion among us as to the direction which they ought to take, and must take. Yet, Sir, without any disagreement whatever, as far as I know or believe, in reference to the subject-matter before us, we present ourselves be-

fore the nation in an attitude truly lamentably singular, to speak in no stronger terms. What is it? Why, sir, a subject is offered for the consideration of the House, in the usual mode of resolutions, inquiring into the manner in which the pecuniary concerns of the country are conducted by those to whom we have confided these high trusts; also, of enquiring into the propriety of lessening the number of our officers in service, of curtailing their salaries, and of reducing the pay of the members of this and the other House. To these resolutions every one almost, without exception, seems to yield a ready assent. Indeed, Sir, we appear to struggle severely with each other for the honor of most admiring them. We all profess to be willing, yes, anxious, to go into the inquiry, exceedingly anxious, yet, from some cause or other, we can't get into it. To profess to be willing to make an inquiry, is one thing—to make it, is another. Talking, and doing, are very different matters. If we are really and sincerely disposed to do any thing for the benefit of the country, upon this or any other subject, we must speak less, and do more. We should engage in the business of the country with the determination of doing it speedily, and going home. How, Sir, does it happen, that we can't get the question, and bring the debate to a close? The answer to this question will not, and cannot be denied. It arises from too much zeal, and too much sensibility, upon the Presidential question. Ah! That's the whole secret. The People understand all our movements; they are cool, deliberate, and intelligent, and will very quickly comprehend the design of an electioneering speech delivered in this House, whether it comes from the one side or the other. For my own part—I speak, however, with great deference to the opinion of others—I do not think it either complimentary to the members of this House, or to the People of this nation, to make the Representative Hall the arena of electioneering strife, and turmoil, and bustle. It should be exclusively appropriated to the legitimate purposes of legislation, and no other. The People will attend to the election of President themselves, if permitted to do so. They are the proper tribunal to make the decision between the two contending parties which now divide the country and this House. In their decision I have unlimited confidence. They will reflect coolly, and decide wisely, and that decision will be made, if not according to the wishes and feelings of all in this House, at any rate according to their own sober judgment, uninfluenced, I hope, by any and every attempt to excite them on the one side or the other. The truth is, Sir, and I speak my undisguised opinion when I say so, the importance and consequence which some gentlemen seem to attach to what they may say in this Hall, tending to bear upon the Presidential canvass, is very greatly overrated. It is a mistake, which results, like most other mistakes, from thinking too highly of their own speaking powers, and too little of the judgment and discrimination of those who send us here. Sir, we may declaim, and rave, and rant, and read newspaper squibs, and re-assert stale and long since refuted charges, and even descend to personal invectives against each other, or to personal violence, until we become exhausted and exhaust the Treasury too, without being able to infuse into the Public that degree of zeal which political calculating partisans feel, or in any material manner induce any portion of them to surrender their judgment to politicians struggling for power. I am very sorry, Mr. Speaker, to discover around me, the most formidable preparations for a continuation of the debate. One gentleman is covering his table with books, another is taking notes, whilst about a dozen others are ready to avail themselves of the first opportunity of getting the floor. I did not rise with a view of saying any thing which would be the means of prolonging the discussion, but principally to express my earnest desire that the question may be brought to a con-

H. OF R.]

Retrenchment.

[JAN. 31, 1828.]

clusion. With the gentleman from Tennessee, [Mr. BELL] I desire to get the House rid of the question, by referring the resolutions to a committee. It is very easy to dispose of the matter, should we choose to do it. But one says, with great force and energy, I did not commence this discussion: another says, I did not. One party says, you began it: the other says, No, it was you. Who did begin it? Sir, nobody began it; yet it is here. Instead of disputing who commenced the discussion—for that fact, it seems, never can be ascertained—let us struggle who shall be the first to get clear of it, and at once proceed to the transaction of business. Why, sir, the scene is really ludicrous. It is more like children's play, if I may be allowed to say so, than the port of grave legislation. The original resolution, offered by my colleague, [Mr. CHILTON] was not of an unusual or extraordinary character. I was very glad when he introduced it. I little anticipated the irritation it has produced, or the length of time it has consumed. The inquiry proposed is a necessary one, and may prove useful to the country. In all Governments, there is a tendency, in a greater or less degree, to extravagance. It is incident to power and authority, whether that power be exercised by one or many—whether it be hereditary or delegated.

In a Government constituted as ours is, too much vigilance cannot exist upon the part of those in whom the People have placed confidence, in watching the public expenditures. I am not for making false clamors, or exciting the public without any just apprehensions, merely for my own purposes; but, upon principle, I am now, and always have been, in favor of observing a system of rigid economy and strict accountability in every Department of the Government. Frequent inquiries and examinations ought to take place. Honest, able, and faithful officers, such as I believe compose the Administration, have nothing to fear from the strictest scrutiny into all their official acts. On the contrary, it has a good effect. It satisfies the country, and it is particularly proper at this period, in reference to what has been said out of this House, for some time past. The inquiry, sir, is demanded by the People: they expect it, and are anxiously waiting to see how it will progress. Give it to us. Let the examination be thorough and complete. If one dollar has been applied improperly by the disbursing officers, ascertain the fact, and make it known. If nothing be wrong; if censures have gone abroad without any just cause; it would be but an act of sheer justice to those who have been implicated, as well as to the country, to say so, after this inquiry is completed. It requires no great intellectual effort to create suspicions, and to give them currency, whether they be directed against public or private character. So far as any thing has been said, in this debate, having for its object a design of casting any imputation upon the Administration, in its management of the moneyed concerns of the country, its friends now, and at all times, challenge the freest and fullest investigation; but, at the same time, protest against the right of their opponents of trying them under the doctrine of Revolutionary France, "of laboring under a suspicion of being suspected," and taking upon themselves the exclusive right of accusing and deciding. If any fact whatever exists, upon which to predicate a charge, even by implication, the accusing party have it completely in their power to expose it to the nation in glowing colors—the nation is fully competent to decide upon its merits.

But, sir, I am not about to pursue that course which I have taken the liberty so freely to condemn in others, by discussing the relative merits and demerits, fitness and unfitness, of the two distinguished candidates now before the People for the first office within their gift. No, sir. If my vanity even prompted me to suppose I was qualified for such a task, I would not, at this time, upon this occasion, in this House, allow myself, even under feel-

ings of excitement, to engage in it. The topic, if persisted in, I fear, sir, will, in some degree, impair that dignity which has heretofore characterized the proceedings of this body. I have not taken the floor with a design of answering charges on the one side, or making them on the other. It was, sir, for a very different purpose, as I have already intimated. During this discussion, Mr. Speaker, which has taken a most extensive range, from what was said by my friend from Ohio, [Mr. VANCE] an impression was made upon the minds of some gentlemen, that his design was to impeach the purity and integrity of the presiding officer of the House, in his appointment of committees. Sir, I was very glad to hear that honorable gentleman frankly and voluntarily disclaim every idea of the sort. It would, sir, in my estimation, not only have been unkind, but unjust, to that officer, to have expressed or entertained a different sentiment. Though not elevated to that honorable station with my consent, I will take this occasion to say, without supposing my opinion is a matter of the slightest consequence to any one, as far as my feeble judgment extends, he presides over the deliberations of the House with ability and dignity. As to his appointment of committees, he has a right to select and organize them as he chooses—he and they being responsible to the country for doing harm, or for not doing good.

As to myself, I do not think, after two parties have been struggling for power, and one of them succeeds, it can reasonably be expected, that, in the distribution of the honorable stations in this House, the victorious party shall select their adversaries. This ought not to be required. If they look for the qualifications which fit individuals for those stations, and find such qualifications in men of their own party, it is natural, and right, that they should put those who possess them at the head of the leading committees. I should never object to such a course. If the party which has now the majority here, has placed its friends in stations where they can be useful to the country, while they do honor to themselves, I hope we who are of the minority, will never complain of it. If they have the honor, they have the responsibility too; and, I say, in reply to the gentleman from Kentucky, who has just taken his seat, and who has made some complaints against Mr. Adams about patronage, that I would go farther than merely protecting friends. Patronage ought to be distributed, in the first place, with a constant view to the public good. That object being kept in sight, the Administration has a right to look first to its friends—I mean its prudent, enlightened, and capable friends, and those who have done the most to place it in power, by giving support to fair and just principles. It ought to look next to friends, who, though not quite so zealous and efficient in its behalf, are equally faithful in their attachment to its principles and their country. In the next place, it ought to look to intelligent neutrals; still, as I said before, keeping its eye upon the public good, and upon suitable qualifications, and then, if there is any thing left, let them give it to open, but able and magnanimous adversaries. This I take to be a rule, right in itself, and one which has always more or less governed every Administration, but particularly Mr. Jefferson's. It is true, in aiming at this rule, an Administration may make great mistakes. They may sometimes select for important stations, men who bring no force to their cause, but then, this arises only from defect of judgment or information. They intend to strengthen their own party while they serve the country, and if they fail to do so, it is from the causes I mentioned. Sir, look to all Governments which ever existed. You never find one which gives all its favors to an enemy that would have prevented its success, and would, at any moment, prostrate it. The gentleman says this Administration has been very imprudent, and has committed great blunders in the dis-

JAN. 31, 1828.]

Retrenchment.

[H. OF R.]

tribution of its patronage. That may be, but I tell that gentleman, that, if his favorite candidate ever gets into power, he will most infallibly protect his friends, and to a greater extent than the present Administration has ever done. Sir, I believe this Administration has been a little culpable in this matter, although they have incurred the censure of the gentleman for a different course. I think they have not stuck to their friends quite as much as they ought to have done. No gentleman will suspect me of saying this with any personal reference. I never was an applicant for any office, and I never expect to be, and for a very good reason, sir. I never can succeed, if I should apply; there are too many ahead of me, of both parties, who excel me in zeal and ability, and anxiety to obtain office.

Sir, the motives of my colleague in introducing this resolution, have not been quite fairly dealt with. He has been charged with doing it for a mere electioneering purpose, and with wishing to throw a fire-brand into this House. I believe he had no such intention. I think I understood pretty well the *quo animo* with which it was introduced, (for, sir, I am really learning Latin very fast. I have heard so much of that language lately, that I am becoming quite a proficient; indeed, I am not without apprehension, that I shall, ere long, lose my native tongue. Why, sir, there are my two friends from Kentucky, [Mr. BUCKNER and Mr. WICKLIFFE] who I thought had never looked into a Latin book, and, to my great surprise, they have spoken whole pages.) I believe my colleague did it only to redeem a pledge given, under circumstances with which I am perfectly familiar. At our elections in the West, the People are accustomed to assemble, and to be addressed by the several candidates for their favor. In those addresses, their political sentiments are made known, and each strives to make himself and his opinions most acceptable to the People. Sir, in setting up their respective pretensions, pledges of reform and retrenchment are often made. The People are told of the existence of abuses which the candidate for their favor really sometimes himself believes to exist, but which, in truth, never did exist, except in imagination. Some excitement is of course the consequence of these repeated declarations of wrongs, and inquiries are generally excited on this topic. My friend and colleague, among others, partook of this excitement—whether he assisted to raise it, I know not. He, however, gave the promise to his constituents to introduce a resolution of this kind; and when he got to this House, he took no time to deliberate, or to consult his friends, but with all the ardor of youth, anxious to redeem his pledge, he had scarce been a week in his seat, before he rose, and proclaimed: I offer a resolution—I am pledged to my constituents—I am told there are abuses here, and I want to find them out. When he is asked, what abuses do you allude to? and in what Department do they exist? He very frankly answers, I don't know; but if there are any I want to find them. Sir, my colleague is very right; and if there are any, I want to help him to find them. As to the charge of his having thrown a fire-brand into the House, with a design to raise a conflagration, it certainly is not a just charge. A conflagration indeed has been raised, but how, sir? The two great parties militant seized upon his resolution—I don't know who first, but before we know why, or how, we are criminating and recriminating each other, and abusing the Administration, as if in a contest who could use the most intemperate expressions, and say the harshest and the bitterest things, and I must be permitted to own, that, in my opinion, my colleague upon my left [Mr. WICKLIFFE] is, in this respect, entitled to the premium. Sir, we may go on and abuse both the candidates as long as we please, but what will be the consequences? The People will look into it all—they will weigh us and our motives—they will say, such and such

a gentleman spoke very warmly in Congress—he was under the influence of the feelings of a warm partisan. They will make the suitable allowances, and arrive at just conclusions, and that will be the end of it. But, sir, should the People ask us, as they certainly will, what we were doing in Congress this session? We can only answer, "We were making speeches." "Speeches! what about?" "Why, about an inquiry into abuses." "And why did not you made the inquiry? Oh, we had no time: all our time was taken up in speeches; there was not a single disagreement, we all said the inquiry ought to be made—but we could not make it for talking about it." Sir, it does forcibly and strikingly remind me of an anecdote I once heard, and which, if I may be pardoned for so much levity, (for I do not know whether this business is most serious or most farcical) I will relate. A certain lawyer had a farmer for his client, and when his cause came on, he made a very long speech in his behalf, without touching a point in the case. Coming out of court, he said to the farmer, "Did not I make a very syllogistical argument?" The farmer drily replied, "Why, as to the silly part of it, you certainly did: I do not know so much about the gistical." So, sir, depending upon it, the People will look at our arguments in this debate, and they will see most clearly "the silly part" of them. I know, sir, that many of the arguments have been very ingenious, and very edifying too, if we had but a subject before us. My object is to deal justly in the whole matter. I agree with the sentiments so well expressed by the gentleman from Tennessee, [Mr. BELL] and I think that that gentleman is entitled to the thanks of this nation for his modest admonition against prolonging this discussion, as well as its respect for his very brilliant display: and, although I could not agree in some of his conclusions, I may be permitted to say, that, whatever party may be up in this Government, I hope that gentleman may live long, and may, as I have no doubt he will, continue to enjoy the confidence of a free People. Any gentleman who, under such circumstances, could speak as that gentleman spoke, will always merit, and most certainly receive, the approbation and honor of his country.

Something was said by my colleague, [Mr. CHILTON] about the high rate of salaries in this city. I have no doubt that such is his honest opinion; but while, in our legislation, we vigilantly endeavor to promote economy, let us, at the same time, be not unmindful of justice. Let us endeavor to place the parties concerned on their proper ground. Gentlemen have said, "Look at the salaries of your officers!—\$30! 1000! 1800 dollars a year! and some even higher?" Sir, my doctrine is economy, but I would not be unjust to the parties employed in the public service, nor would the People desire me to be so—they ought not to be abused without any cause. Sir, I know what is the doctrine of the people—it is precisely this: Be liberal and just, but not profuse. They are willing to pay to all those who serve the Government the full amount that their services are worth, and they are not disposed to pay more. I would give such salaries as will invite men of integrity and capacity into the public service: for that service will be more injured by employing ignorant or incompetent men, than ten times all the saving that could be effected: and, to speak my honest opinion, after long observation, quickened at first by not a little suspicion, I don't believe that we do pay too much to the clerks in the public employment. If, however, it shall appear, on inquiry, that there is one public servant who receives more than he ought to receive, let the evil be corrected. The inquiry can do no harm. A friend of mine from Kentucky [Mr. DANIEL] says, that the rule in Kentucky is to work from sun to sun, and if need be, a little in the night. Well, sir, these gentlemen labor from nine in the morning till three in the evening, and, when there is a press of business, they do more

H. or R.]

Retrenchment.

[JAN. 31, 1828.]

than that. They often do work till the going down of the sun, and sometimes far into the night. I say this because I know it to be true, and because I believe they are a collection of abused and persecuted men. Yes, sir, while they have faithfully served and labored for the public, they have been more abused than any class of men in the United States. Many of them are poor men, with large families. They are constantly occupied in the public service—they are accommodating in the extreme, and, after many years of assiduous labor, what have they made for their families. Sir, after they have paid for their house-rent, their fuel, and their provisions, they have little or nothing left. Why, sir, this place is not like Kentucky! (the finest and most favored spot upon the globe; with the best soil, the best water, the best climate, and, I will add, the best population—a little excitable, to be sure, but a people whose character has been misunderstood and misrepresented. There, living is cheap, and all things are plenty. A man who has one hundred dollars may live upon it a year or two years. How long does it last here? A man that makes it last a month, does very well indeed. Why, sir, bring a Kentuckian, and place him on a farm near this city, and though he was a fine, healthy, florid, rosy man, when he came here, compel him to remain on that farm, and, in a few years, he would pine away with the prospect before him. Sir, no man can live in this country. He can't exist in it, unless he has some hope and prospect of getting away. A region, though romantic and beautiful in appearance, that is without any soil, without any produce, without any commerce; a place that has to buy all it eats from Pennsylvania and from the upper part of Virginia, or from Nova Scotia—yes, sir, from Nova Scotia—for the very potatoes of this District come from Nova Scotia and Ireland!—Who would live in it that could get to Kentucky?—Now, sir, in reference to salaries, we must look at the expenses of living. I am no advocate for high salaries—very far from it. Eight hundred or a thousand dollars, in our country, sounds like a very large sum. A man who goes into Kentucky, with such a sum as that, can not only live upon it, but, with a little industry, can increase it. But the matter is totally different here, and I say this, because I know that the impression exists in the minds of many honest and well-meaning men, that there is great extravagance in the different Departments. They do not know, and therefore do not consider, the circumstances. If they did, that impression would be removed.

But, sir, there is the subject of our own pay, a subject truly delicate. I have no doubt in the world that my friend from Kentucky spoke feelingly, when he said that any reduction in our compensation was nothing but idle talk. I well know that he is not in favor of it. Oh no, sir! the medicine may do very well for others, but it will not answer for him at all. Now, sir, the gentleman who introduced the resolutions, and who, in this debate, has more than once been called "the Doctor," by his political friends, gives, at least, this pledge of his sincerity. He is willing to take a little of his own medicine, though not much; but as to my other friend from Kentucky, [Mr. WICKLIFFE] so far from being willing to reduce his salary to six dollars a day, I would venture any wager that he would not reduce it six cents below its present standard. Sir, the gentleman is a great friend of economy in the expenditures of Government, but he is like the doctor, who says, my medicine is excellent indeed—take a little of it—you don't know how much good it will do you: but when you ask him to take a little himself, he's off. Now, sir, I should like to see the gentleman willing to take a little himself; if it should be somewhat bitter, others might be more encouraged to make a trial, if they saw the gentleman swallow some before their eyes. One gentleman said he would take \$5 a day, or \$6, or he

would serve for nothing. Sir, I am against that most decidedly. Another gentleman said he would take \$4 a day. My colleague [Mr. CHILTON] was not willing to go quite as far. But a gentleman from Pennsylvania [Mr. INGRAM] says that, whenever gentlemen in this House talk of diminishing the public expenditures, those who are opposed to it have this answer always ready: "begin with yourselves, begin with yourselves," and that it is a mere stave-off. Now, sir, who introduced this subject of the *per diem* allowance? It was my young friend the doctor. He introduced it, and, as it seems, without any consultation with older physicians, who appear not much pleased with the interference—at all events it is here. If, sir, my colleague remains here a little longer, he will find that there will not be so much left, at the end of the session, as he supposes, of that *per diem*. But, sir, reduce the compensation of members very low, and what will be the result? You throw the Government into the hands of the rich. Sir, there is a powerful struggle in every country, and always has been, between the wealthy and the poor; and, if you fix the compensation so low that the poor man must stand back, the plain result will be, that the rich man gets the ascendancy. The wealthy man cares not for money. No, sir; he wants the power. Nor does the poor man wish to come here for the money alone; but, because he is a poor man, he must have some compensation for coming. He wants, at any rate, a sufficient and a comfortable support, while he devotes that time, that otherwise would be given to his family, to endeavor to promote the public good. If you put the rate too low, the Government will be in the hands of the few, before many years roll round. All our laws would be made by the wealthy class. Now, sir, I am not for submitting my rights to rich men exclusively. I was reared in the humbler walks of life, and I have all the prejudices that belong so such an education. I confess to you, sir, that I hate, and always have hated, the influence of the proud and (as the gentleman from Tennessee says) the well-born. I would leave the choice in the hands of the People, and while I would not exclude the rich, I would not lay the People under a practical necessity of excluding poor men from this House. I want to confide my rights to one who knows how the poor man feels; to one who can sympathize with the laborer in his toil. Aye, sir, with the wood-cutter in his lowly cottage, and with that dependent family that surround his little fireside. When such a man is in Congress, he will be able to judge how any proposed measure will operate on all classes of the community, and he will keep constantly before him that great duty of every wise and good legislator, to avert, as far as it is possible, the pressure of Government from those who have to labor hard for a support. I am serious in these views, and it is my fixed belief, that, if you reduce the rate of a member's pay, you thereby endanger the rights of representation. If you reduce the amount of compensation, so as to oblige a man who accepts a seat here to encounter the prospect of ruin, be assured, sir, that, unless the country is in great extremities, however fitted for it, he will be under the absolute necessity of declining the public service.

Although, Mr. Speaker, as I have before said, I do not intend to discuss the Presidential topic upon this occasion, yet, I cannot forbear to notice the manner in which gentlemen have introduced charges against the Administration. My colleague [Mr. WICKLIFFE] said that he did not wish or intend to make any charges against the Administration. Oh, no! he charged them with nothing! So the gentleman from Pennsylvania [Mr. INGRAM] told us, that no charges had been brought. But the gentlemen say, such and such a thing needs explanation, this was wasteful, that was extravagant, the other thing was contrary to law. But, all the while, they make no charges. Now, sir, I do not know what the motive

JAN. 31, 1828.]

*Retrenchment.*

[H. OF R.]

may be, but I appeal to gentlemen's candor to say, whether there can be a more effectual way of destroying character than this? In private life, you may say of an individual, that he is a very clever man, he is very intelligent, very well informed, very agreeable, but, something has been said very much to his prejudice; yet you don't say it. Oh, no! Is not this a more effectual way of destroying the man, than if you made a charge, and let him defend himself? Yes, sir, you may destroy the most elevated character in all the country by this mode of attack. Sir, I should be sorry to believe the gentleman from Kentucky, and the gentleman from Pennsylvania, had such a design. They tell us they make no charges, but—but what? Why, there has been great extravagance in the Diplomatic Corps, and in the Indian Department. And what is the answer? These charges have often been made, and as often refuted; but, if you believe the charge, make your call on the Departments, and let us see where the evil exists. Sir, who wishes to support a corrupt Administration? Who would do it, if he could? I, for one, will never do it. Then, let us use no more delay, but make the inquiry, and have an end of it.

Sir, I could be amused, if it were not for regret at the curious spectacle exhibited by this House. Here we are, in the midst of a violent debate: on one day, two gentlemen get up, and make a very strong argument about a horse. Next day, a gentleman rises in his place, and makes an eloquent speech about one John Binns. All manner of different topics are discussed. Here is my friend from Kentucky distressed, really quite grieved, about a coat. [Here Mr. WICKLIFFE said he had not introduced that subject.] No, sir, the gentleman did not introduce it: So it has been through the whole debate. One gentleman says, I did not introduce it; and another says, I did not introduce it. Sir, we cannot tell who did introduce it. Posterity must be ignorant of it. In the mean while, the resolution has been modified and re-modified, and modified anew. And what is the shape of it now? Sir, I do not believe that there are five gentlemen on the floor that know how it stands; and it scarce contains one of its original features. Let not gentlemen reflect on my colleague [Mr. CHILTON.] I think he has been very accommodating, very polite. When one gentleman says he should like to see it in this form, my colleague adopts this form. Another gentleman rises, and says he should think it would be better if it had that modification. My colleague immediately replies he will adopt that modification. I think, sir, he has shewn a most obliging disposition. In the mean while, all are anxious to get clear of it, yet now we are farther from it, than when we first began. Sir there was nothing so remarkable in my colleague's introducing this resolution. It is certainly not uncommon here for a new member to introduce a resolution, and to make a speech. The speech is made; the resolution is adopted or rejected; and that is generally the last of it. Sir, it is sometimes necessary to make a speech, if not to enlighten this House, at least for the benefit of home consumption—we all do it—and I, for one, am willing, that, when a new member feels inclined to be heard, and wishes to shew his great devotion to the cause of the country, we should suffer him to make his speech, and let the resolution go. But here, sir, we have speeches upon speeches.

In what I have said, sir, I would not be understood to have uttered what I do not feel. The disposition of my colleague [Mr. CHILTON] has been, I am sure, to see this debate ended; and, when I spoke of his indifference to the shape of his resolution, I meant to be understood that he was willing it should take any shape that would bring the debate to an end, and put a stop to this waste of time and money. Sir, I am for it. The resolution cannot assume any shape in which I will not be for it. I concur in the proposal of my colleague, for the appointment of a special

committee, and I would have it composed of such gentlemen as understand money-matters well—your cent percent. men, who are acquainted with business, and know the value of a dollar. So much has been said about extravagance, that really, sir, the People ought to be well informed, in every particular—even down to pen-knives, wafers, &c., about which, allusion has been made by a gentleman over the way, who has thought fit to amuse himself a little at the expense of some of the Kentuckians. But I must make a civil request of him, that he will confine his venue to his own country. It is true, sir, there has been something in the prints about this subject, which occasioned some inquiry into the matter; but I can tell the gentleman, that the People of Kentucky are as little disposed to make a noise about a wafer or a goose-quill, as any People in the United States. I know them well: they are liberal—they are generous. But a statement has been reiterated in their ears, that there is a great abuse here, on the subject of stationery, and they went on this principle, and it is a sound one, that, if abuse does exist, if it be only to the value of a trifle, it ought to be corrected, because it is an abuse. It is not that they want to save a pitiful expense in pens, and wafers, and ink; they are disposed to see a member here furnished with all that is necessary and convenient for the discharge of his public duties, and to make no fuss about it. But they know that little improprieties sometimes lead to great evils. Sir, after saying a good deal against protracting this debate, I discover that I am myself falling into the error I have so much deprecated in others. I will desist with one or two words more. As a citizen and as a member of this House, I appeal to those in whom the People have reposed their highest confidence and particularly to the elder and more distinguished portion among us, for the preservation of the dignity and character of this House, and for the honor of the country, to aid and assist in bringing this discussion to a conclusion.

Mr. LIVINGSTON next addressed the House, as follows: I have never, sir, had the presumption to prescribe my opinions in this House, as a rule for the conduct of others, and have not offered them by way of counsel or advice, so often as, perhaps, my age and experience would have justified me in doing. But, I cannot, on this occasion, avoid expressing the regret, the mortification, the shame, that I feel, at the course this debate (if it may be called one) has taken. I refer to the conduct of no particular member; to no particular member's speech. But the whole course of the discussion, the criminations and recriminations which have characterised it; its desultory nature; the total departure from the object with which it was first introduced; the interchange of sarcasm instead of argument, and personalities instead of decorous debate; are such as cannot but sadden the mind of every member of this honorable body who has not suffered himself to be hurried away by the current of party feeling that has for some days past raged among us. And, if I judge rightly of the honorable feelings of those who have, will fill even them, with regret, when time has been given them for reflection. In the mean time, sir, what is the spectacle we present to the eyes of our constituents, and of the world? One, sir, that I should give offence were I to characterise it by the terms which it deserves. The warmth of debate—the recrimination which it sometimes produces, are evils, but unavoidable evils: they grow out of that free discussion which is necessary to the nature of our Government. It is not of these that I complain. It is the cause which has elicited these heats—the forgetfulness of what is due to ourselves, to the august body of which we are members, to the great duties we are delegated to perform, that has induced me to address you, in the hope of arresting this useless, undignified, and dangerous debate. We sir, each of us individually representing the interests of forty thousand of our fellow-

H. of R.]

*Retrenchment.*

[Feb. 1, 1828.]

citizens, collectively a co-ordinate branch of the Government, superior in power, equal at least, in dignity, to any other, having important duties to perform—we, sir, forgetful of our high functions, and of the dignity of the House to which we belong, have condescended to assume the livery of party, to arrange ourselves as the partizans of our equal, who is at the head of another branch of the Government, or of a private individual, who is a candidate for that place—to attach to ourselves, or to our opponents, the most degrading of all badges, that of being designated by their names. And here, sir, in the Sanctuary of Legislation, arranging ourselves into two parties, distinguished by a reference to the ensuing election, converting this Hall, destined for the convocation of the Legislative Representation of the People, into a hustings, where the one candidate is to be lauded, and the vilest trash of the vilest newspapers is to be repeated, to calumniate the other. I, for one, sir, will not consent to this. I am not a Jackson man; I am not an Adams man: (since I must repeat these undignified terms) I am a Representative of the People! And, proud of that title, will not vify it, by putting on any man's livery. As a citizen, I have my preference, which I have always avowed, and will never conceal. But here I was delegated for other and higher duties; and I consider it a question of much less importance, whether one or another individual shall perform the functions of another branch of the Government, than it is whether we shall perform our own with fidelity and dignity.

I pray gentlemen who may be inclined to continue this debate, to consider that we have already more than one hundred bills on the Orders of the Day; that these subjects for consideration are increasing daily by new reports. I pray them to reflect that all this is suffered to accumulate, while we are wasting our time, spending the treasures of the Nation, wearing out the patience of petitioners for our justice, disappointing the just expectations of our constituents, lessening our own dignity, injuring the character of the body to which we belong, and through it, that of our Republican institutions, in this useless war of words—and all, Sir, for what? Should we reciprocally succeed in destroying the characters of the only two men whom the People have thought worthy to point out as fit for the high office of their President, what shall we have gained? One of them must be chosen. Is it the interest of the losing party that he should come there loaded with obloquy and abuse? Will that render his Administration impartial, or make us united at home, or respected abroad? I put out of view any advantage arising from the resolutions should they be carried; that has been long lost sight of; they are scarcely ever alluded to. Indeed, to listen to the discussion, one would think that they had been already adopted; that the inquiry had been made, and had resulted in certain accusations against each of the candidates, which their respective accusers and advocates were endeavoring to enforce or repel. Thus, in the eagerness to charge and defend, have we reversed the usual mode of proceeding: and, if a professional expression may be pardoned, are trying the cause before the issue is joined. What, again, can either party hope for from this vast expense of time and money, of duty and reputation? What can they hope for? Admit the degrading idea, that we are the partizans of the two candidates, and that this is the arena in which the contest between them is to be carried on, what is to be the consequence? What, I repeat, can either party hope to obtain? Does any man expect that this war of mutual crimination, this unprofitable contest of trying which shall do the other the greatest harm, will do good to either? Depend upon it, not. No, sir, my earnest advice to my friends would be to remain silent. Not to reply to charges that must defeat themselves; not to make any which, if true, will be attributed to party

spirit; to pass the resolutions, since they are before us, and reserve our denunciations against extravagance and abuses until facts are reported which may support them; to leave the Presidential Election to the People; as individuals belonging to that People, to exercise our rights, express our opinions, and give all the information we may possess to our fellow citizens out of this House, to enlighten them in their choice; but here to confine ourselves to the business which has been entrusted to us—make laws, correct abuses, impeach offenders. But, on a mere question of reference to a committee which (of whatever nature) usually passes without debate, let us place some limits to the scope of our remarks. Hitherto they have left no topic untouched, from the tariff to the humblest newspaper slander. Nothing has escaped the unusual press warrant that has brought every subject into the service. I could have wished, with the honorable gentleman from Virginia, [Mr. RANDOLPH] whose sagacity foresaw the consequences of this motion, that it could have been laid on the table. Now it is too late; we must now pass the resolutions, wait for the report, and judge according to the evidence; we shall then assume our true character, and, if we must be partizans, the term will then imply no dishonor: for we shall be partizans, not of men, but of the truth. I entreat, then, in the name of the People, whose business is neglected, and whose passions, already too warm, will be further excited by this debate, that it may at length be brought to a close, and that the question may be suffered to be taken.

After a vain attempt to terminate the debate, by a resort to the previous question, the House adjourned.

FRIDAY, FEBRUARY 1, 1828.

The resolutions of Mr. CHILTON, together with the amendment of Mr. BLAKE, (as proposed to be modified by Mr. DORSEY) being again under consideration—

Mr. EVERETT said, he begged leave to return his sincere thanks to the House for according to him the indulgence of an adjournment. At this stage of the discussion, (said Mr. E.) nothing but physical inability to proceed should have induced me to ask this indulgence. I will now endeavor to requite it, by the only means in my power: that is, by introducing no matter into the debate, which shall have a tendency to protract it. I took the liberty, yesterday, to observe, that, when a motion was made by the gentleman from Virginia, [Mr. RANDOLPH] to lay the resolution on the table, I voted in the affirmative upon that question. I did so, thinking I foresaw the character of the debate which was likely to arise, if the resolution remained before the House. To a resolution for inquiry, of this nature, I could have no objection, except that of some little crudity in form, which has been objected to this resolution on every side of the House. With that exception, and could it have passed without debate, I should cheerfully have voted for it.

The House was not pleased to make that disposition of the resolution. The debate has been pursued; and the ground, in my judgment, has entirely shifted beneath our feet. It is not now an inquiry into the practicability of retrenchment, with a view to the more rapid payment of the public debt. I do not say that no allusion to this matter is left in the resolution; it may remain there in form; but, the substance is changed. The topic now put forward, is the expenditure of the contingent funds, particularly, that for foreign intercourse; and taking the debate as an indication of the character of the resolution, it is one of general crimination of the measures of the Administration.

I cannot, therefore, agree with the gentleman from Pennsylvania, [Mr. INGRAM] that the subject-matter is not changed, but merely enlarged. About forms, I repeat, Sir, I will not contend; but I submit it to the judgment of the House, whether the substance has not under-



FEB. 1, 1828.]

Retrenchment.

[H. OF H.]

gone an entire change. Neither can I agree with him, that it is the friends of the Administration who have first given a partisan character to the debate. The gentleman has specified my honorable friend from Indiana, [Mr. BLAKE] as having been the first to give it this character. For two or three days, the discussion was not strongly of that description. The resolution, I believe, was first debated on Tuesday of the last week, and on Friday, for the first time, if I have correctly watched its progress, the gentleman from Virginia, [Mr. FLOYD] with a force and pungency almost peculiar to himself, introduced into his address to the House, a number of the topics of accusation, which have been most earnestly pressed against the Administration. When the gentleman from Indiana took the floor, he stated, (with perfect justice, as I thought,) that such had been the course of the gentleman from Virginia, and that he felt himself called on now to meet the question on that ground. I mention these things, not by way of complaint, but as matter of fact. Since then, the friends of the Administration have entered, but only on the defensive, into the debate—a debate, of a character, I freely confess, seriously to be deprecated; not because the friends of the Administration fear the strictest inquisition that can be made, but because it leads to waste of time; sacrifice of the public, and postponement of private interests.

I again beg leave to observe, that I am friendly to inquiry, in any and every form—I care not with what severity and strictness it be instituted. I know that all human establishments (especially so vast and complicated an establishment as that of a Government,) are liable to abuse. I am willing to admit, on these general principles, that there may be abuses in the Government as at present administered, although they are as likely to be abuses of restriction, as of extravagance; especially as the one generally leads to the other. Ill-timed and misplaced reduction often leads, in the end, to more lavish expenditure; and a judicious expenditure, (a memorable instance has been lately stated to this House in relation to the Post Office,) as often proves to be true economy. But, retrenchment is a popular theme, and the pruning knife has sometimes been so fully applied to our establishments, that their vital sap has flowed out of the wounds. Still, however, Sir, I would never oppose an inquiry into the abuses that may exist; and whether they be those of redundancy or deficiency, I am equally ready to apply the remedy.

Permit me to make one other general remark. The gentleman from Tennessee [Mr. BELL] in his liberal and eloquent address to the House, made a remark, which he justly offered as sound in itself, however paradoxical in its terms, that there were states of things, in which that which is naturally the health and strength of a People becomes a source of decline and decay. The gentleman applied this wise remark to a profuse expenditure of public money. There is another application of it, which seems to me to be equally just and pertinent. This branch of the Government—the Legislative branch—is, has been, and ever must be, the great centre of power in the Republic. It is the heart of the political system, out of which all life and power, as they have been imbibed from the People, must flow back, through the various channels of administration, to them. There are, however, other branches of the Government, which cannot be dispensed with for the public good, and these must be upheld, in their proper spheres and functions. Now, sir, if the tremendous power of this House be brought to bear unduly and disproportionately on other branches of the system; and especially if it be put into an extra-legislative action, (by which I mean an action wholly disconnected from its functions, either as a branch of the Legislature, or the grand inquest of the nation,) then, also, what is naturally our strength and safety, becomes a source of weakness, decay, and ruin.

I have already observed, that the prominent point of the inquiry, as now before the House, has become the foreign service of the country, and the expenditure of the funds appropriated for defraying its expense. The resolution puts forward that as the leading topic, and, in its very terms, (and this objection, I must confess, applies also to the amendment as modified) gives a character to the mode in which that part of the service has ever been administered, unwarranted by the Constitution, the law, and the usage under it. We are to enquire into the amount of the sums paid out of the contingent fund for foreign intercourse, and settled at the Treasury without specification; and also into the amount paid out of the same fund, and settled at the Treasury, in the usual mode, according to law. So it seems that there are two kinds of settlements—one usual, and according to law; the other by specification, and impliedly neither usual nor legal.

This, Sir, is an important topic. The foreign service of the country is an exceedingly responsible branch of the public service. Unless we adopt the Chinese policy, we cannot but stand, in relations with foreign nations, highly important to the welfare and prosperity of the country. In peace, we stand in the relation of an extended and profitable commercial intercourse, depending upon its prosperity, to a good degree, on the character we sustain abroad. When peaceful relations give way to war, its duration depends not a little on the character with which we embark in it. The estimate which other nations form of our character, is affected by the manner in which we are represented abroad. The subject of our foreign intercourse is not, therefore, to be too lightly dealt with. It is one for which the Constitution and laws of the country have made peculiar provision—a provision, as I conceive, overlooked or misstated by the terms of the resolution.

By the Constitution of the United States, it is provided, that the President “shall nominate, and, by and with the advice and consent of the Senate, shall appoint, Ambassadors, other Public Ministers, and Consuls.” Over the exercise of this power, no control is given by the Constitution, to Congress: nor have they undertaken to exercise any other, than that of limiting the compensation to be allowed to such officers for their services, and the expenses incurred by them in the discharge of their duties. How, then, was this provision of the Constitution reduced to practice, in the original organization of the Government? In his speech at the opening of the second session of the first Congress, President Washington brought the subject before the two Houses, in the following terms:

“The interest of the United States requires that our intercourse with other nations should be facilitated: by such provisions as will enable me to fulfil my duty in that respect, in the manner in which circumstances may render most conducive to the public good; and to this end, that the compensations to be made to the persons who may be employed, should, according to the nature of their appointments, be defined by law; and a competent fund designated, for defraying the expenses incident to the conduct of our Foreign Affairs.”

With the subject thus presented to them, what did Congress do? Did they pass a law creating such and such missions? No, sir. Did they appropriate sums of money for such and such salaries and expenditures? No. The law passed is brief, and, bearing strongly on this and other matters of interest, I beg leave to cite it. It bears date first of July, 1790:

“*Be it enacted, &c.* That the President of the United States shall be, and he is, authorized to draw from the Treasury of the United States, a sum not exceeding forty thousand dollars, annually, to be paid out of the moneys arising from the duties on imports and tonnage, for the support of such persons as he shall commission to serve the United States in foreign parts, and for the expenses

H. of R.]

Retrenchment.

[Feb. 1, 1828.]

incident to the business in which they may be employed. *Provided*, That, exclusive of an outfit, which shall, in no case, exceed the amount of one year's full salary to the Minister Plenipotentiary or Chargé des Affaires, to whom the same may be allowed, the President shall not allow to any Minister Plenipotentiary a greater sum than of the rate of nine thousand dollars per annum, as a compensation for all his personal services, and other expenses; nor a greater sum for the same, than four thousand five hundred dollars per annum to a Chargé des Affaires; nor a greater sum for the same, than one thousand three hundred and fifty dollars per annum to the Secretary of any Minister Plenipotentiary. *And provided, also*, That the President shall account, specifically, for all such expenditures of the said money, as, in his judgment, may be made public, and also for the amount of such expenditures as he may think it advisable not to specify, and cause a regular statement and account thereof to be laid before Congress, annually, and also lodged in the proper office of the Treasury Department.

"Sec. 2. *And be it further enacted*, That this act shall continue and be in force for the space of two years, and from thence, until the end of the next Session of Congress thereafter, and no longer."

There is one phrase in the law to which I invite the particular attention of the House, ("as he shall commission")—a phrase throwing light on questions not long since much agitated here and elsewhere. There were those, who took great alarm at the use of the expression to "commission," when employed by the President of the United States, to indicate one of the Executive functions in the appointment of a foreign Minister. They probably did not advert to the fact, that the President made use of no other language than that of the earliest legislation under the Constitution, and meant no more than the law meant, by the same expression.

The next law on the subject was passed 9th February, 1793. It continued the act of July, 1790, for another year, and thence to the end of the next session of Congress thereafter, and amended it to the following effect:

Sec. 2. *And be it further enacted*, That, in all cases where any sum or sums of money have issued, or shall hereafter issue, from the Treasury, for the purpose of intercourse or treaty with foreign nations, in pursuance of any law, the President shall be, and he hereby is, authorized to cause the same to be duly settled, annually, with the accounting officers of the Treasury, in the manner following, that is to say: by causing the same to be accounted for, specifically, in all instances wherein the expenditure thereof may, in his judgment, be made public, and by making a certificate or certificates, or causing the Secretary of State to make a certificate or certificates, of the amount of such expenditures as he may think it advisable not to specify; and every such certificate shall be deemed a sufficient voucher for the sum or sums therein expressed to have been expended."

This is the first full enactment of the mode of settlement by certificate, or without specification, although the elements of the provision exist in the law of 1790.

By the law of March 20, 1794, the large sum of one million of dollars was appropriated, in addition to the annual forty thousand dollars, to defray any expenses which might be incurred, in relation to the intercourse between the United States and Foreign Nations; to be applied, under the direction of the President, who, if necessary, was authorized to borrow the money; and an account of the expenditure, as soon as might be, was to be laid before Congress. This large appropriation was designed to meet the expense of a treaty with Algiers.

Several similar acts were passed, at subsequent sessions of Congress, till, on the 10th of May, 1800, a law passed, giving to the legislation on this subject a somewhat modified form. This law is entitled "An act to as-

certain the compensation of Public Ministers." It contains no appropriation. It re-enacts the former limitation upon the compensation of Ministers Plenipotentiary, Chargé des Affaires, and the Secretaries of Ministers: the second section directs, that, where any sum of money shall be drawn from the Treasury, under any law making appropriation for the contingent expenses of intercourse between the United States and Foreign Nations, the President shall cause the accounts to be settled by certificate, as prescribed by the act of 9th February, 1793; omitting the substitution of the Secretary of State for the President. This year, for the first time, the appropriations for the expenses of intercourse with Foreign Nations, were transferred to the act making appropriations for the support of Government, for the year 1800. Besides several large specific items, fifty-two thousand dollars were appropriated, in addition to the annual forty thousand.

In May, 1810, an act was passed, fixing the compensation of Public Ministers, and of Consuls to the Barbary States. By this law, the compensation of a Minister, and Chargé des Affaires, was fixed as before; that of a Secretary of Legation, at two thousand dollars, &c.; and it was provided that it should be lawful for the President to allow to a Minister Plenipotentiary, or Chargé des Affaires, on going from the United States, to any Foreign Country, an outfit, which shall, in no case, exceed one year's full salary of such Minister or Chargé des Affaires; but no Consul shall be allowed an outfit, in any case whatever, any usage or custom to the contrary notwithstanding. The third section of this law was the same, *verbatim*, with the second of the law of 1800.

Up to this time, the appropriation acts had contained one item, viz: for the expenses of foreign intercourse. From 1810 to 1814, there were two items of appropriation, one for the expenses of foreign intercourse, and one for the contingent expenses of foreign intercourse. The first of these sums was applied to pay the salaries of the Ministers, Chargé des Affaires, and Secretaries; the second was placed entirely at the discretion of the President, to discharge contingent expenses arising from the foreign intercourse, as he should think just and equitable.

In the general appropriation act of 1814, the item which, till then, had been expressed in general terms, for the expenses of foreign intercourse, was made more specific—"for the salaries, allowances, and contingent expenses, of Ministers to Foreign Nations, and of Secretaries of Legation;" after which was added the other item, for the contingent expenses of intercourse between the United States and Foreign Nations.

In April, 1818, the general appropriation bill contained one item for the salaries of Ministers at the several Foreign Courts, specified by name, and their several Secretaries of Legation; an item for two outfits of Ministers, to London and St. Petersburg; an item for the contingent expenses of all the missions; an item to provide for the deficiency in the appropriation of the preceding year; and the usual item for the contingent expenses of foreign intercourse. Similar specifications have been made in all the annual general appropriation bills, since that time.

From this view of the legislation of the subject, it appears that, originally, the whole fund for foreign intercourse, and, since 1814, the sums appropriated for the contingent expenses of foreign intercourse, have been placed entirely at the direction of the President. And, further, that a settlement, by certificate, without specification, is coeval with the Government, and in conformity both with usage and law.

I have been induced to make these statements, not merely for the sake of a better understanding of the point, in the resolution, on which it bears, but also in order to prepare the way for a satisfactory answer to some

FEB. 1, 1828.]

*Retrenchment.*

[H. or R.]

of the charges made against the President of the United States, relative to the accounts of his compensation and allowances, as a Foreign Minister. This is a subject on which I enter with some reluctance; it is not, perhaps, of the class which I should select to discuss on this floor. It does not belong, strictly, to this debate; but it has been introduced, on the present occasion, with strong emphasis; and to the effect, no doubt, of giving sanction to what is said more at large on the same topic elsewhere. This is an important point: for the allegations have extended not merely to a charge of extravagance, but of illegality, and even fraud.

High salaries are, I know, a popular subject of comment, and, as those of the Foreign Ministers are, with a single exception, the highest paid under the Government, it is natural that they should be obnoxious to complaint. But, sir, it is an undoubted truth, that, high as they may be thought, great as their aggregate may seem, for the service of a long series of years, they are yet too small; and, but for the extra allowance by which they are eked out, would be wholly inadequate to their object. It is not long since that a most respectable member of Congress, opposed to the Administration, expressed to me his concurrence in this opinion, and his willingness to join in raising them. I speak of the salaries of the three most expensive missions—to London, Paris, and St. Petersburg. It is a sufficient confirmation of the truth of this remark, that the compensation of Foreign Ministers is smaller, by one-fifth, than it was in the Revolutionary war. It was then fixed at two thousand five hundred pounds sterling, with an allowance of expenses. We are told, by a gentleman from Virginia, [Mr. Florn] that he approved the Republican simplicity in which a Franklin and a Livingston lived, at the Court of France. Dr. Franklin's simplicity was kept up, for about eight years and a half, at an aggregate expense of one hundred and twenty-two thousand dollars, (money being then twice as valuable as now,) and Chancellor Livingston, as I am informed, during his short residence at Paris, in addition to his allowance from the Government, sunk an estate of one hundred thousand dollars. I repeat it, sir, that, but for the extra allowances, it would be impossible for our Ministers, at the Courts I have named, to remain and support themselves; and the weight of necessary expenditure over the utmost allowance, has, to many of them, proved the cause of utter ruin. It is not necessary that I should specify the names of the living or of the dead.

Another remark, Mr. Speaker: The allowances to the President, be they great or small, were the acts of other Administrations—of the Administrations of Messrs Madison and Monroe. Mr. Adams had nothing to do in establishing the offices, fixing the compensation, or seeking the employment. For a third of a century passed in the public service, he never, neither himself, nor his friends for him, with his knowledge, nor without his knowledge, that I am aware of, solicited any office. The compensations and allowances to the Foreign Ministers were fixed by General Washington, under the limitations of acts of Congress, and were paid to Mr. Adams, as they had been paid to his predecessors.

Farther, sir, Mr. Adams had nothing to do with auditing his own accounts, or controlling the settlement of them; although this has been alleged, out of doors, and intimated, as I think, in this debate. The standing instructions to our foreign Ministers, require them, once a quarter, to make up and transmit an account to the Treasury. This was done by Mr. Adams; and in all his accounts there was but one item which the accounting officers of the Treasury declined settling themselves. That one item was referred to the President, by Mr. Adams, while Secretary of State; and, on legal advice, ordered by the President to be settled. To this I

shall presently recur. With this exception, Mr. Adams had no more to do with the settlement of his accounts than you had, Mr. Speaker. He could have no more to do with it, if the officers of the Treasury were faithful to their trust.

I will add, sir, that, taking into consideration the number of years passed by Mr. Adams in the foreign service; the nature of his appointments; the variety and importance of the missions with which he has been entrusted, in whole or in part, no foreign Minister has received less than he; while many have received more. For the four years and eight months, commencing in 1812, when the first question of his accounts arises, and ending at his return, he received, in all, about \$75,000. For a like term, Mr. Monroe received \$83,000; for one year and eleven months, Mr. Pinkney received \$41,000.

To place this matter in a clearer light, permit me, sir, to enter into some detail. In July, 1809, Mr. Adams received his appointment as Minister to Russia, with the usual salary and outfit, and repaired with his family, to St. Petersburg: a residence, I believe, as expensive as any in the world. No exception, as I understand, is taken to any thing in his accounts, till the commencement of the mission for the negotiation of peace under the mediation of the Emperor of Russia. This mediation was offered in the Fall of 1812, through the agency of Mr. Adams; and I believe it is not too much to say, that it was mainly owing to the favorable impression of the American character conceived by the Emperor Alexander, during the mission of Mr. Adams, that the offer was made. This offer was accepted by the American Government, and, in April, 1813, a commission was sent to Mr. Adams, jointly, with Messrs. Gallatin and Bayard, to negotiate the treaty with Great Britain, under the proffered mediation. The Secretary of State, under Mr. Madison, on informing him of his appointment, in conjunction with the other gentlemen, said, "as you will all be exposed to considerable expense, an outfit has been allowed to each." It may here be observed, that, in employing, as one of the three negotiators, the resident Minister at St. Petersburg, a saving of \$9,000 accrued to the Government. The outfit alluded to was allowed and paid, at the time, to Mr. Adams.

Messrs. Bayard and Gallatin arrived at St. Petersburg in July, 1813. The Emperor was absent on the eventful campaign against the French; but the conferences of the Commissioners were opened with Count Romanzoff, Chancellor of the Empire. The expenses which the outfit was intended to cover, incident to the arrival of a new mission, actually accrued to a considerable extent, and were incurred the more freely by Mr. Adams, for the very reason that he had been allowed and paid an outfit for that purpose. England, however, it is well known, refused to accept the mediation of the Emperor, and the mission under it closed, by the departure of Messrs. Bayard and Gallatin, in January, 1814. Mr. Adams was then left as the resident Minister at St. Petersburg.

In refusing to negotiate under the mediation of Russia, Great Britain offered to treat directly with the United States, at Gottenburgh or London, and this offer was accepted. Mr. Adams was appointed, in joint commission with Messrs. Bayard, Clay, and Russell, to whom was afterwards added Mr. Gallatin, to negotiate for peace at Gottenburgh. Mr. A. received this commission at St. Petersburg, in April, 1814, with the instructions to repair to Gottenburgh. His commission as Minister to St. Petersburg still remained in force, and he was directed to leave Mr. L. Harris, as charged with the affairs of the Legation during his absence. Of his family, he had with him at that time, at St. Petersburg, his wife, in very ill health, and a son under seven years of age. In travelling from St. Petersburg to Gottenburgh, it was necessary to go by water passage, upon the Gulfs of Finland

H. OF R.]

*Retrenchment.*

[FEB. 1, 1858.]

and Bothnia, or by crossing five passages, from ten to fifty miles in extent, over the islands of the latter of those Gulfs—which passages, at that season of the year, by the breaking up of the ice, were rendered impracticable, and were, at their first opening, extremely dangerous.

There was little expectation, in any quarter, that the negotiation would be successful; and there was every reason, on the part of Mr. Adams, to believe, that, after a short absence, he would be obliged to return to St. Petersburg. He therefore left his family and establishment there, which continued at nearly the same expense as before. Taking passage by water at Revel, in the first vessel which sailed, after the breaking up of the ice, and after repeated delay and detention, and great risk, from the same cause, Mr. Adams arrived at Stockholm on the 25th of May. He there learned that an arrangement had been made by Messrs. Bayard and Gallatin (who were in London) with the British Government, by which the seat of negotiation had been transferred from Gottenburgh to Ghent, in Flanders. An American sloop of war was then at Gottenburgh, having, as a cartel, conveyed Messrs. Clay and Russell to that place. It was ordered to the Texel, there to await the further direction of the American Ministers. Mr. Adams accordingly proceeded to Gottenburgh, embarked with Mr. Russell on board the vessel, landed from her at the Texel, and thence proceeded by land to Ghent, where he arrived on the 24th June. Six months from that day, on the 24th December, 1814, the Treaty of Peace was signed.

For this Mission to Gottenburgh and Ghent, Mr. A. never (as has been alleged) received either salary or outfit. And yet it was a mission different in its locality and the expenses incident to it, from that under the mediation. The outfit for the latter was not intended to cover, and could not cover, the extra expenses for the former. Accordingly, Messrs. Gallatin and Bayard, each of whom had received an outfit and the expenses of their conveyance to St. Petersburg, on the mission of the mediation, were yet allowed all their travelling expenses from St. Petersburg to Ghent. On the same principle, and on the established precedents in the cases of Mr. Thomas Pinckney, in 1795, and Mr. Monroe, in 1805, who were allowed all the extra expenses of their Mission to Spain, while they retained their commissions and salaries as resident Plenipotentiaries in London, Mr. A. retaining his commission at St. Petersburg, was allowed, in addition to his salary as Minister there, the necessary expenses incident to the mission extraordinary to Gottenburgh and Ghent. The reasonableness of the allowance to them was never doubted. In Mr. Monroe's case, it received the direct sanction of Congress, not two years ago. It could not be more questionable in the case of Mr. Adams. Those gentlemen had to provide for their families in their absence: Mr. Adams was compelled to leave his at St. Petersburg, with a necessary continuance of almost all the expenses of his establishment. The extra expenses incurred were, therefore, fairly chargeable upon the extra service. The period during which this service continued, including the negotiation of a commercial convention with Great Britain, was fifteen months, from April 26, when Mr. A. left St. Petersburg, to 3d July. But the charges made by him, and allowed to him, were confined to the period from his departure from St. Petersburg to the time when his family joined him at Paris, about eleven months.

Mr. Adams had been informed by the Secretary of State, at the time he was appointed on the mission, under the mediation of the Emperor of Russia, that, in the event of the conclusion of peace, it was the intention of President Madison to nominate him as Minister to London. He accordingly repaired to Paris, and directed his family to join him there, with a view to receiving the order of

the President either for his transfer, or his recall to America. They arrived at Paris, March 20, 1815. On the 7th of May, he received a letter from the Secretary of State, informing him of his appointment as Minister to London. This was in the midst of the period in France which has been called the Hundred Days; between the arrival of Napoleon from Elba and the battle of Waterloo. The ordinary communications between France and England were interrupted; and the passage of Mr. A. and his family to the latter country was attended with difficulty and delay. He arrived in London on the 15th of May, 1815, and the next day received his commission and Credential Letters to England, and letter of recall from Russia.

According to the rule adopted, as early as the Administration of General Washington, Mr. A. would have been authorized to consider his Mission as Minister Plenipotentiary to the Russian Government as terminating on the day on which he received his letter of recall. He might, also, on the same rule, have charged his extra expenses to the account of the joint commission for negotiating the commercial convention with Great Britain. He, however, considered his mission to St. Petersburg as terminating when the expenses incident to it terminated, viz: the arrival of his family at Paris, and regarded the special mission for negotiating a commercial convention as merged in that of Minister Plenipotentiary to England, for which he received a full outfit. Accordingly, from the 20th of March, 1815, he made no charge, and received no allowances for the expenses of a special mission. His colleagues received, for their part, in the service of negotiating the commercial convention of July 3, 1815, each a half outfit. Mr. A. has received no corresponding allowance.

In this way, the time for which Mr. Adams was allowed the necessary expenses of the special mission to Gottenburgh and Ghent, is reduced to between ten and eleven months—about the same space of time which was occupied by the special Mission to Spain of Mr. T. Pinckney, in 1795, and Mr. Monroe, in 1804-5. The allowance to those gentlemen for their expenses, was, to Mr. Pinckney about nine thousand dollars, and to Mr. Monroe upwards of eleven thousand dollars. The whole amount of expenses allowed to Mr. Adams, was \$6,385—less than was ever claimed or allowed in any parallel case, since the foundation of the Government.

Of the Ministers of the United States to Europe, who have been employed at the same time, upon several distinct, important, and expensive missions, there is no one whose case approaches so nearly to that of Mr. Adams, as that of the late President, Mr. Monroe. Each was employed on four distinct missions, in three different countries, for a length of time within forty days the same. The allowances to Mr. Monroe, (prior to the act of Congress of May, 1826, by which he received ten thousand dollars more, with interest for sixteen years, as an allowance for detention at London) were \$82,000; those to Mr. Adams, \$75,000. Omitting fractions in both cases.

The case of Mr. Monroe is worthy, in this connexion, of the more particular attention of the House. He went to Europe in 1803, with three commissions—one as Minister resident in England, one as Joint Commissioner with Chancellor Livingston, in France, and a third as Joint Commissioner with Mr. Pinckney, in Spain. He was, on his departure, allowed an outfit as Minister to England, but was told that he could not be allowed it as Extraordinary Minister to France. He sailed for this last country in the Spring of 1803, passed a few weeks there in negotiating, in conjunction with Mr. Livingston, and went over to England. After his return to America, he claimed an outfit to France, and was allowed it by President Madison, 5th May, 1810, four days after the passage of the law of 1st

FEB. 1, 1828.]

*Retrenchment.*

[H. or R.]

May, 1810, which is alleged to limit the allowance of outfits to Ministers going from the United States. These two outfits accrued to Mr. Monroe in the space of four months.

The next year he went to Spain, on his special mission, and was gone about nine months. For his expenses on this mission, he was allowed \$11,000, in addition to his regular salary as Minister at London. It is true that a small part of this allowance was for expenses not strictly personal to himself. It was Mr. Monroe's intention to return to America in 1805, but the aspect of our negotiations making it expedient that he should continue at London, he was instructed by the President to remain there, which he did for two years longer, during which time he was associated in a negotiation with Mr. Pinckney. This detention occasioned to Mr. Monroe increased expenditure, although his residence was not changed. For this increased expenditure, he claimed an allowance, on the settlement of his accounts in 1810. This allowance was suspended by Mr. Madison; and, for obvious considerations, was not subsequently brought forward by Mr. Monroe, till the close of his administration. He then submitted it to Congress. It was examined by them at two successive sessions, under the auspices of two select committees, at the head of which was placed the gentleman from Pennsylvania, [Mr. INGHAM.] The equity of the claim was allowed; a bill was introduced by the gentleman, allowing, among other items, about \$10,000 for this two years' detention, with interest down to the present time: a sum more than equal, without interest, to a third outfit in three years. I voted with the gentleman throughout, on the passage of this bill, believing the claim just and equitable, but without the least conception that I might ever wish to make use of it as a precedent: for I did not at that time know that any thing in the President's accounts had been subject to exception.

Thus did Congress, by a special act, make to Mr. Monroe an allowance more than equal to a third full outfit, with interest for sixteen years, notwithstanding he had already received greater compensation and allowances than those paid to Mr. A. for the same services during an equal period.

One word more as to the outfit for the mission under the mediation, before I pass from this subject. It ought, in the first place, to be observed, that the practice of allowing a full outfit to a resident Minister abroad, when commissioned on a new mission, was first introduced by Mr. Jefferson. Mr. Adams, when appointed by President Washington to Lisbon, (being *Chargé d'Affaires* at the Hague) had but a half outfit, and when transferred by President Adams to Berlin, had also but a half outfit. On the same rule, when Mr. Vans Murray was by President Adams appointed on the mission to France, jointly, with Messrs. Davie and Ellsworth, he was told, by order of President Adams, that a half outfit only would be allowed him. On his return home, under Mr. Jefferson's Administration, he was allowed and paid a full outfit. And the precedent then established, has since been pursued in like cases.

With respect to the outfit allowed to Mr. Adams in 1813, it was, by Mr. Madison's order, allowed and paid to Mr. Adams out of a fund entirely at the disposal of the President, on the ground of the additional expenses to be incurred, and in conjunction with his colleagues. At the next session of Congress, among the estimates from the Treasury, was one for three outfits which had already been allowed and paid out of the contingent fund for foreign intercourse. Instead of the amount of these outfits, Congress appropriated a sum equal only to two and a half; so that \$22,500 only, instead of \$27,000, were replaced to the contingent fund. Mr. Adams was accordingly called on to refund one-half of the outfit, which he had been allowed and paid by President Madison, and which he had

received and in part expended. This he declined to do; and owing to this item, his accounts remained for some years unsettled. Living under a government of laws, and supposing he was entitled to their protection, he requested the officers of the Treasury to institute a suit against him, in order that, if a judicial tribunal decided in favor of the allowance, it might be made him: and prepared, if otherwise, to acquiesce. This, however, the Treasury declined doing. When the provision was introduced into the law, stopping the salaries of all officers in arrears to the Government, Mr. Adams appealed to the President for his decision. The President took the official advice of the Attorney General. This officer decided that the claim was undoubtedly valid, and it was allowed and paid accordingly. The opinion of the Attorney General may be found, Documents 1st Session 19th Congress, vol. x. doc. 167.

Another subject has been brought into this discussion by a gentleman from North Carolina, [Mr. CAMERON] on which I shall, with great reluctance, say a few words. He says that he was astonished that the Administration, after receiving 14,000 dollars in the Spring of 1823, for furnishing the President's House, should, at the next session of Congress, ask for 25,000 dollars. Sir, when, in the Spring of 1823, the usual appropriation of 14,000 dollars was made for furnishing the President's House, (which had never been entirely furnished) it was in respect to furniture, in a forlorn and destitute state. The appropriation of 14,000 dollars was accordingly almost wholly expended in articles of daily household utility. In the course of the session, a motion was made for a committee to inquire into the expediency, at that time, of finishing and furnishing the public buildings. As far as the President's House was concerned, this motion had especial reference to the large Eastern Room, which had never been furnished. This motion, I take leave to say, was made without any knowledge or agency on the part of the occupant of that house, or any of his family. The committee, thus raised, went to the President's House, to satisfy themselves, by actual inspection, of its situation, in respect to furniture. Though one of the committee, I was myself prevented by illness from attending to that duty. They found, of course, the large room empty, with the exception of a few chair frames, without seats; and in every part of the house a want of furniture, required, not for elegance and luxury, but for comfort. They then directed two artisans to examine the premises, and estimate the expense of furnishing them. For the large room two estimates were given in, one amounting to 20,000 dollars, and the other to 16,000 dollars; while the only estimate for the residue of the house was 10,000 dollars. The committee reported a gross sum of 25,000 dollars, to furnish the Eastern room, to supply the deficiency of furniture in other parts of the house, and to make some slight repairs. In this estimate, neither the President of the United States nor any member of the family, had, directly or indirectly, the least agency. The gentleman, therefore, is wholly mistaken, in saying that the Administration asked for this new appropriation.

When the bill was before the House, the gentleman from North Carolina (I think) moved to strike out the sum of 25,000 dollars. No friend of the Administration said a word in favor of retaining it. On the contrary, a gentleman from Ohio [Mr. BAZZEE] made a motion to reduce it to 5,000 dollars. A gentleman from Georgia, now its Governor, [Mr. FOSBERT] opposed the motion of the gentleman from North Carolina on the ground that, though it was mistaken policy, (in which I entirely concur with him,) to provide the President a lodging at the public expense, yet, that, having done so, it ought to be decently furnished. Another gentleman, also in opposition, [Mr. CAMERON] expressed the same sentiment, and the appropriation was retained.

H. or R.]

Retrenchment.

[Feb. 1, 1828.]

Notwithstanding the mode in which this took place, a mighty clamor against the President arose throughout the country. The estimates of the upholsterers were diffused through the Opposition press. The hard, suspicious, French names of furniture, employed by these artisans, were found significant of corruption; and it was declared to be the affair of the President and his political friends. Sir, no man is above public opinion; and no matter is so small, that it may not furnish a sufficient fulcrum for moving the greatest masses. The odium excited by this small matter was intense; and, yielding to it, I did, at the next session of Congress, move to reduce the appropriation from 25,000 dollars, (for not a cent had been drawn from the Treasury) to 6,000 dollars; a sum adequate to pay for what had already been bought or contracted for. The friends of the Administration in the House were blamed for yielding to that clamor: but whoever will revert to the famous letter in the *Richmond Enquirer*—a gross fabrication from beginning to end, but artfully calculated for effect—and take this in connexion with the outrageous clamor which pervaded the country on the same subject, will admit that we took the proper course.

There is another matter in this connexion, to which I feel bound to advert, as the gentleman from North Carolina has especially referred to me on the subject. In engaging in their duty, in reference to the furnishing of the public buildings, the Committee thought, while so large an additional appropriation was proposed, that it would be satisfactory to the House to know, in what way the former usual appropriation had been applied. They, therefore requested the Private Secretary of the President (who they understood had been employed in superintending the furnishing of the house,) to give them a statement of what had been bought. This he accordingly did. And, among the items contained in the inventory, were a billiard table, costing fifty dollars; some of the appurtenances to it, and a set of chessmen. Now, sir, it may have been a remarkable obtuseness of moral sentiment on the part of the committee, but it so happened, that no alarm was taken by them at these dangerous articles. The inventory was reported to the House, with the other papers accompanying the bill. Forthwith, as I have already said, a portentous outcry arose. The matter was taken up with all the energy of the press; the President was denounced as the corrupter of the youth of the country; the articles themselves were declared to be parts of a splendid gambling establishment; the Administration was represented as a set (not merely politically, but morally,) of desperadoes and debauchees, and the President's House was the scene of their orgies. Columns of this loathsome cant filled the newspapers. In due time, the gentleman from North Carolina called the attention of the House to the subject. I do not say he did it in offensive terms: for I really do not recollect what he said about it. His comment had, however, the effect of giving a sanction to what had been said already elsewhere.

Now, sir, what was the President to do? Neither he, nor any one else, as I have just said, is above public opinion; he is, on the contrary, more powerfully subjected to it than any other person, for the reason that his station gives greater importance to his actions. The account was not yet settled at the Treasury. The statement submitted to the committee was nothing but the account of the President's Private Secretary, (an officer not known to the Government) with the fund. It was necessary to settle an account with the Treasury. In doing so, it was necessary for the President to charge either the public or himself with every article in the statement already rendered. It was necessary that he should either allow or disallow the particular items in question. He chose the latter. He had a right so to do; he was right in doing so. If the opponents to the Administration chose (as they

did) to make a great matter out of this small one, it was the duty of the President to his friends, to take from their opponents this ground of attack. He did so; and paid for the obnoxious articles himself. The public did not pay for them.

But I shall be told that there still remains against the President the high charge of having these articles (however paid for) in his possession. The opinion which may be formed of the immorality of this act will vary according to associations. I myself have been bred up in the bosom of a virtuous community; one in which, it is supposed, something of the strictness of the Pilgrim Fathers may yet be traced in the morals of their descendants. I think I may say, that with them, no horror is felt on this subject. Among my friends, neighbors, and constituents, there are several who, deeming this relaxation not merely innocent, but a healthful exercise, when the weather does not permit exercise abroad, have the means of enjoying it in their dwelling house. Dr. Franklin, no corrupter of youth, was a great admirer of the game. Mr. Jefferson, I have been told, at one time, proposed to introduce it among the gymnastic exercises of the University of Virginia. Whether General Washington played billiards I do not know, but it is recorded of him that he played cards, which in a moral point of view, is perhaps, no better.

[Here Mr. RANDOLPH said, "General Washington played billiards."]

The gentleman from North Carolina said, that it was an insignificant affair, till the Administration made it important. Sir, is this the fact? I appeal to the gentleman, if it did not ring from Georgia to Maine; from the Atlantic to the Mississippi. I have been well assured that it has been so misrepresented to the People, in some parts of the country, as to have cost the Administration more votes than any thing else. And this abused community has been so urged and plied on the subject, through the channels of the press, that I am well informed that there are districts in the United States, in which it is firmly believed, that the private abode of the President, than whom a man of purer life does not exist in the country, is little better than a bagnio.

Sir, there is another remark which fell from the gentleman from North Carolina, which I feel bound to notice, though I do it with the utmost pain. He says, "Has the character of General Jackson alone been attacked?" No, sir, like the hyena, the felliest of the fell, which robs the graves of the dead, they have entered the sanctuary of domestic retirement, and dragged before the bar of the public, loaded with the basest slanders, the character of an innocent and much injured lady. Have they done this, and do they now complain, and charge us with wishing to heap calumny on the Administration?"

[Mr. CAMERON said he referred to the Administration presses.]

Sir, I admit the explanation. I remarked, in the outset, that I would act on the defensive. But I would wish to show the gentleman that there are two sides to this matter; and that, in reference to the presses enlisted in the present contest, the Administration have as much to forgive as to be forgiven. Allow me, Sir, to relate to you an anecdote. It happened, that, in the family of Mr. and Mrs. Adams, at St. Petersburg, was a virtuous and respectable young woman, who had gone with them from Boston, in the capacity of attendant on their infant child, possessing an unusual share of personal beauty, and an education above her employment in life. On her arrival at St. Petersburg, she heard the stories, such as often circulated in the European capitals, whether true or false, of the private life and habits of the Emperor. These stories formed a part of the letters which she wrote to her friends in America. Gentlemen know that in many countries in Europe, (and it was especially so at the pe-



FEB. 1, 1828.]

Retrenchment.

[H. OF R.]

ried in question, which was one of anxious political excitement,) letters committed to the post office are opened at the police. It was done in this case; and, coming as they did, from a person in the family of a foreign Minister, and dealing so freely with the Emperor's character, the letters of this individual were submitted by the police to the Emperor, and by him to the Empress, as a matter of pleasantry to both. About this time, by an act of attention not unusual towards the families of foreign Ministers, the Empress requested that the infant child of Mrs. Adams should be sent on a visit to the palace. This was accordingly done, under the charge of the individual mentioned; and the letters alluded to, and her appearance, caused her to be the object of some slight notice, on the part of the Emperor and Empress. This is the whole of the affair. She remained in the family of Mr. A. till she returned to Boston; married there a respectable citizen; from having been the servant, became the friend and visiting acquaintance of Mr. and Mrs. A., and is now deceased. Such are the real facts.

Now, Sir, since the Administration presses have been charged, in this debate, with invading domestic retirement, and slandering female character, let me show you what has been made out of this innocent affair. I read it from a pamphlet, which, as I have been told, has been widely circulated, and which purports, on its title page, to be printed for one who has been introduced into this debate, by the gentleman from Pennsylvania, as a victim of the proscribing and vindictive policy of the Administration. I will first read the text, and then the comment:

"To avert so dreadful a calamity, was the first fruits of this victory, (of New Orleans) and the hero who achieved it is, for this, entitled not only to the fervent benedictions of the designated victims, but to the veneration of all who prefer the guardian of innocence, and the protector of virtue, to a customer of bawds, or the pander of an Autocrat."

This is the text, and now follows the comment:

"It appears, that the lady of our Minister to St. Petersburg, some years since, took with her a very pretty young woman, to superintend her children. The charms of this person, while at the Capital, had been so loudly and highly extolled, that they, at length, reached the ears of the immaculate Alexander, who expressed a curiosity to behold such a prodigy of beauty. To indulge this curiosity, a secret coalition was formed, by which it was arranged that the Autocrat of all the Russias should, at a certain hour, take his airing, in a certain public walk, and that his unsuspecting object should be punctually sent thither, by those who could control her movements. This interview accordingly took place, with the consent and contrivance of those who ought to have been the special guardians of the innocence of the proffered victim, but entirely without her knowledge, or even dreaming of the frightful perils to which she was thus wantonly exposed. Fortunately, however, the abused maiden escaped outrage, and preserved her peace and honor, because the fastidious taste of the lascivious monarch did not accord with the grosser taste of those who had——"

Sir, I can read no further: I have touched this odious topic in reply to the gentleman from North Carolina, who accuses the Administration presses of warring on female character; in reply to the gentleman from Pennsylvania, who has alluded in this debate, to the person whose name is on this pamphlet, as a persecuted man, and who here holds up to the horror of the country, its Chief Magistrate and his wife, as having conspired to poison the virtue of an individual to whose care they had committed their own infant child.

You remember, sir, when a vile question was put to the unfortunate Queen of France, by her Revolutionary Judges, touching her son, she appealed to every female

in the crowded audience, who was herself a mother, to find an answer in her own heart. I call no hard names—I never call them. But, I appeal to every father who hears me, especially to every one who has left his wife and children at a distant home, to judge of the commiseration to which he is entitled, as a persecuted man, who who could put his name to a tale like this, and send it, as I am informed, by facilities of transportation arising from Government patronage, into every cottage in the State.

Sir, there were other topics, on which I meant to have touched, but I have exhausted the little strength which I brought into the House. In the part I have taken in the discussion, I have but acted on the defensive. I own that I have been a little surprised, that it has even been made a question, whether the Administration was assailed or not. Why, sir, there has not been a day, nor an hour, since it was formed, that it has not been assailed. I do not now complain of this—I do but state the fact; and the gentleman from Pennsylvania tells us now, what we were told two years ago, by the gentleman from South Carolina, that the very existence of the Administration was a political felony; that they have burst unlawfully into the offices of State, and that he would no more make terms with them, that is, no more "judge them by their acts," than with the robber, who, having broken into his premises, should promise to behave himself well. One gentleman from Tennessee, [Mr. MITCHELL] says they are already too much worn out to be attacked; and the gentleman from Tennessee, [Mr. BELL] that they are run down; and yet we are accused of kindling at fancied charges, and bristling up in the defence, when nobody has attacked us.

Sir, such an assault, in my limited acquaintance with the history of the country, I have no where found. A Chief Magistrate, of more than ordinary simplicity of life, and purity of character, is denounced at one moment as the imitator of oriental pomp; and at the next, as the profligate corruptor of the youth of the nation. As able, faithful, and patriotic a Cabinet, as any ever formed since the first Administration of Washington, and abler than almost every other which has followed, is denounced as weak, inefficient, and corrupt. An Administration, which, in three years, has applied thirty-three millions to the payment of the public debt, and expended ten or twelve more in objects of public utility, is proclaimed to be profuse and extravagant. An Administration which came into power avowedly on the principle of seeking out the best talents of the nation, for offices of trust and honor, and which, if it has erred, has erred in neglecting its friends, is charged with proscribing and persecuting its opponents. And, after all this has been repeated, year after year, till, in its effect, gentlemen flatter themselves, and tell us that we are wasted, worn out, and run down; and after each and every one of these topics, and numerous others, have been touched, in this very debate, we are then told to keep very cool—nobody has attacked us.

But I am willing, for one, Sir, to take these declarations of gentlemen as the indication of the course which they approve, and are willing to pursue. It is time, for the honor of the country, that the war of extermination should cease. In laying waste the characters of those who, under the Constitution of the country, are clothed with the administration of its affairs, we are wasting that which is a part of the most valuable treasure of the nation. Above all, it appears to me, that it is time the vehemence with which, within these walls, the war has been waged against the Administration, should cease. In addition to its necessary and unavoidable evils, the waste of time—the sacrifice of dignity—the kindling of the worst passions; it is accompanied with the still greater evil, that it lends a kind of sanction to that ferocity of

H. or R.]

Retrenchment.

[FEB. 1, 1828.]

the press, which has already reached the point at which many of the most valuable citizens of the community shrink back into retirement, before the storm of obloquy that awaits every one who appears before the public.

Before I sit down, sir, I must ask leave to say, that if every member had spoken in the tone of the gentleman from Tennessee, [Mr. BELL] I should probably not have troubled the House. To almost every remark that fell from him, I yielded a hearty assent. I feel, not less strongly than he, though I may be unable to express it with that manly force which enchaind the attention of the House, that this warfare is *mali exempli*, without our even being able to plead, in excuse, that the bad example sprang from a good one. The gentleman, with a liberality which I could not but admire, however little I might be willing to sanction the consciousness of political strength with which he spoke, told us that the joy of the huntsman is in the chase, and that when the game is run down, he calls off the pack, and will not let them mangle the carcass. The gentleman cannot expect me to agree with him that the game is run down, but he will agree with me, that, of the pack which sprang at the throats of this Administration, there were some, whose fangs were already fleshed in other game. And is the law of the chase altered? Will not what has been, again be? Believe me, sir, it will; the fate of Acton is no fable here: and scarcely will the gentleman's gallant huntsman—(unless some rare felicity of fortune shall elevate him above the lot of his predecessors,) scarcely will he have wound his horn in triumph, when he will find, to his amazement, that he is the game, and some of those who have shared in the triumph of the chase will turn and spring upon him.

*Ille fugit per quem fuerat laeta nepe secutus.*

Sir, the gentleman will pardon my allusion, as I, most cheerfully, accepted his. I make it not insidiously, nor with the slightest shade of personality; but in some measure in consideration of the well-known composition of the two great parties, and still more on the immutable principles of our nature, by which it follows, of stern necessity, that

— In these cases,  
We still have judgment here, that we but teach  
Bloody instructions, which, being taught, return  
To plague the inventor: This even-handed justice  
Commends the ingredients of our poisoned chalice  
To our own lips.

Mr. RANDOLPH then rose, and said, I cannot make the promise which the gentleman who has just taken his seat made at the outset of his address—but I will make a promise of a different nature, and one which, I trust, it will be in my power to perform—I shall not say with more good faith than the gentleman from Massachusetts—but more to the letter—aye, sir, and more to the spirit too. I shall not, as the gentleman said he would do, act in mere self-defence. I shall carry the war into Africa. I shall not be content with merely parrying—no, sir—if I can, so help me God, I will thrust also—because my right arm is nerved by the cause of the People and of my Country. I listened to the gentleman with pleasure—I mean to the general course of his remarks—with a single exception; and to that part of his speech I listened with the utmost loathing and disgust. But disgust is too feeble a term. I heard him, with horror, introduce the case of the Queen of France—and in answer to what? To a handbill—a placard—an electioneering firebrand: and in the presence of whom? Of those who never ought to be present in a theatre where men contend for victory and empire. Sir, they have no more business there than they have in a field of battle of another sort. Women, indeed, are wanted in the camp; but women of a very different description. What maiden, sir—nay, what matron—could hear the gentleman,

without covering her face with her hands, and rushing out of the House? But for some of the remarks of the gentleman from Massachusetts, in allusion to newspaper publications, I should have begun in at least as low a key and as temperate a mood as he did. To that key I will now pitch my voice. I have been absent from the House for several days. I requested my colleague [Mr. ALEXANDER] to state the cause of that absence, which he did. Yet even this could not be reported correctly. As this may be the last act of public duty which I shall be able to perform—at least, during the present session—and as I have given up myself a sacrifice to its performance, I respectfully ask the House to give their attention to what I have now to say. I understand that, during my absence, I have been replied to by various gentlemen, (some of whom I have not the honor to know by person) on different sides of the House, in a manner which I do not doubt was perfectly satisfactory—at least, to the speakers themselves. I certainly do not wish to disturb their self-complacency, *de minimis non curat*, whether of persons or of things. The gentleman from Ohio, [Mr. VANCE] with that blunt plainness and candor which, I am told, belongs to him, and which I admire in proportion as they are rare qualities in these days—I like him the better for his sturdy honesty—I hope he will take no offence at the term, for I can assure him that none is intended—charged me, in my absence, (so my friends have informed me,) with what I believe he would not hesitate to have charged to my face, and to which I have no objection, except to the authority on which he relied; but I protest against any gentleman's producing, as proof of what I have, at any time, said, a newspaper, or any thing purporting to be a Register of Debates, unless I endorse it, and more particularly remarks drawn from the debates of another body, which, in regard to me, are particularly unfaithful. I shall shew to the House, not such matter as the gentleman from Massachusetts stirred, to the injury of every moral sense, of every moral being. I shall refer to a matter of recent notoriety: that will test the correctness of these reports. In the debate on the motion of the gentleman from South-Carolina, [Mr. HAMILTON] respecting a picture of the battle of New-Orleans, I did state, as distinctly as I could articulate, that I had seen a monument erected to the memory of Andre, the British Spy, in Westminster Abbey; that it was mutilated—the head of General Washington, and arm (I think) of Andre, having been broken off. The General's, most probably, by some Tory boy, from the neighboring school of Westminster, and that of Andre, probably, by some Whig boy, in retaliation. The name of Hamilton did not escape my lips. I thought, indeed, of Hamilton, but it was of a living Hamilton—the gentleman from South-Carolina—but, then, parliamentary usage does not permit us to speak of one another by name. Now, sir, I can shew you, on the same authority which was relied on by the gentleman from Ohio—though I acknowledge that the reports of that paper, so far, at least, as I am concerned, have generally been more accurate this year, than I have for a long time known them to be before—that I am represented as saying, that the monuments in Westminster Abbey were mutilated in the same manner as the tombs of Hamilton and Washington had been mutilated here. The word tomb never escaped my lips on that occasion. Sir, this would have been a palpable falsehood. Where is the tomb of Washington? There is no such thing in this country, nor have I ever heard that a tomb has been erected to the memory of Hamilton; but I suppose that the next thing we shall hear will be, that the Quarterly or some other Review, comes out, and observes with a sneer, that, as Roger Sherman said the vote was the monument, so a gentleman from Virginia had, by a speech in Congress, built up a tomb for Washington—a “constructive” tomb, that existed no where but in his eccen-

FEB. 1, 1828.]

Retrenchment.

[H. OF H.]

tric imagination. Sir, the tombs of Washington and of Hamilton might stand any where in this country unclosed—they might indeed be liable to injury from the beasts of the field, or from some invidious foreigner, but the hand of no American would ever mutilate them. Sir, in the course of another debate, it seems that I rendered to a gentleman from New-York [Mr. STORRS] the homage which his abilities deserved—and God forbid that the time should ever arrive when I refuse to do justice to an adversary—when I shall disparage any merit, because it is found in the person of an opponent. When that time shall arrive, may I never receive mercy from that fountain of it to which alone we all must look, if we hope for forgiveness hereafter. I said that I would not, like him, pronounce a palinodia, neither am I now going to pronounce a palinodia in respect to the gentleman from New York. I shall not take back one jot of praise bestowed upon him. With whatever views he introduced it, the doctrine has always been mine—the strict subordination of the military to the civil authority—scripture is scripture, by whom, or for whatever purpose it may be quoted. I know nothing of the private habits of that gentleman, [Mr. STORRS] but I know that he has too much good taste not to agree with me, that time may be much better spent than in reading the Documents piled up here. Yet, in the report of that debate, I was represented as saying, that, like the gentleman from New York, I did not—what? pronounce a palinodia? No, sir, not at all—but, that, like him, I did not read the Documents. Sir, nobody reads the Documents—for this plain reason, that no man can read them—and if he could, he could hardly be worse employed. Sir, with a few exceptions, the Documents are printed that they may be printed, not that they may be read.

And now, sir, comes another charge, about the miserable oppressed inhabitants of Ireland. This subject has been mentioned to me, by no gentleman on the other side, except a member from Maryland—from the Eastern shore of Maryland, [Mr. KENN] who is, not only by the courtesy of this House, but is in fact, a gentleman. He, in Committee on the Rules and Orders of the House, expressed to me his astonishment that what I said on that occasion could have been so much misunderstood and misrepresented—that he heard me most distinctly. I now call on any member who understood me differently, at the time, to rise in his place and say so. [Here Mr. K. paused for reply. None being given, and some friends having said across the seats, that no member could or would say, that he had understood Mr. K. as he had been misrepresented, Mr. K. went on.] Without meaning to plead to—that is without meaning to admit, the jurisdiction of the press, in the extent which it arrogates to itself, I am perfectly sensible that no man is above public opinion. God forbid that any man in this country shall ever be able to brave it—and I regret that any one should have supposed me capable of uttering such sentiments. So far from it, I have been the steady, firm, constant, and strenuous advocate, to the best of my poor ability, of the oppressed People of Ireland. And why? For the reason I stated on a former occasion. They fought our battles, sir. I have known and esteemed many of them. Some of them have been—they are dead; and others are living, among my warmest friends and best neighbors. In the course of a most uneventful life, I have seen many things, but I have yet to see that *rara avis in terris*—I have seen a black swan—an Irish Tory. I have known stories of every description. Yes, sir, and some even in Virginia—even we had a few of them during the Revolution, but too few to give us any trouble or alarm—but I never have yet seen an Irish Tory, or the man who had seen one. Sir, I don't read the newspapers—I don't read gentlemen's speeches, and then come here to answer them. But I am extremely pleased, nay, flattered, in the

highest degree, at being told by my friends, that the gentleman from Ohio attributed, in his speech, so much to my efforts in bringing the Administration to its present lank and lean condition. The gentleman could not have pleased me better—I only fear that, with all his bluntness and frankness, the gentleman was not quite sincere, and was only adorning me with fillets and garlands, like the priests of the sacrifice of yore, previous to knocking me, and with me, the party whom he strives to wound, through my sides, on the head. He was pleased to place me at the head, of what has been denominated the Opposition party in this House; but at its head, or that of any other party in this House, he will never find me, for reasons which I could state, but which are wholly unnecessary. Times are indeed changed with the gentleman and his friends, when they hold this language concerning me. But a little while ago, and the friends of the Administration, nay, the members of the Administration, affected to consider me as one of their firmest props. They could not, indeed, vote for me—they were men too nice in their principles for that: but, considering the great benefit which they derived from my opposition, they could not (except for the honor of the country) regret my re-election. Amiable and excellent men! But they now sing to a very different gamut. If any gentleman will bring against me any allegation, from a clean and respectable source, I will do one of two things—I will either deny it, or admit it, and defend it upon my views and principles. Sir, it seems I committed a great offence in not voting for the admission of the new States into the Union, and especially of Ohio. Yet, sir, if the thing were to do over again, I should act precisely in the same manner, and past experience would teach me I was right. What were the new States? Vast deserts of woods, inhabited by the Aborigines, to whom, if we come to the question of right, they did of right belong; and it was a question whether sound policy would dictate that we ought, by creating these States, to encourage sparse settlements, and thereby to weaken our frontier. I thought this was bad policy. Not that I am in favor of a very dense population. I am against the rabble of your great cities, but I am equally opposed to having a land without inhabitants. But, sir, I had other reasons—*graviora mentes*—Does the gentleman from Ohio, with all his laudable prejudice and partiality toward his own State, think that I, as a Virginian, feeling at least equal prejudice and partiality to my native land with that which he feels for his State, would lend my sanction to an act on the part of Virginia, which beggars every instance of fatuity and folly extant in the history of nations? Why, sir, the Knight of La Mancha himself, or poor old Lear in the play, never was guilty of a grosser act of fatuity than was the State of Virginia, when she committed that suicidal deed—the surrendering of her immense territory beyond the River Ohio, upon the express condition of excluding her own citizens from its benefit, when the country (yielded for the common good of the Confederacy,) should come to be settled. Yes, sir, it was an act of suicide—of political suicide—the effects of which she has felt, and will continue to feel, so long as she has any political existence at all. Sir, this was one of those amiable and philanthropic acts of legislation, which, however good in point of intention, lead to the most disastrous and ruinous consequences. Can the gentleman from Ohio conceive that I, a Virginian, could further this cut-throat policy? Sir, I thought the Ohio a well-defined natural boundary, and that we ought not to weaken by extending our frontier. The late war verified my foresight. Whom have I injured? The native savages and the trees, or the States that have been drained of their population to fill out Ohio? Sir, I offered no wrong to the people of Ohio: for there were then none to injure. They have gone there, or have been born since. Sir,

H. or R.]

Retrenchment.

[FEB. 1, 1828.]

this was the "head and front of my offending," and, if the gentleman has his apparatus ready, I am prepared to undergo any form of execution which his humanity will allow him to inflict, or which even his justice may award.

The gentleman from Massachusetts cannot expect that I shall follow him through his elaborate detail of the diplomatic expenses of this Government. The House, however, will permit me to observe, that there was a hiatus—*valde defendus*, I do not doubt, but certainly not deeply lamented by me—a hiatus which embraces the whole period of the Administration of Mr. Jefferson. I am not going into the question of these expenses; I will stir no such matter. Demands which have dogged the doors of the Treasury so long and so perserveringly as that they have been at length allowed, some from motives of policy, others to get rid of importunate and sturdy beggars—although they were disallowed under Mr. Jefferson's Administration. But, sir, if every claim that gets through this House, or is allowed by this Government, after years of importunity, (some of them of thirty years' standing) is for that reason considered by the gentleman as a just claim, and fit to be drawn into precedent, my notions of justice, and of sound precedent, differ greatly from his. I, too, sir, am as much opposed as he can be to what is truly called the prodigality of parsimony. The gentleman thinks the salaries of our foreign Ministers are too low, and therefore, that they must be eked out by these allowances from the contingent fund—out of what is called the secret service money. The gentleman is right as to the existence of such a fund. It was appointed, and perhaps properly, for Washington was to be the first who was charged with its disbursement. But, sir, our early Presidents always made it a point of honor to return this fund untouched. They said to the nation, you trusted me with your purse, I have had no occasion to use it, here it is; count the money; there is as much by tale and as much by weight, as I received from you—but was it ever dream't that such a fund was to be put into the hands of the President of the United States to furnish him with the means of rewarding his favorites? No, sir; it was to pay those waiters and chamber-maids, and eavesdroppers, and parasites, and panders, that the gentleman told us of on the other side of the water—and there it might be all very right and proper—but not here, sir, because we flatter ourselves, that the state of morals in this country is such as to save us from any such necessity. No gentleman would understand him as speaking of the sums which had been placed at the disposal of different Presidents, to a vast amount, for the purpose of negotiating with the Barbary Powers, &c.; but of that amount set apart, and generally known, as secret service money. Mr. Jefferson used a small portion of this fund one year, to pay some expense in relation to Burr's conspiracy, which was not allowed at the Treasury. Sir, with regard to the old billiard table, which is said to have cost some fifty dollars, it is a subject I should never have mentioned. I consider that game as a healthy, manly, rational mode of exercise, when the weather is such as to confine us within doors. I shall certainly never join in any cant or clamor against it. I look upon it as a suitable piece of furniture in the house of any gentleman who can afford it, where it is allowed by law, as it is here and throughout the State of Maryland; and I should be sorry if we were to proscribe that manly and innocent amusement. If I have any objection to that item, it is that such a pitiful article should have been bought. I would have given him one that cost five hundred dollars, and I would have voted the appropriation with cheerfulness. My objection to such a charge, is, that it is a shabby affair, and looks too much like a sneaking attempt to propitiate, by the cheapness of the thing, popular displeasure. The attempt to keep the thing out of sight, only makes the matter still worse. I do not charge

the gentleman from North Carolina with any such intention, but this seems to me to be too small a matter. I would strike at higher game. The gentleman from Massachusetts says that Franklin received a higher compensation than Mr. Adams and other Ministers of these times. He did, sir, and what was the answer which that shrewd and sensible man gave (for Poor Richard had always an eye to the main chance) when his accounts were scrutinised into, and his receipts were deemed exorbitant? It was this, sir: Thou shalt not muzzle the ox that treadeth out the corn. The very answer, sir, that I myself gave in Morrison's Hotel, in Dublin, to a squireen and an agent. For a description of these varieties of the plagues of Ireland, see Miss Edgworth—delightful, ingenious, charming, sensible, witty, inimitable, though not unimitated, Miss Edgworth. When describing the misery of the South and West of Ireland, that I had lately travelled over, I was asked, and what would you do, pray, sir, for the relief of Ireland? with an air that none but Miss Edgworth can describe, and that no one that has not been in Ireland can conceive. My reply was, I would unmuzzle the ox that treadeth out the corn; and I had like to have got myself into a sad scrape by it, as any one who has been in Ireland will readily understand. Yes, sir, I was disposed to give to the houseless, naked, shivering, half-starved Irish laborer, something like a fair portion of the product of his toil, of the produce of the land on which he breathes, but does not live, to put victuals into his stomach, clothes upon his back, and something like a house over his head, instead of the wretched pig-sty, that is now his only habitation—shelter it is none; and this was just the last remedy that an Irish agent or middle man, or tythe-proctor, or absentee, would prescribe or submit to.

But, Sir, to return. "These salaries are too small." I cannot agree with the gentleman. There is one touchstone of such a question—it is the avidity with which those situations are sought—I will not say by members of this House—we are hardly deemed of sufficient rank to fill them. Sir, so long as these foreign missions are sought with avidity—so long as members of Congress, and not of this House only, or chiefly, will bow, and cringe, and duck, and fawn, and get out of the way at a pinching vote, or lend a helping hand at a pinching vote, to obtain these places, I never will consent to enlarge the salary attached to them. Small as the gentleman tells us these salaries are, I will take it on me to say, that they are three times as great as the nett proceeds of his estate, made by any planter on the Roanoke. But, then, we are told that they live at St. Petersburg and London, and that living there is very expensive. Well, sir, who sent them there? Who pressed them to go there? Were they impressed, sir? Were they taken by a press gang, on Tower hill, knocked down, handcuffed, chucked on board of a tender, and told that they must take the pay and rations which his Majesty was pleased to allow? No such thing, sir. I will now quit this subject, and say only this, that our Minister, (Mr. Adams) was paid for a constructive journey—that, I think, is the phrase—which means neither more nor less than a journey which was never performed.

[Here Mr. Everett made a gesture of dissent.]

The gentleman shakes his head. Sir, we shall see more of this hereafter, but I will reason only hypothetically. If the gentleman in question, while he remained at St. Petersburg, could make the journey imputed to him, it beats the famous journey from Mexico to Tacubaya, as far as some distance, however small, exceeds no distance whatever. Sir, if a gentleman from Washington goes to Georgetown, or to Alexandria, yes, sir, or to Bladensburg, I will acknowledge that he performs, at least in some sense, a sort of journey. But not if he remains in this city, and never stirs out of it. However, I

FEB. 1, 1828.]

Retrenchment.

[H. OF R.]

will not now press this matter further—others will do more justice to it—*de minimis non curat*.

*Paulo majora canamus.*

There was one remark, which I took down while the gentleman was speaking, and which I cannot pass by. Who that gentleman was, described by the gentleman from Massachusetts, who proposed to him that, if he would move to raise these salaries, that gentleman would join with him and support him, I cannot conjecture or divine. Be he who he may, I will venture to say thus much. He is some gentleman who expects to be sent upon some mission himself, and, with great forecast and prudence, he was calculating to throw upon the present Administration, beforehand, all the odium of the increase of the salary which he hoped to finger. I am disposed to be more just to the gentleman and to the Administration, because I believe that he will get full as much as he may deserve, and they have full as much weight as they can carry, without adding to it another feather.

Sir, I am afraid I may be charged with some want of continuity, but, what I have to say, is at least as relevant, aye, and as pertinent, too, to the subject before the House, as the handbill which the gentleman read, till his delicacy would permit him to read no farther, though I must confess I thought that he had already gone so far, that there was no *ultima Thule* beyond. Sir, the gentleman might have spared himself this last exertion of his delicacy, and even have read to the end. There could be nothing more gross behind, than what we had already heard, and were to hear, in the case of the ill-fated Queen of France. The gentleman with much gravity, with some dexterity, and with great plausibility, but against certain principles which I have held in this House, *ab ovo*, and which I shall continue to hold, *usque ad mala*, till I leave the feast, spoke of the headlong commencement of the Opposition, before the Administration could give reasonable cause of discontent. Sir, I have now no *palinodia* to sing or to chaunt upon that subject. I drew my conclusions from that fountain which never failed an observing and a sagacious man, and which, even the simple and inexperienced (and I among the rest) may drink at—it is nature and human life. I saw distinctly, from the beginning, that, if we permitted this Administration—if we listened to those who cried to us "wait, wait, there is a lion in the path," (and, sir, there always is a lion in the path, to the sluggard, and to the dastard,) and which cry was seconded, no doubt, by many who wished to know how the land lay before they ran for a port—on which side victory would incline, before they sounded their horn of triumph—if we had thus waited, Sir, the situation of the country would have been very different from what it is now. Sir, there was a great race to be run—if you will permit me to draw an illustration from a sport to which I have been much addicted—one in which all the gentlemen in Virginia, when we had gentlemen in Virginia, delighted, and of which I am yet very fond—I mean from the turf—and it must be lost, or won, as the greatest race in this country was won—I mean the race on Long Island, which I saw, and that was by running every inch of the ground—by going off at score—by following the policy of Purdy. Purdy, Sir, was a man of sound sense, and practical knowledge—a man of common sense, I mean, and worth a thousand of your old and practised statesmen, and "premature" gentlemen, who never arrive at maturity—and who, meaning to side with the next Administration in case of our success, were nevertheless resolved to get all they could, in the meantime, out of this. Sir, to one of these trimming gentry, it is worse than death to force him to take sides before a clear indication of victory, and hence the cry of its being "premature" to stir the question of the next Presidential election. Sir, if we had set off one session later, we

should not have had ground enough left to run upon, to overtake, and pass, and beat them, before they would have passed the winning post, and pocketed the stakes. Such would have been the effect, if we had delayed our push, and I know no one that would have enjoyed the result, and chuckled at our folly with more hearty glee, than one of these same old and practised statesmen, [Here something was said which our reporter did not hear, and to which Mr. EVERETT was understood to reply, that he had not stated it as his sentiment, but as a fact.] I beg the gentleman's pardon; I never was misrepresented by him, I never will misrepresent him, unless I misunderstand him. But, I wonder it never occurred to the gentleman from Massachusetts what could be the cause why such a hue and cry should be raised against an Administration so very able, (permit me in this, however, to differ from the gentlemen, *de gustibus non est*) what, I say, could have been the cause why Acton and all his hounds, or, rather, why the dogs of war were let slip against this wise, and able, and virtuous, and loving Administration; these patterns of political friendship and consistency; and have continued to pursue them, till they lie panting and gasping for breath on the high way—until they realize the beautiful fable of the hare and many friends. The cause of all this is to be found in the manner in which they came into power—the cause of this "premature" opposition lies there, and there mainly. I would defy all the public presses in the world to have brought them to this pass, had there not been a taint of original sin in their body politic, and which cleaves to them even as the sin of our first parents taints our fallen nature, and cleaveth to us all. The gentleman refers to those who compose the party called the Opposition, and says, it is formed of very discordant materials. True, Sir; but what are the materials of the party which upholds the Administration? Nay, of the Administration itself? Are they perfectly homogeneous? I know one of them—who has been raised to a higher station than most men in this country—was that because he opposed, or because he espoused the election of the present Chief Magistrate? Let me ask the gentleman from Massachusetts, what could cause the old Republican party in New England—the worthy successors of John Langdon—to be now found acting with us! They know—but perhaps some in this House do not know—they know that the Southern interest is as much their natural ally, in protecting them against an overweening oligarchy at home, as England is the natural ally of Portugal, against the power of Spain and France; and though they left us for a time, yet now, apprehending danger, and seeing through the artifices of their betrayer, they have returned to us, their old, natural, and approved allies. Sir, have not the Administration, as well as the Opposition, ways and means and funds in their hands, to obtain influence and buy success? Have they not the whole of the great mass of patronage in their hands? But the gentleman says, that, so far from taking care of their adherents, they have been too liberal in bestowing this upon their enemies: but it is easy to account for this. An ancient apothegm tells us that it is better to judge between two of your enemies than between two of your friends. In the one case you are almost sure, by your decision, to make a friend, and in the other, to lose one. Now, sir, our able and practised statesmen know, that, by giving a loaf and a fish to an enemy, they make a friend, when, by giving them to one of their friends, they might disoblige another, who might think his claims disparaged—and that, sir, is the whole secret of their neglecting their friends.

Permit me, sir, again to ask, how comes it that this Administration are brought into their present very curious and unprecedented predicament? How happens it that they alone, of all the Administrations which have been in this country, find themselves in the minority in each

H. or R.]

Retrenchment.

[Feb. 1, 1838.]

House of Congress, when the very worst of their predecessors kept a majority till midnight on the 3d or the 4th of March, whichever you may please to call it? Ay, sir, under the Administration to which I allude, there were none of those compunctious visitings of nature, at the attacks made on private character. We had no chapter of Lamentations then, on the ravaging and desolating war on the fair fame of all the wise, virtuous, and good, of our land. The notorious Peter Porcupine, since even better known as William Cobbett, was the especial protégé of that Administration. I heard them say—I do not mean the Head of that Administration, but one of its leaders—that he was the greatest man in the world; and I do not know, sir, that, in point of sheer natural endowment, he was so very far wrong. Yes, sir, it was that very Cobbett, who if the late publications may be trusted, now says that Mr. Adams has fifteen hundred slaves in Virginia. Sir, was there any slander too vile, too base, for that man to fabricate? I remember well the Nick-names under which we passed—yes, sir, I can proudly say, we, although the humblest in the ranks. Mr. Gallatin was *CRÉTEUR GUILLON*, with *le petit fenêtre national*, at his back. My excellent and able colleague, Mr. Nicholas—one of the purest and most pious of men, who afterwards removed to the State of N. York, and was a model of republican virtue and simplicity that might have adorned the best days of Sparta or of Rome—he, sir, having the misfortune to lose an eye, was held up to ridicule as *POLYPRIMUS*. You are shocked at this, sir, but let me tell you that it was only a little innocent, harmless, federal wit—and the author was the especial protégé of “Government” and its adherents. All chuckled over the Porcupine. To that party the present incumbent then belonged—and another member of this pure Administration. My venerable friend from North Carolina, was *MONSIEUR MACON* with a *cedilla* under the g, to mark him the more for a Frenchman. I forget the cognomen of the learned gentleman from Louisiana [Mr. LIVINGSTON:] I know that he was never spared: I remember well my own; I wish, sir, it was applicable now, for I was then a boy. Every sanctuary was invaded. As to Mr. Jefferson, every epithet of vituperation was exhausted upon him. He was an Atheist, a Frenchman: we were all Atheists and Traitors; our names and cause, associated with the Cannibals and Cannibalism of the Revolutionary Tribunal, and all the atrocities, the most atrocious and revolting of which has this day been presented to the House by the chaste imagination of the gentleman from Massachusetts. Yes, sir, then, as now, a group of horrors was pressed upon the public imagination to prop the sinking cause of a desperate Administration. Religion and Order were to be subverted; the National Debt to be sponged; and the Country to be drenched in its best blood by Mr. Jefferson and his Jacobin adherents. Even good men, and not unwise men, were brought to believe this. Mr. Jefferson was elected—and we know what followed. But this, sir, it may be said, was not done by our own people—it was done by foreign hirelings, mercenaries. Sir, it is not only of this description of persons that I speak. It was done in the glorious days of the Sedition Law and the black cockade, when we found in General Shee and his Legion, protection against the Prætorian bands of the Administration. These brave fellows were many of them Irish or German, and most of them of Irish or German parentage, chiefly from the Northern Liberties, then the strong hold of Republicanism; and, therefore, branded with the opprobrious name of the Fauxbourg St. Antoine the most Jacobin quarter of Paris.

Sir, at the very time that the act noted by the gentleman from Massachusetts was passed, (May, 1800) when Professor Cooper was escorted to jail, a victim of the Sedition Law, the New York election, then, as of late, rung the knell of the departing Administration. Sir, when the gentle-

man favored us with his opinion of the present stupendous Administration, I imagine he drew it from a comparison with some of the Administrations which preceded it. In comparison with some of them, even this Administration is great: for we have seen the least of all possible things—the poorest of all poor creatures that ever was manufactured into a Head of a Department (and that's a bold word) a member of a former Administration—almost a satire on the name. This personage, as I have very lately learned in imitation of another great man from the same State, took great liberties, in public, with my name, when he had the Atlantic for a barrier, the Summer before last. Like his great friend, his courage shows itself three thousand miles off. It is in the ratio of the squares of the distances of his adversary. Sir, I should like to have seen how he would have looked, if, on finishing his harangue, he had found me at his elbow. I think I can conceive how he would have felt.

Sir, I have much to say, which neither my own weakness, nor my regard to the politeness of this House, will permit me now to say. As I have exonerated the principal in that weighty affair of the billiard-table, I also exonerate him and his Lieutenant from every charge of collusion—in the first instance; and, if it is in order, I will state the reasons for my opinion. When the alliance was first patched up between the two great leaders of the East and West, neither of the high contracting parties had the promotion of the present incumbent at all in view. Sir, I speak knowingly as to one of these parties, and with the highest degree of moral probability of the other. Can it be necessary that I prove this? The thing proves itself. The object was to bring in one of the parties to the compact, whom the Constitution subsequently excluded and of course to provide for the other. A gentleman, then of this House, was the candidate who, to the last hour, cast many a longing, although not lingering look, with outstretched neck, towards Louisiana—*jugulo quesita negatur*—to discover whether or not he should be one upon the list. Sir, it is impossible that he could in the first instance, have looked to the elevation of another, or have designed to promote the views of any man but in subservience to his own. Sir, common sense forbids it. But, sir, all these calculations, however skillful, and *DEMOINER* could not have made better, utterly failed. Mr. Crawford most obstinately, and unreasonably, I confess, refused to die. It was certainly very disobliging in him. I saw him before I went abroad, and I thought it was an hundred to one that he could not survive the Summer: he was then dead to every purpose, public or private. Louisiana refused to vote as obstinately as Mr. Crawford refused to die; and so the gentleman was excluded. It was then that Mr. Adams was first taken up, as a *pis aller*, which we planters of the South translate, a hand plant.

Sir, I have a right to know—I had a long while before an interview with the very great man—but not on that subject—no sir—it was about business of this House—and he so far descended, or I should rather say of so very great a man, condescended, as to electioneer even with me. He said to me, among other matters, if you of the South will give us of the West any other man than John Quincy Adams for President, we will support him. Let any man deny this who dare—but remember, sir, he then expected to be a candidate before the House himself. If you will give us any other man. Sir, the gentleman in question can have no disposition to deny it. It was at a time when he and the present incumbent were publicly pitted against each other, and Mr. Adams had crowed defiance, and clapped his wings against the Cock of Kentucky. Sir, I knew this to be a strong mode of expression. I did not take it literally. I thought I understood the meaning to be that Virginia, by her strenuous support of Mr. Crawford, would further the same



FEB. 1, 1828.]

Retrenchment.

[H. OF R.]

cess of Mr. Adams. "Any other man, sir, besides John Quincy Adams." Now, as neither Mr. Crawford nor General Jackson, in the end, proved to be "any other man"—it follows clearly who any other man was, viz; one other man—*id est* myself, as a gentleman once said in this House, we will support him. But, sir, as soon as this *egomet* was out of the question, we of the South lost all our influence, and "we of the West" gave us of the South this very John Quincy Adams for President, and received from him the very office, which, being held by him, we of the West assigned as the cause of our support, considering it to be a sort of reversionary interest in the Presidency. (See the letter to Mr. F. Brooke.) It was indeed "ratsbane in our mouth," but we swallowed the arsenic. Sir, a powerful party in New England was equally opposed to Mr. Adams—the high Federal party, or the Essex Junto, so called—all the successors of the George Cabots, and Caleb Strong, and Stephen Higginsons—I should rather say their representatives, and all their surviving coadjutors, were against him, with one exception, and that was an honest man, of whom it was said in this House, that he ought to desire no other epitaph but that which might truly be inscribed on his tomb. "Here lies the man who was honored by the friendship of Washington, and the enmity of his successor." Sir, who persecuted the name of Hamilton while living, and followed him beyond the grave? The father and the son. Who were the persecutors of Fisher Ames, whose very grave was haunted, as if by vampyres? Both father and son. Who attempted to libel the present Chief Justice, and procure his impeachment—making the seat of John Smith, of Ohio, the peg to hang the impeachment on? The son? Sir, I, as one of the grand jury, and my colleague, [Mr. GARRETT] were called upon by the Chairman of the Committee of the Senate, in Smith's case, [Mr. Adams] to testify in that case. [Here something was said that our reporter could not hear.] This was one of the early oblations of the present incense on the altar of his new political church. Who accused his former Federal associates of a traitorous conspiracy with the British authorities in Canada, to dismember the Union? The present incumbent. Yet all is forgiven him; Hamilton, Ames, Marshall, themselves accused of treason—all is forgiven; and these men, (with one exception) now support him—and for what? Sir, I will take the letter to the President of the Court of Appeals in Virginia—and on that letter, and on facts which are notorious as the sun at noonday, it must be established that there was a collusion, and a corrupt collusion, between the principals in this affair. I do not say the agreement was a written or even a verbal one—I know that the language of the poet is true—that men, who "meet to do a damned deed," cannot bring even themselves to speak of it in distinct terms—they cannot call a spade, a spade—but eke out their unholy purposes with dark hints, and innuendoes, and signs, and shrugs, where more is meant than meets the ear. Sir, this person was willing to take any man who would secure the end that he had in view. He takes office under Mr. Adams, and that very office too which had been declared to be in the line of safe precedent—that very office which decided his preference of Mr. Adams. Sir, are we children? are we babies? can't we see or eat an apple-pie without spelling and putting the letters together—A, p, ap, p, l, e, pie, apple, p, i, e, pie, apple-pie? Sir, the fact can never be got over, and it is this fact which alone could make this Administration to rock and totter to its base, in spite of the indiscretion, (to say no worse) in spite of all the indiscretion of its adversaries. For, Sir, there never was a man who had so much cause as General Jackson has had to say, "save me from my friends, and I will take care of my enemies." Yes, Sir, he could take care of his enemies—from them he never feared danger; but not of his friends at least of some, whose vanity has

prompted them to couple their obscure names with his; and it is because he did take care of his enemies, who were his country's enemies, and for other reasons, which I could state, that his cause is now espoused by that grateful country. But General Jackson is no statesman. Sir, I deny that there is any instance on record, in history, of a man not having military capacity, being at the head of any Government with advantage to that Government, and with credit to himself. Sir, there is a great mistake on this subject. It is not those talents which enable a man to write books and make speeches, that enable him to preside over a Government. The wittiest of Poets has told us that

"All a Rhetorician's Rules  
Teach only how to name his Tools."

We have seen Professors of Rhetoric, who could no doubt descant fluently upon the use of these said tools; yet sharpen them to so wiry an edge as to cut their own fingers with these implements of their trade. Sir, Thomas à Becket was as brave a man as Henry the Second, and, indeed, a braver man—less infirm of purpose. And who were the Hildebrands, and the rest of the Papal Freebooters, who achieved victory after victory over the proudest Monarchs and States of Europe? These men were brought up in a cloister, perhaps, but they were endowed with the highest of all the gifts of Heaven, the capacity to lead men, whether in the Senate or in the field. Sir, it is one and the same faculty, and its successful display has always received, and ever will receive, the highest honors that man can bestow; and this will be the case, do what you will, cant what you may, about military chieftains and military domination. So long as a man is a man, the victorious defender of his country will and ought to receive, that country's suffrage, for all that the forms of her Government allow her to bestow.

Sir, a friend said to me not long since, "Why, General Jackson can't write"—"admitted." (Pray, sir, can you tell me of any one that can write: for, I protest, I know nobody that can.) Then turning to my friend, I said, it is most true that General Jackson cannot write, (not that he can't write his name, or a letter, &c.) because he has never been taught. But his competitor cannot write, because he was unteachable: for he has had every advantage of education and study. Sir, the Duke of Marlborough, the greatest captain and negotiator of his age—which was the age of Louis XIV.—and who may rank with the greatest men of any age; whose irresistible manners and address triumphed over every obstacle in council, as his military prowess and conduct did in the field—sir, this great man could not even spell, and was notoriously ignorant of all that an under graduate must know; but which it is not necessary for a man at the head of affairs to know, at all. Would you have superseded him by some Scotch schoolmaster? Sir, gentlemen forget that it is an able helmsman we want for the ship of State, and not a Professor of navigation or astronomy:

Sir, among the vulgar errors that ought to go into Sir Thomas Brown's book, this ought not to be omitted: that learning and wisdom are synonymous, or at all equivalent. Knowledge and wisdom, as one of our most delightful poets sings—

"Knowledge and wisdom, far from being one,  
Have oft times no connexion—knowledge dwells  
In heads replete with thoughts of other men;  
Wisdom, in minds attentive to their own.  
Knowledge is proud that he has learned so much;  
Wisdom is humble that he knows no more.  
Books are not seldom talismans and spells,  
By which the magic art of shrewder wits  
Holds the unthinking multitude enchained."

And not books only, Sir,—speeches are not less deceptive. Sir, I not only consider the want of what is called learning not to be a disqualification for the command in chief in civil or military life, but I do consider the possession of too much learning to be of most mischievous

H. of R.]

Retrenchment.

[FEB. 1, 1828.]

consequence to such a character ; who is to draw from the cabinet of his own sagacious mind, and to make the learning of others, or whatever other qualities they may possess, subservient to his more enlarged and vigorous views. Such a man was Cromwell—such a man was Washington. Not learned, but wise. Their understandings were not clouded or cramped, but had fair play. Their errors were the errors of men, not of school boys and pedants. Sir, so far from the want of what is called education being a very strong objection to a man at the head of affairs, over-education constitutes a still stronger objection. [In the case of a lady it is fatal. Heaven defend me from an over-educated, accomplished lady. Yes, sir, accomplished indeed, for she is finished for all the duties of a wife, or mother, or mistress of a family.] Sir, we hear much of military usurpation, of military despotism—of the sword of a conqueror—of Cæsar—and Cromwell—and Bonaparte. What little I know of Roman history has been gathered chiefly from the surviving letters of the great men of that day—of Cicero especially—and I freely confess to you, that, if I had then lived, and been compelled to take sides, I must, though very reluctantly, have sided with Cæsar, rather than take Pompey for my master. Sir, it was the interest of the house of Stuart—and they were long enough in power to do it—to blacken the character of Cromwell—that great, and, I must add, bad man. But, sir, the devil himself is not so black as he is sometimes painted. But who would not rather have obeyed Cromwell, than that self-styled Parliament, which obtained a title too indecent for me to name, but by which it is familiarly known and mentioned in all the historians, from that to this day. Sir, Cromwell fell under a temptation, perhaps too strong for the nature of man to resist—but he was an angel of light to either of the Stuarts—the one whom he brought to the block ; or his son, a yet worse man, the blackest and foulest of miscreants that ever polluted a throne. It has been the policy of the house of Stuart and their successors—it is the policy of Kings—to vilify and blacken the memory and character of Cromwell. But the cloud is rolling away. We no longer consider Hume as deserving of the slightest credit. Cromwell was “guiltless of his country’s blood.” His was a bloodless usurpation. To doubt his sincerity at the outset, from his subsequent fall, would be madness—religious fervor was the prevailing temper and fashion of the times. Cromwell was an usurper, ’tis granted ; but he had scarcely any choice left him. His sway was every way preferable to that miserable corpse of a Parliament, that he turned out, as a gentleman would turn off a drunken butler and his fellows, or the pensioned tyrant that succeeded him—a dissolute, depraved bigot and hypocrite, who was outwardly a Protestant and at heart a Papist. He lived and died one, while pretending to be a son of the church of England, aye, and swore to it, and died a perjured man. Sir, if I must have a master, give me one whom I can respect rather than a knot of knavish Attorneys. Sir, Bonaparte was a bad man ; but I would rather have had Bonaparte than such a set of corrupt, intriguing, public plunderers as he turned adrift. The Senate of Rome—the Parliament of England—the Councils of Elders and of Youngsters—the Legislature of France—all made themselves first odious and then contemptible ; and then comes an usurper, and this is the natural end of a corrupt civil Government.

There is a class of men who possess great learning, combined with inveterate professional habits, and who are, (*ipso facto*, or perhaps I should rather say *ipsis factis*, for I must speak accurately as I speak before a Professor) disqualified for any but secondary parts any where—even in the Cabinet. Cardinal Richelieu was, what ? A Priest. Yes, sir, but what a Priest !—Oxenstierna was a Chancellor. He it was who sent his son abroad to see—*quam parva sapientia regitur mun-*

*das*—with how little wisdom this world is governed.—This Administration seemed to have calculated that even less than that little would do for us. The gentleman called it a strong, an able Cabinet—second to none but Washington’s first Cabinet. Sir, I could hardly look at him for blushing. What, sir, is Gallatin at the head of the Treasury—Madison in the Department of State ? The mind of an accomplished and an acute dialectician, of an able lawyer, or, if you please, of a great physician, may, by the long continuance of one pursuit—of one train of ideas—have its habits so inveterately fixed, as effectually to disqualify the possessor for the command of the councils of a country. He may, nevertheless, make an admirable chief of a bureau—an excellent man of details—which the chief ought never to be. A man may be capable of making an able and ingenious argument on any subject within the sphere of his knowledge ; but, sir, every now and then the master sophist will start, as I have seen him start, at the monstrous conclusions to which his own artificial reason had brought himself. But this, sir, was a man of more than ordinary natural candor and fairness of mind. Sir, by words and figures you may prove just what you please ; but it often and most generally is the fact, that, in proportion as a proposition is locally or mathematically true, it is politically and common-sensically (or rather nonsensically) false. The talent which enables a man to write a book, or make a speech, has no more relation to the leading of an army or Senate, than it has to the dressing of a dinner. The talent which fits a man to head a Government, is the talent for the management of men—a mere dialectician never had, and never will have it : both requires the same degree of courage, though of different kinds. The very highest degree of moral courage is required for the duties of government. I have been amused when I have seen some dialecticians, after assorting their words—“the counters of wise men, the money of fools”—after they had laid down their premises, and drawn, step by step, their deductions, sit down, completely satisfied, as if the conclusions to which they had brought themselves were really the truth—as if it were irrefragably true. But wait until another cause is called, or till another Court sits—till the bystanders and jury have had time to forget both argument and conclusion, and they will make you just as good an argument on the opposite side, and arrive, with the same complacency, at a directly opposite conclusion, and triumphantly demand your assent to this new truth. Sir, it is their business—I do not blame them. I only say that such a habit of mind unfits men for action, for decision. They want a client to decide which side to take ; and the really great man performs that office for them. This habit unfits them for Government in the first degree. The talent for Government lies in these two things—agacity to perceive, and decision to act. Genuine statesmen were never made such by mere training ; education will form good business men—*nascuntur non fiunt*. The maxim (*nascitur non fit*) is as true of statesmen as it is of poets. Sir, let a house be on fire, you will soon see in that confusion who has the talent to command. Let a ship be in danger at sea, and ordinary subordination destroyed, and you will immediately make the same discovery. The ascendancy of mind and of character exists and rises as naturally and as inevitably, where there is free play for it, as material bodies find their level by gravitation. Thus a great diplomatist, like a certain animal, oscillating between the hay on different sides of him, wants some power from without, before he can decide from which bundle to make trial. Who believes that Washington could write as good a book or report as Jefferson, or make as able a speech as Hamilton ? Who is there that believes that Cromwell would have made as good a Judge as Lord Hale ? No, sir ; these learned and accomplished men find their proper place under those

FEB. 1, 1828.]

Retrenchment.

[H. or R.]

who are fitted to command, and to command them among the rest. Such a man as Washington will say to a Jefferson, do you become my Secretary of State; to Hamilton, do you take charge of my purse, or that of the nation, which is the same thing; and to Knox, do you be my master of horse. Sir, all history shews this, but great diplomats and great scholars are, for that very reason, unfit to be rulers. Sir, would Hannibal have crossed the Alps when there were no roads—with elephants—in the face of the warlike and hardy mountaineers—and carried terror to the very gates of Rome, if his youth had been spent in poring over books? Would he have been able to maintain himself on the resources of his own genius for sixteen years in Italy, in spite of the faction and treachery in the Senate of Carthage, if he had been deep in conic sections and fluxions and the different calculus—to say nothing of botany, and mineralogy, and chemistry? “Are you not ashamed,” said a philosopher to one who was born to rule, “are you not ashamed to play so well upon the flute?” Sir, it was well put. There is much which it becomes a secondary man to know—much that it is necessary for him to know—that a first rate man ought to be ashamed to know. No head was ever clear and sound that was stuffed with book learning. You might as well attempt to fatten and strengthen a man by stuffing him with every variety and the greatest quantity of food. After all, the Chief must draw upon his subalterns for much that he does not know, and cannot perform himself. Sir, my friend Wm. B. Johnson has many a groom that can clean and dress a race horse, and ride him too, better than he can. But what of that? Sir, we are, in the European sense of the term, not a military People. We have no business for an army—it hangs as a dead weight upon the nation—officers and all. Sir, who rescued Braddock when he was fighting, *secundum artem*, and his men were dropping around him on every side? It was a Virginia Militia Major. He asserted in that crisis the place which properly belonged to him, and which he afterwards filled in the manner we all know.

Sir, I may, without any mock modesty, acknowledge what I feel, that I have made an unsuccessful reply to the gentleman from Massachusetts. There are some subjects which I could have wished to have touched upon before I sit down now and forever. I had the materials in my possession when I came to this House this morning, but I am dragged down by physical weakness from the most advantageous use of them.

Sir, what shall we say to a gentleman, in this House or out of it, occupying a prominent station, and filling a large space in the eye of his native State, who should, with all the adroitness of a practised advocate, gloss over the acknowledged encroachments of the men in power, upon the fair construction of the Constitution, and then present the appalling picture, glaring and flaming, in his deepest colors, of a bloody military tyrant—a raw-head and bloody-bones—so that we cannot sleep in our beds—who should conjure up all the images that can scare children and frighten old women—I mean very old woman, sir—and who offers this wretched caricature—this vile daub, where brick dust stands for blood, like Peter Porcupine’s Bloody But, as a reason for his and our support in Virginia, of a man in whom he has no confidence, whom he damns with faint praise—and who, moreover—tell it not in Gath! had zealously, and elaborately, (I cannot say ably) justified every one of these very atrocious and bloody deeds—yes, sir, on paper—not in the heat of debate, in the transports of a speech, but—as the author of the Richmond Anathema full well knew—and knew that we, too, knew—deliberately and officially. Sir, if we did not know that Lawyers never see but one side of a case—that on which they are retained, and that they fondly hope that the Jury will see with their eyes—what should we say of such a man? His Client

having no character, he attacks Defendant’s character, upon a string of charges, in every one of which (supposing them to be true) his client was self-avowed *particeps criminis*—having defended, adopted, and made each and every one of them his own. Sir, such a man may be a great Lawyer, (although this is but a poor specimen of his skill in that line) or a great Mathematician, or Chemist; but of a man guilty of such glaring absurdity, it may be fearlessly pronounced that, in the management of his own concerns, and in the affairs of men, he has not “right good common sense.” And here, sir, we come to that great and all-important distinction, which the profane vulgar—whether they be the great vulgar or the small—too often overlook; and which I have, lamely I fear, endeavored to press upon the House—I mean the distinction between knowledge and learning, on the one hand, and sense and judgment, on the other. And there, sir, lies the great defect of the gentleman in question. Sir, I have heard it said of him, by those who know and love him well, “that he can argue either side of a question, whether of law, of policy, or of constitutional construction, with great ingenuity and force; but he wants that sagacity in political affairs, which first discerns the proper end, and then adopts the most appropriate means: and he is deficient in that knowledge of mankind, which would enable another (much his inferior) to perceive that his honest disinterestedness is played upon by those who are conscious that he prides himself upon it. It is the lever by which he is on all occasions to be moved. It is his pride—an honest and honorable pride, which makes him delight to throw himself into minorities, because he enjoys more self-gratification from manifesting his independence of popular opinion—than he could derive from any thing in the gift of the People. His late production—the Adams convention manifesto, is the feeblest production of the day. The reason is, his head and heart did not go together.”

Sir, this picture is drawn by the hand of a friend. As we have had billiard tables and chess boards introduced into this debate, I hope I may be allowed to borrow an illustration from this last game. Sir, one of these arguing machines reminds me of the bishop at chess. The black or white bishop (I use the term not in reference to the color of the piece, but of that of the square he stands upon) is a serviceable piece enough in his way; but he labors under this defect: that, moving in the diagonal only, he can never get off his original color. He can scour away all over just one half of the board; but his adversary may be on the next square, and perfectly safe from his attack. To be safe from the bishop, you have only to move upon any one of the thirty-two squares that are forbidden ground to him. But not so the irregular knight, who, at successive leaps, can cover every square upon the board, to whose check the king can interpose no guard, but must move. Even the poor pawn has a privilege which the bishop has not: for he can elude his mitred adversary by moving from a white square to a black one, or from a black square to a white one, and finally reach the highest honors of the game. So even a poor peasant, of sense, may instruct the philosopher, as the shepherd did, in that beautiful introduction, the finest of Mr. Gay’s fables but one, who drew all his notions of men and things from Nature. Sir, it is in vain to turn over musty folios, and double down dog’s ears: it does very well in its place—in a lawyer’s office—or a bureau. I am forced to use the word for want of a better; but it will not supply the place of that which books never gave, and never can give—of judgment and experience. Sir, who would make the better leader, in a period of great public emergency—old Roger Sherman, or a certain very learned gentleman from New York, whom we once had here, who knew every thing in the world for which man has no occasion, and nothing in the world for which man

H. or R.]

Retrenchment.

[FEB. 1, 1828.]

has occasion? Sir, the People, who are always unsophisticated—and though they may occasionally be misled, are always right in their feelings, and always judge correctly in the long run—have taken up this thing. It is a notorious fact, in Virginia, that, in County Courts, where men are admitted to sit as judges, who are not of the legal profession—plain planters, who have no pretensions to be considered as lawyers—the decisions are much seldom reversed than in those courts where a barrister presides: his reasons may be more plausible, but his decision will be oftener wrong. Yes, sir, the People have decided upon this thing.

Sir, I will suppose a case: I will suppose that the late convulsive struggles of the Administration may so far succeed, as that they will be able to renew their lease for another four years. Now, sir, if a majority of this House can't get along with such a minority hanging on their rear, cutting off supplies, and beating up their quarters, what will be the situation of the Administration then? Sir, what is it now? Did any body ever hear of a victory obtained by the Executive power, while a decided majority of the Legislature was against it? Sir, I know of no such victory, but one—and that was the partricial victory of the younger Pitt over the Constitution of England; and he gained that only by the impenetrable obstinacy of the King, which then gave indications of the disease that was lurking in his constitution, and afterwards so unhappily became manifest.

Sir, the King was an honest man, and a much abler man than he ever had credit for. But he was incurably obstinate. He had just lost the colonies. No matter—he would risk the crown of England itself, and retire to his hereditary States in Germany, rather than yield: and, sir, but for a barefaced coalition, he would have so retired, and have supplied a most important defect in the act of settlement—the separation of Hanover from England. But the corrupt bargain of Lord North and Mr. Fox, to share office between them, disgusted the People—they took side even against their own liberties. But here, sir, the coalition is not on the side of the People's rights, but against them. Mr. Pitt, (the Crown rather) triumphed. Knaves cried Hosanna; and fools repeated the cry. England recovered by the elasticity which belongs to free institutions, and Mr. Pitt attained a degree of power that enabled him to plunge her into the mad vortex of war with Revolutionary France. Nine hundred millions of debt; taxes, in amount, in degree, and mode, unheard of; pauperism, misery, in all possible forms of wretchedness—attest the greatness of the Heaven-born Minister, who did not weather the storm, but was whelmed beneath it, leaving his country to that Providence whom it pleased to rescue her in her utmost need, by inflicting madness on her great unrelenting enemy, and sending this modern Nebuchadnezzar to grass. Sir, Mr. Pitt is as strong an instance for my purpose, as I could have wanted: He was a rhetorician, a speech maker; a man of words, and good words too, at will; a dextrous debater—and if he had continued to ride the Western circuit, he might have been an eminent wrangler at the bar, and, in due time, a Chief Justice or Lord Chancellor. But, for the sins of England he was made Prime Minister, and at five and twenty too. Sir, Mr. Pitt no more saw what was ahead of him, than the ideot in the Parish workhouse. He no more dream't, when the war began, to what point he would be able to push his system, if system it may be called, than any clerk in his office. The productive powers, of a People like the English, where property is perfectly secure and left free to act, and where the industrious classes are shut out from almost any participation in public affairs, is incredible; is almost without limit. Two individuals discovered two mines, more precious and productive than Guanaxiuto or Potosi—that furnished the means for his prodigality, that as-

tonished even Mr. Pitt. These were Sir Richard Arkwright and Mr. Watt—the spinning machine and the steam engine. And this imbecile and blundering Minister has been complimented with what is due to the unrivalled ingenuity and industry of his countrymen. So, sir, in like manner, this young Hercules of America, who, if we can keep him from being strangled by the serpents of corruption, must grow to gigantic strength and stature—every improvement which he makes, in spite of the misrule of his governors, these very modestly arrogate to themselves.

We have been told, officially, that the President wished the great question to have been referred back to the People, if by the forms of the Constitution this could be done. Sir, if I were the friend, as I am the undisguised enemy of the Administration, I would say to them, you may be innocent—your intentions may be upright—but you have brought the country to that pass, that you can't carry on the Government. As gentlemen possessing the least self respect, you ought to retire—leave it—try another venue—you can't carry on the Government without us, any more than we can act, while every thing is the Executive Government is against us. Sir, there are cases in which suspicion is equivalent to proof—and not only equal to it; but more than equal to the most damning proof. There is not a husband here who will not ratify this declaration—there may be suspicion so agonizing, that it makes the wretch cry out for certainty as a relief from the most damning tortures. Such suspicions are entertained with respect to these gentlemen—and though they are making a convulsive effort to roll back the tide of public opinion, they can't allay the feeling—the suspicion rests upon the facts—and, do what they may, facts will not bend at their bidding. Admit it to be suspicion, it is equally fatal, as regards them and the public service, with the reality. Mr. R. would not go in pursuit of the *alibis* and *aliases* of the accused—of the tubs, whether with false bottoms or double bottoms, thrown out to amuse the public. The whole conduct of the accused had displayed nothing of the dignity of innocence; but all the restlessness of guilt. Every word of Mr. Clay's late pamphlet might be true, and yet the accused be guilty, notwithstanding.

The gentleman from Massachusetts warned us, that, if the individual we seek to elevate shall succeed, he will, in his turn, become the object of public pursuit, and that the same pack will be unkenelled at his heels, that have run his rival down. It may be so. I have no hesitation to say, that, if his conduct shall deserve it, and if I live, I shall be one of that pack; because, sir, I maintain the interests of Stockholders, against Presidents, Directors, and Cashiers. And here, sir, I beg leave to notice an objection urged, as I have heard, against me, by the gentleman from Ohio [Mr. VANCE.] He says that I have been opposed to all Administrations. Sir, I deny it to be fact. I did oppose the elder Adams, because he attacked the liberty of the press and of the subject; because his opinions were at war with the genius of our institutions. He avowed them openly, and I liked him the better for his frankness. But, sir, I supported the Administration of his successor. I did for it what I could—little enough, God knows. The first case in which I differed from that Administration was the case of the Yazoo claims, which I thought a case of flagrant corruption. I do not mean, and I never did believe, that there was corruption in the President, or his two Secretaries; and it did not cause me to separate myself from them. I separated from that Administration three years afterwards, with pain and sorrow, and not without some anger, too; for, sir, I have no idea of that extreme of candor and meekness which denounces the measures of a Government, as Bottom says in the play, "and will roar you as gently as any sucking dove." It is not my nature to do so, and it would be criminal and ridi-

FEB. 1, 1828.]

*Retrenchment.*

[H. OF R.]

culous in me, because it would be hypocrisy to affect it. Sir, when the former restrictive system was first commenced, I thought I saw what I now know I did then see—the fatal and ruinous consequences that would grow out of it. I told Mr. Jefferson, candidly and frankly, that, if he expected support in a certain quarter, and did not find it, he need not blame me. Sir, I will not repeat what he said on that occasion, but he deplored the separation. But, permit me to remind you, sir—for you were then too young to know much of these matters—that, previously, but nearly at the same time of my leaving that Administration, a certain wise man from the East joined it, who soon after went off to Canada, under strong suspicion of felony; and this was soon followed by a certain gentleman's giving in his adhesion, who had before been violently opposed to it, and to all its best measures. Sir, I have not the least objection to its being said of me, that I separated myself from Mr. Jefferson, when Barnabas Bidwell and John Quincy Adams joined him.

Some allusion has been made to the discordant materials of the present Opposition. Sir, they are somewhat discordant—at least they have been so. But are they more so than the adherents of the present Administration, or the materials of the Administration itself? Sir, I will remember almost the first propitiation (the first was the writ of habeas corpus) which he who is now the President of the United States made to Mr. Jefferson and his party. It was an attempt to run down the present Chief Justice. The right of John Smith to a seat in the Senate was made the peg to hang it on. I will tell the gentleman the whole reason why I have opposed the Administration since that time, and may again, if, according to my judgment, they shall not consult the good of the country. It is, sir, simply because I am for the interests of the Stockholders—of whom I am one—as opposed to those of the President, Directors, and Cashiers; and I have the right of speaking my opinion, and shall exercise it, though it happen to be against the greatest and proudest names.

Sir, I am no judge of human motives: that is the attribute of the Name which I will not take in vain—the attribute of Him who rules in Heaven, or who becomes incarnate upon Earth—mere man can claim no such exemption.

I do not pretend that my own motives do not partake of their full share of the infirmity of our common nature—but of those infirmities, neither avarice nor ambition form one *iota* in the composition of my present motives. Sir, what can the country do for me? Poor as I am—for I am much poorer than I have been—impoverished by unwise legislation—I still have nearly as much as I know how to use—more, certainly than I have at all times made a good use of—and, as for power, what charms can it have for one like me? Sir, if power had been my object, I must have been less sagacious than my worst enemies have represented me to be, (unless, indeed, those who would have kindly shut me up in bedlam) if I had not obtained it. I may appeal to all my friends to say whether “there have not been times when I stood in such favor in the closet, that there must have been something very extravagant and unreasonable in my wishes, if they might not all have been gratified.” Was it office? What, sir, to drudge in your laboratories in the Departments, or to be at the tail of the corps diplomatique in Europe? Alas, sir, in my condition, a cup of cold water would be more acceptable. Sir, what can the country give me that I do not possess in the confidence of such constituents as no man ever had before? Sir, I could retire to my old patrimonial trees, where I might see the sun rise and set in peace. Sir, as I was returning, the other evening from the Capitol, I saw—what has been a rare sight here this winter—the sun dipping his broad disk among the trees behind those Virginia hills, not alighting his glowing axle in the steep Atlantic stream—and

I asked myself, if, with this Book of Nature unrolled before me, I was not the most foolish of men to be struggling and scuffling here, in this heated and impure atmosphere, where the play is not worth the candle; but then the truth rushed upon my mind, that I was, vainly, perhaps, but honestly, striving to uphold the liberties of the People who sent me here—yes, sir—for can those liberties co-exist with corruption? At the very worst, the question recurs, which will the more effectually destroy them, collusion, bargain, and corruption here, or a military despotism? When can that be established over us? Never, till the Congress has become odious and contemptible in the eyes of the People—Sir, I have learned from the highest of all authority, that the first step towards putting on incorruption is the putting off corruption. That recollection nerves me in the present contest; for I know that, if we succeed, I shall hold over the head of those who succeed the present incumbent, a rod, which they will not dare, even if they had the inclination, to disobey. They will tremble at the punishment of their predecessors. Sir, if we succeed, we shall restore the Constitution—we shall redress the injury done to the People—we shall regenerate the Country. If the Administration which ensues shall be as bad as the character of the opposing candidate (General Jackson) is represented by his bitterest foes to be, still I had rather it were in the seat of power than the present dynasty, because it will have been fairly elected. The fountain of its authority will not have been poisoned at the source. But, sir, if we perish under the spasmodic efforts of those now in power to reinstate themselves on the throne, our fate will be a sacred one—and who would wish to survive it?—there will be nothing left in the country worth any man's possession. If, after such an appeal as has been made to the People, and a majority has been brought into this and the other House of Congress, this Administration shall be able to triumph, it will prove that there is a rottenness in our institutions, which ought to render them unworthy of any man's regard—sir, my “churchyard cough” gives me the solemn warning, that, whatever part I shall take in the chase, I may fail of being in at the death—I should think myself the basest and the meanest of men—I care not what the opinion of the world might be—I should know myself to be a scoundrel, and should not care who else knew it, if I could permit any motive, connected with the division of the spoil, to mingle in this matter with my poor, but best exertions for the welfare of my country. If gentlemen suppose I am giving pledges, they are mistaken—I give none—they are entitled to none—and I give none. Sir, I shall retire upon my own resources—I will go back to the bosom of my constituents—to such constituents as man never had before, and never will have again—and I shall receive from them the only reward that I ever looked for, but the highest that man can receive—the universal expression of their approbation—of their thanks. I shall read it in their beaming faces—I shall feel it in their gratulating hands. The very children will climb around my knees to welcome me. And shall I give up them, and this? And for what? For the heartless amusements, and rapid pleasures, and tarnished honors, of this abode of splendid misery, and of shabby splendor? For a clerkship in the War Office, or a Foreign Mission, to dance attendance abroad, instead of at home—or even for a Department itself? Sir, thirty years make sad changes in man. When I first was honored with their confidence, I was a very young man, and my constituents stood in almost parental relation to me, and I received from them the indulgence of a beloved son. But the old patriarchs of that day have been gathered to their fathers—some adults remain, whom I look upon as my brethren; but the far greater part were children—little children—or have come into the world since my public life began. I know among them grandfathers,

H. OF R.]

Retrenchment.

[FEB. 2, 1838.]

and men muster-free, who were boys at school, when I first took my seat in Congress. Time, the mighty reformer and innovator, has silently and slowly, but surely, changed the relation between us; and I now stand to them, *in loco parentis*, in the place of a father, and receive from them a truly filial reverence and regard. Yes, sir, they are my children—who resent, with the quick love of children, all my wrongs, real or supposed. To them I shall return, if we are defeated, for all of consolation that awaits me on this side of the grave. I feel that I hang to existence but by a single hair—that the sword of Damocles is suspended over me.

If we succeed, we shall have given a new lease to the life of the Constitution. But, should we fail, I warn gentlemen not to pour out their regrets on General Jackson. He will be the first to disclaim them. The object of our cause has been, not to raise Andrew Jackson to the Presidency—be his merits what they may—its object has been the signal and condign punishment of those public servants, on whom, if they be not guilty, the very strongest suspicion of guilt must ever justly rest.

[Mr. EVERETT here repelled the charge of having violated delicacy.]

I have a right to say so, when a man reads in this House a paper which is unfit to be read even without spectators. That he did not write it is no excuse for the gentleman. He read it, and he brought into view the case of the Queen of France.

[Here the debate closed for this day.]

SATURDAY, FEBRUARY 2, 1838.

#### RETRENCHMENT.

The House then resumed the consideration of the resolutions of Mr. CHILTON, together with the amendment proposed thereto by Mr. BLAKE, as modified.

Mr. HAMILTON having taken the floor, submitted the following, as an amendment to the amendment of Mr. BLAKE:

“Resolved, That a Select Committee be appointed, whose duty it shall be to inquire, and report to this House, if any, and what, retrenchments can be made with safety to the public interest, in the number of the officers of the Government of the United States, and in the amount of salaries which they may respectively receive; more especially to report specifically on the following heads:

1. What reductions of expense can be made in the State Department, in the number and salaries of the officers and clerks attached to this Department, in the expenses regulating the foreign intercourse, and in the printing and distribution of the public laws of the United States.

2. What reductions in the Treasury Department, and whether an effective system of accountability, and for the collection of the public dues, is there established.

3. What reductions of expense can be made in the Navy Department in the clerks and officers now acting subordinately to the Secretary of the Navy.

4. What reductions of expense can be made in the Department of War, and in the Indian Department, and in the clerks and officers now acting subordinately to the Secretary of War.

4. What reductions of expense can be made in the number of officers, and the amount of compensation which they may receive, in the Postmaster General's Department.

And that the Committee be further instructed to examine the several contingent funds of each of these Departments, and to report the amount and objects for which disbursements have been made from these funds, and that they report the amounts, vouched and unvouched, which have been made from the Secret Service Fund, or the fund regulating the contingencies of Foreign Intercourse, and

of the fund for the expenses of intercourse with the Barbary Powers.

And that they further report, whether the compensation of Members of Congress should be reduced; and whether the fixed salaries of the officers of this House, and its contingent expenses, can, with propriety, be diminished.

And further, That they inquire whether any modification of the sinking fund act can be made, with a view of producing a more speedy extinguishment of the public debt.”

Mr. HAMILTON said, that he rose to address the House with the most unaffected embarrassment; and whilst he was fully sensible of their kindness in the adjournment of last evening, he did not know that he ought to thank them for this indulgence, as it might have created expectations which he was destined to disappoint: for he could neither add novelty or attraction to the debate. If the House had permitted him to have remained in the possession of the floor on the last evening, he would probably then have contented himself with offering the amendment he had just presented. As it was, solaced by the same relaxation in which they had participated from the adjournment, he had acquired a stock of energy, which he feared he was about to expend in a tax upon their patience. He hoped, however, that he would be sensible that the only atonement he could make for their kindness, was to be as brief as possible, and to confine himself strictly to the matter in hand, and to a short notice of some of the topics which had been started on the other side.

He did not propose to add his unavailing regrets to those which had been generally expressed: that the gentleman from Kentucky [Mr. CHILTON] should have introduced his resolutions at this time. That gentleman had, with a frankness which was honorable to himself, avowed the motives which had influenced his conduct; and he, [Mr. H.] thought it no more than an act of justice, to absolve that gentleman from all responsibility for the latitude and inflammatory character which the debate had since assumed. But whilst I make this declaration, [said Mr. H.] I wish to accompany it with this distinct affirmation, that those with whom I act in this House, would not have selected this as an appropriate period for introducing the subject. My honorable friend from Virginia, [Mr. RANKIN] at a single glance, with that perspicacity which distinguishes him, perceived the true bearings of this subject; he has said, this “is not the accepted time.” I will endeavor to follow out the reasons for this opinion, somewhat more in detail than they were offered by that gentleman himself. Whatever may be our majority in this House, we are not in possession of the Executive of this Government. It is against us; and I am not disposed to send missionaries and circumnavigators on a voyage of reform, when our adversaries are not only in possession of the ports, but their keys, forts, and arsenals. The anticipation, too, of their co-operation, would be visionary in the extreme, as, both in practice and doctrine, in the abstract and in the substance, they seem to be committed not to go either for retrenchment or reform. In reference to the doctrine of the Administration, he would refer to the first manifesto to which they had put on record—which was to be found in the memorable message of the President, of December, 1825. If it had been then desired by those who are in power to have carried into effect an intelligible system of national economy, this ground would then have been taken; and, instead of a few vague generalities on frugality, we should have pointed out, by definite land-marks, the course which the Administration desired, on this important subject, to pursue. But it so happens that this memorable paper, (more remarkable for the exuberance of its poetry than for the prosaic dullness of its statistics,) is filled with the most stupendous objects of extravagance. The imagination of the President seems to have been smit-



FEB. 2, 1838.]

*Retrenchment.*

[H. OF R.]

ten with some beautiful image of magnificence which he desired to impress on the form of this Republic—more studious as to the objects to be obtained, than of the constitutional means of their accomplishment. He informs us, that “The spirit of improvement is abroad upon the earth. It stimulates the heart, and sharpens the faculties, not of our fellow-citizens alone, but of the nations of Europe, and of their rulers. While dwelling with pleasing satisfaction upon the superior excellence of our political institutions, let us not be unmindful that liberty is power; that the nation blessed with the largest portion of liberty, must, in proportion to its numbers, be the most powerful nation upon earth; and that the tenure of power by man is, in the moral purposes of his Creator, upon condition that it shall be exercised to ends of beneficence—to improve the condition of himself and his fellow men. While foreign nations, less blessed with that freedom which is power, than ourselves, are advancing with gigantic strides in the career of public improvement, were we to slumber in indolence, or fold up our arms, and proclaim to the world that we are palsied by the will of our constituents, would it not be to cast away the bounties of Providence, and doom ourselves to perpetual inferiority?”

It will be recollected that this is an instructive and emphatic conclusion to a long inventory of the most extravagant projects of expense, that the wit of man can conceive; that, after having clothed the surface of this empire with the embellishments of the arts, “elegant and profound,” he ascends into the seventh heaven of invention, and proposes studding the milky-way with luminaries, which have never come even under the charge of the venerable gentleman from Virginia, [Mr. NEWTON] under whose fostering superintendence all the other light-houses in the country have been built. When the exhortation which I have just read is taken in connexion with the assumption of the President, that we have the constitutional power to do all that he recommends; and, if we fail to exercise a power that is delegated to us, that it involves “a treachery to the most sacred of trusts,” although we might even “proclaim that we were palsied by the will of our constituents”—I say, from this doctrine, and the objects to which it is applied, we can have little hope of the cordial co-operation of this Administration, in any effectual scheme of retrenchment. But now let me appeal to facts. The Administration was in possession of a majority in this House, and in the other, for the two first sessions of their present term, and I ask any man to point out a single measure of retrenchment which has been accomplished by their friends, or even recommended by themselves. Sir, it is not the interest of those who came into power as did our present Executive, to diminish their patronage by retrenchment. At a former session, on a collateral branch of this subject (on a resolution of inquiry respecting the public printing) I maintained this position: that an Administration in a minority in the country, must rely, however hopeless the expectation, on the influence of its patronage, to sustain them in power. That this was the result of a moral destiny which they could not resist; that, having the People against them, they would have to depend upon that compact, effective, and well disciplined minority, of office-holders, and office-hunters: and that if, by a strange moral paradox, we can suppose Aristides himself could have consented to have taken the Presidency (which by the way, we cannot suppose) under the same circumstances that Mr. Adams accepted it, and Fabricius had been willing to become his Secretary of State, they must have indulged, by the force of an impulse little short of an instinct, in the same course of measures which had marked the useless, and, in the end, to themselves, hopeless, career of the Administration. To ask men thus situated to co-operate in diminishing their

patronage, would be to ask them to give up the very element by which they hope to live.

I will, moreover, Mr. Speaker, very frankly confess that, believing, if the work of reform and retrenchment is necessary, it could be more effectually performed by a succeeding Administration, the friends with whom I act on this floor have not been insensible to the gratification they would feel if this task (judiciously accomplished) is destined to illustrate the glory of him whom we hope to see elevated to the Chief Magistracy of this country; because we believe, from the opinions which he expressed in the very infancy of his political life, and by all his subsequent habitudes, that he considers an enlightened frugality as one of the first virtues of a Republic. On this point, however, we do not desire to be mistaken. And here let it be understood, that I speak on the authority of a knowledge of his opinions, when I say, that, whilst he would be the unrelenting antagonist of every thing like corruption and abuse in the discretionary trusts of this Government, that the country has not a more zealous or inflexible friend than himself to all those establishments necessary to our prosperity in peace, and security in war; or one who would go farther, within the limits of the Constitution, to preserve to them every essential of usefulness and of undiminished vigor.

We therefore had no wish, as it surely was not our policy, at this time, to stir this matter. Believing that we stand on the vantage ground, that the great battle is going on elsewhere, much more effectually than it can be waged in this House, we desired, if such a course is permitted to us, to discharge the ordinary duties of legislation, and speedily to return to our homes, that the gratifying spectacle might have been presented, of the most popular deliberative body in our country discharging its high office, without participating in the excitement which surrounds it. Sir, we desired to provoke no war in this House, and we were in too good humor with the tokens of the times, to feel any inclination to indulge in acrimony or violence. But no sooner was the resolution of the gentleman from Kentucky [Mr. CHILTON] introduced, but the gentlemen occupying the ministerial benches (I hope they will pardon me the technical phrase—I do not use it in disparagement; but, as one of their organs [Mr. EVERETT] has repudiated the appellation of Adams-men, I know not what other term to use) seized upon it with avidity, as serving for a loop on which to hang popular harangues in defence of the Administration, and assaults upon their opponents. If they had permitted the resolutions to have shared the usual fate of most motions of inquiry in this House, they would have gone to the committee to which they were directed, and have either sunk into an uninterrupted slumber, or have been awakened possibly to some purpose of practical usefulness. But now, in a tone of defiance, these gentlemen challenge us to an inquiry, and, profiting by the example of their master spirit elsewhere, they seem inclined almost to go on the highway and advertise for an accuser.

Sir, we will not consent to become their accusers; we will make no charges, when they hold the keys of the very cabinets which contain the documentary proof, by which alone, if we did make accusations, we could hope to prove them. Sir, I have no idea of going on such an errand as to ask the honorable Secretaries to be so kind as to furnish us with the means of their own condemnation. I have no relish even for the sport of going to the Premier, of asking him to be so kind as to hold out his arm that we might feel his pulse, and see whether, from the fullness of the blood vessels, a little cupping and phlebotomy, in his opinion, might not be necessary; to inquire of him what he had done with his friends J. A. King and John H. Pleasants, and whether they, instruct-

H. OF R.]

Retrenchment.

[Feb. 2, 1889.]

ed by the great example of the palace, had made a revoke too, and had withdrawn the vouchers; or, sir, of crossing to the Treasury, and of thus accosting the Chancellor of the Exchequer: Well, Mr. Organizer General of the whole industry of the whole country, you who have kindly undertaken to take care of the business of every man, woman, and child, in our land, pray what have you done for the business of your own Department? Or, in stepping to the War Office, and of asking the son of Bellona, what brigades of reconnaissance he had now out—what political levels he had measured—what impediments he had surmounted—and whether, with a knowledge of projectiles greater than that of Vauban or Cohorne himself, he expected to engineer Mr. Adams into office for four years more? Or, lastly, of going over to the Navy Office, and to inquire of its chief, how many of his clerks were yellowed, and on the shelf? And whether some of his chaplains had not discovered the expansibility of human piety, and that it was quite as beneficial to pray *a la distance* for the cure of the souls of their flocks, as to pray with them.

In this crusade, the friends with whom I act in this House have no desire to indulge, or to carry with us a portable bill of indictment to each of the Departments. If we are to be made responsible for the resolutions of the gentleman from Kentucky, we desire that these resolutions should retain their character of strict inquiry, devoid of every thing which wears the aspect of accusation, as we will not consent to go into the trial of the Administration on an issue, as the gentleman from Pennsylvania [Mr. IZEMAN] has well said, made up by themselves, and, I say, upon proof only in their possession. If the Ministerial gentlemen, however, will pin us to the resolutions, and we must have an inquiry, let it be as full as possible; and, if it ends in no legislative results during the present Administration, it may terminate in an accumulation of useful facts, to govern the conduct of a future one. It is to meet this contingency that I have prepared the amendment which I have just offered—the true character and objects of which I will briefly disclose.

The amendment, in the first place, provides for the appointment of a Select Committee, by which alone the duty could be discharged, as the labor of its performance would be too oppressive for any one, or more than one, of the Standing Committees of this House. Besides, this provision will enable the Speaker to put upon this committee the disposable talent of this body, not engaged on the Standing Committees. Next, it will be perceived, that the amendment, steering clear of all accusatory matter, nevertheless covers the whole field of inquiry. It embraces the original resolution, with its amendments, and travels beyond them: it reaches every ramification of the fixed establishments of our Government, and all the discretionary trusts exercised under them, in a form analytically specific.

If, therefore, the gentlemen on the other side are in earnest, we invite them to work with us; if we do nothing this session, we may at least fix the blaze marks for the track of future legislation.

Having thus explained, sir, the character of the amendment, I should be induced to resume my seat, if the gentleman from Massachusetts [Mr. EVERETT] had not dropped, with an unsparing prodigality, in the debate of yesterday, several observations not calculated to limit its range, and which, from the weight of that gentleman, may be deemed worthy of notice. His argument was undoubtedly able in some parts, ingenious in others, eloquent in many, and artful in all. No man in this House understands the precepts of the great Roman master better than that gentleman, or practises on them more successfully. He has told him that artifice—I mean in no moral disparagement of the gentleman—is one of the

higher excellencies of the persuasive art, and his speech of yesterday furnishes a practical commentary on the precept.

The gentleman began by a very minute and detailed history of the diplomatic legislation of the country, sufficiently long and oppressive to smother the real point at issue. Well, sir, what did he establish? Why, that certain discretionary funds, called contingencies for foreign intercourse, were, from the first establishment of the Government, vested in the President and Department of State. And who is prepared to dispute this? But does this touch the question yet in arrear, that these funds may be abused, and that just in proportion to the discretion conceded for their disbursement ought to be the vigilance of this House in its supervision of all those branches of the public service, which, from this very discretion, might be most liable to abuse and corruption? Because the items of expenditure from these funds are settled by certificate, and because the President has the power of directing, under his treaty-making power, these expenditures, the gentleman says, from a defect of constitutional authority in this House, we have no right to inquire what has become of the money. I have looked carefully, sir, into the instrument, and I cannot find either the immunity of impeccability for the Executive, or of prohibition to this House. On the contrary, I see nothing that impeaches the great moral and political power of this body, in superintending the public expenditures. The exercise of this power is unquestionably to be limited by those considerations which belong to the public policy of the country; and any inquiry under this power ought to be conducted with every possible regard to our foreign relations, that they might not be affected by indiscreet exposures. This would be abundantly secured by that reserve and confidence by which it is in our competence to seal the deliberations of this House.

The gentleman has entertained us with a history of the diplomatic services of Mr. Adams. I have no doubt of the authority as well as the authenticity of the narrative; I considered it as a piece of amusing and instructive autobiography. The gentleman, without doubt, thought that he was acting within the limits of a just retaliation, as the President's outfits had been drawn into this discussion—a circumstance which, for myself, I sincerely regret. The gentleman seems, however, to consider, that, whatever might be the amount of these outfits, double or treble, that the President furnished an adequate consideration for them, by his extraordinary personal influence with the Emperor of all the Russias. Sir, I am happy to hear that we have had a Minister abroad, with personal attractions so taking and irresistible. The gentleman informs us that it was mainly through this influence, that the mediation of that august Monarch was obtained with Great Britain, by which the blessings of Peace at Ghent were secured. I fear, from a letter which I have seen, written (I presume about that time) by Mr. Adams to a friend, that he might have been a little too anxious in relation to the exercise of this influence, and, as he informs his friend, that "our Government was too penurious" to prosecute a just and honorable war with success, and one half of our People sufficiently base to be sold, by their prejudices, to the enemy—[Mr. RANDOLPH here asked Mr. H. which half. Mr. HAMILTON replied, he presumed the Federal half]—that he might have pushed this matter a little too far with our great and good Ally. But will the gentleman pardon me for believing that the enemy had many more moving causes for the acceptance of the mediation, than those which he has disclosed? I am inclined to think that our battle at Chippewa and at Bridgewater, and the victories on Erie and Champlain, with the arrest of that trident of the Ocean our enemy had so long held in her firm grasp, by the achievements of Hull and Decatur, were much

FEB. 2, 1828.]

*Retrenchment.*

[H. OF R.]

more successful negotiators than the personal fascinations and courtly graces of our Minister, and that the nerve and gunpowder of our warriors did quite as much as Mr. Adams could have accomplished with the seven hundred and fifty dollar coat, (about which we have heard so much) with even a bag and sword, however good a substitute the gentleman may think them for our bayonets and our broad swords.

The next subject to which the gentleman adverted, was the memorable narrative of the billiard table—first brought to the notice of the House by my friend from North Carolina [Mr. CARSON.] I do not believe that my friend, when he first noticed this item in the President's accounts, intended to make it a matter of grave accusation, as he certainly did not notice it with any very extraordinary emphasis. But the gentleman from Massachusetts very justly remarked, that the subject has since acquired a good deal of importance; and let me tell him why it has done so. It has been in consequence of the course which has been pursued in the auditing of this account. I am free to confess, that I never considered the mere fact of Mr. Adams having a billiard table in his House a serious matter, nor do I believe the people at large so considered it; but they merely deemed it one of those objects of expense, so strictly personal in its character, which a gentleman ought to have defrayed out of his private purse. I concur with my friend from Virginia [Mr. RANDOLPH] in the pitifulness of the sum which was paid for this piece of furniture, and in the healthfulness of the game itself. I can very readily conceive, sir, in the depressing heats of summer, that the President and his good Premier, tired with the cares of State—jaded and harassed by unpleasant news from abroad, should find some consolation in this attractive game, and that, after pocketing their own balls in New-York, Virginia, Pennsylvania, and North-Carolina, they should find some sport in making a cannon on the red and white.

But, sir, I will venture to say this, that, in playing this game, if the Secretary of State is not influenced by the same courtesy which governed the courtiers of the great Frederick, never to beat the monarch at chess, that he could give the President twenty-nine, and, as they say in Kentucky, "row him up salt river."

The gentleman, however, says that the Government did not pay for this table. Has the gentleman told us the reason why it did not pay for it? Because, after the account was sent to this House, it challenged a criticism, by which the President could not have failed to be admonished of his error. Then a revoke was hazarded, and the item expunged. But, the gentleman desires to escape from this dilemma, by affirming that the Private Secretary of the President is an officer not known to this Government. Then, the President is to be considered as auditing his own account, and is responsible for the introduction of this item, and if he delegated this trust to an irresponsible officer, he was bound to have examined an account involving, as to other items, a large expenditure of the public money. I care not upon which horn of this difficulty the gentleman is hung—but he tells us, as trifling as this billiard table affair is, that it has done the Administration more harm than all the other accusations which have been brought against it. Let me tell him that this has not arisen from any severe moral reprobation, which the people were disposed to visit upon the innocent recreation of a game of hazard; for most of them like a game themselves. The gentleman has told us that the descendants of the Pilgrims—aye, even the descendants of the Pilgrims—who are, without doubt, the most moral people on earth—play billiards; and I sincerely hope, sir, they play a good game. But it was the littleness of this transaction—I hope the gentleman will pardon me, I mean no disrespect to the President; if he will furnish me, in the abundant knowledge of his

own language, with a softer term, I will use it—I say it was the littleness, not the immorality of this transaction, that produced this excitement; in a word, it was because the President did not, in the first instance, pay for it out of his own purse, and that fact furnishes a solution of the whole effect which the gentleman so feelingly deploras.

But, the gentleman says, that through the unfortunate versions which have been given to this matter, the President has been represented as a corrupter of the youth of the country; and that his abode is little better than—a name which I will not follow his example in uttering. Depend upon it, in the anxiety of his friendship, this gentleman labors under a mistake. The people entertain no such false estimate of Mr. Adams's character. He has been the object, as a public man, of their searching criticism, for the last fifteen years. They know that he pays an exact regard to the proprieties of life, that he is a good husband, an unexceptionable parent, a useful citizen, and that he abhors a beggar as little as most men; but it is with his public virtues that the People have the highest concern. Oliver Cromwell said his prayers as often as Mr. Adams—swore as little—and was probably one of the most amiable men in England, in the private relations of life. These fireside virtues sometimes confer a dangerous authority and influence on the public faults—not to say vices—of a public man.

And the gentleman will pardon me, whilst I fully admit the morality of Mr. Adams's private life, that I should not consider it as furnishing a just compensation to his country, for the dangerous and seemingly interested inflexibility of his public principles. Let me tell that gentleman, that, while the People believe Mr. Adams to be a good man at home, they are inclined to think that he is disposed to play the game of ambition rather too rankly abroad. The gentleman has, however, solaced us with his opinion, that we have the ablest Cabinet this country has seen since the first Cabinet under General Washington. Comparisons, sir, are somewhat odious; and it is almost as great a breach of politeness to dispute a gentleman's taste. If that gentleman can find in the tremendous rhetorical explosions of the present Secretary of the Treasury, which I have seen in the public papers—that a wag has said, very facetiously, are more like setting the multiplication table to music than any thing else—if, I say, he can prefer these to the luminous expositions of Albert Gallatin, I shall not quarrel with his judgment; nor will I for setting a higher price upon the ability of the present Secretary of State, than upon that of James Madison. I know, sir, that Mr. Clay is a highly gifted man. As a popular declaimer on this floor, I presume he has scarcely ever had his equal. In the ability with which he filled that chair, in the parliamentary tact, and in the adroit management of this body, the joint result of intellect and fine social qualities, his power will never be forgotten. But let me say, that the very moment he went into the Department of State, this Sampson was not only shorn of his strength, but of something infinitely more valuable. I will not continue this part of the discussion: not a single harsh term shall now escape me. If the victory is ours, it is not over his blighted fortunes that I shall find my triumph, however just the destiny that awaits him.

The gentleman from Massachusetts, [Mr. EVERETT] after having himself, in some degree, widened the theatre of hostility, exclaims—let us have done with this exterminating war—let us have peace and tranquillity. Will the gentleman permit me to tell him how this may be accomplished? Let the Administration abdicate, and he and his friends shall have a plenty of peace, and no persecution. But he is exceedingly philosophical and benevolent. He exclaims, whilst his friends are in possession of the power, which we believe the People intended for ours, for God's sake, hands off; let us keep what we

H. OF R.]

*Retrenchment.*

[FEB. 2, 1828.]

have got ; remember you are expending by your violence "the moral wealth of the country." Let me say that this is a treasure, of which many people carry but a small amount, even for current change, in their pockets, and, in spite of the immense expense of this fund, we shall continue to war with him and his friends, within just and honorable limits, until we conquer, or are beaten. When the People have settled this contest, the gentleman may be gratified with a pacification, as halcyon as the benevolent harmony of his own feelings. The gentleman, however, has subjected the presumption of our hopes, the eagerness of our expected triumph, to a severe chastisement. He has told us, that, after our huntsman had hunted down the game, he will find some of the hounds at his own throat. Sir, we are content to take the hazard, and are not alarmed by the fate of Actæon. We believe, if this distinguished citizen, who is emphatically the candidate of the People, reaches the first office within their gift, that, coming into power backed by that moral energy which arises from the fact of his being really their choice, with clean hands and a pure heart, riding on no political stalk horse, with the ambition of no family dynasty to cater for, and no pledged succession to support, but honestly intending to do his duty, by the assistance of a sagacious understanding and an intrepid heart, he may fearlessly throw himself upon the justice, the generosity, and gratitude, of his country, and defy the worst hostility of his enemies. And let me say to the gentleman from Massachusetts, even if the great Western hunter, the master spirit of the battle, on his side, should, after our victory, wind his horn, which, like the blast of Roderick Dhu, "is worth a thousand men," he might blow it until he broke a blood vessel, and there would not be a single cur found in his pack, who, starting from the kennel, could jump knee-high towards that throat which is threatened with their puny vengeance. Let me also say to him, that, to a man who fairly obtains power, intends honestly to use, and justly deserves it, the press has no terrors ; its distempered exhalations may arise, and seem, for a moment, to obscure that brightness, which is at last destined to settle in eternal sunshine. God forbid that it should be otherwise. After fretting out a feverish existence in this world, the destiny of man would be miserable indeed, if the sting of the scorpion and adder was to be perpetual ; if there was "no bright reversion," by which the moral judgment, even of an early posterity, should correct the injustice of a contemporary age.

But I have sufficiently trespassed on the patience of the House. Let me, before I sit down, make one appeal to the friends with whom I act ; let us, before we adjourn, put this matter to rest, by coercing the question—that Monday may not, indeed, be black Monday, but bright Monday, by our turning over a new leaf, despatching the public business, and by preparing speedily to go to our own homes.

Mr. SERGEANT said, he should be sorry to have it known how much difficulty he had had, to overcome the repugnance he felt, to make any demand upon the time and attention of the House in this debate. If known to others, to the extent he had felt it himself, he was afraid it would be deemed an absolute weakness. He had been for some time, he said, out of the House. Great changes had taken place in its composition during that period. There were many members to whom he was a stranger. It seemed to him, also, that there was a change in the kind of demand they made on each other. Nothing appeared to him likely to engage the attention of the House—judging from what he had witnessed—unless it was piquant, highly seasoned, and pointed with individual and personal allusion. For this, he was neither prepared nor qualified. He would take up as little time as possible, and, as far as he could, would avoid all topics that

were likely to irritate and inflame. He would not here treat of the great question which agitates the People of this nation, and upon which, as one of the People, he had a decided opinion. If touched at all, it would be incidentally, as the natural consequence of remarks upon the subject before the House, and of the facts he should have to state, and not as a principal point.

It was one thing, he said, to offer a resolution like that under consideration, and another to vote upon it after it had been offered. The gentleman from Kentucky, he hoped, would consider him as speaking with entire respect for his motives and views. But, for himself, he must say, that he (Mr. S.) would not have offered the resolution ; yet, being brought forward, he would not vote to lay it upon the table, nor to make any other disposition of it, that would prevent the proposed inquiry from having a full discussion and free course. The reasons for both these conclusions appeared to him to be perfectly satisfactory.

He would not, he said, have proposed such a resolution, because he thought it must be unavailing. It was too extensive for any practical purpose—it aimed at too much. It embraced the whole business of Congress. It was our duty, he said, to take care that the public affairs were carried on, in the most profitable manner for the People, and with the least public burthen. And this was not peculiarly the duty of Congress at any one time, but at all times. It was the great end and object of our labors and our care, and ought to be of daily application by all of us. He thought it too much, to devolve upon a single committee the whole of that which was the common concern and care of Congress.

He thought it unnecessary. Every inquiry proposed by this resolution, was already provided for, in accordance with the duty of the House, by the appointment of Committees, to give effect to the great guards of the constitution, within their respective spheres: No money can be drawn from the Treasury, but in pursuance of appropriations made by law. No officer can be appointed, but under the authority of the constitution or the laws. No salary can be affixed to an office, but by the same warrant. The Committee of Ways and Means—a standing committee of the House—acts upon estimates furnished by every department of the Government. When called upon to report appropriations, they compare these estimates with existing laws and existing exigencies, and report only such as are justified by law. When they report the appropriation bills, each item of them is subject to the revision of every member of this House. The annual appropriation bill brings every thing under review. The House itself is to examine in detail, and see that all is in conformity with the law. Have we not, too, Committees on the expenditure of each Department ? And a Committee on the Public Expenditures, to make a biennial examination, and see that the moneys have been faithfully applied, according to the appropriations, and fully accounted for ? He would not speak at present of the manner in which Congress makes appropriations, nor how they are to be accounted for, particularly the contingent fund of this House, or of any of the Departments. But he would say this—if there be any appointment not authorized by law, or any salary paid, which the law does not authorize, let the specific abuse be pointed out and traced to its source, so that the offence and the offender may be known. He knew of none such.

There was still another reason why he should not have brought forward such a resolution—he spoke sincerely, and, after listening to this debate, as well as making some examination for himself—there was no basis laid for the resolution, as there ought to be, by shewing that there was abuse or extravagant expenditure, or such a state of things as rendered a general inquiry necessary, either

FEB. 2, 1838.]

*Retrenchment.*

[H. OF R.]

for the purpose of immediate correction, or, as had been intimated, to procure materials for a more propitious moment. The structure of this Government was not the work of a day. He did not speak of the Constitution, but of the fabric which had been constructed under the Constitution, for effectuating its great purposes. It had not been built up at one time, but by successive and continued exertions of successive Legislatures. It was not the work of one party, but of all the parties which had existed in the United States. Begun by one, extended and enlarged by another; at one time, perhaps, carried too far, and then somewhat reduced, so as to adapt it to the state of the country. But, in such reduction, always following the only course that can lead to any practical result—that of examining it item by item, and piece by piece. It was not now the possession of one set of men, nor of one party, but of the whole People of the United States, by whose immediate Representatives it had thus been constructed. The Legislature was created by the Constitution—its pay and expenses are regulated by itself. The Executive, too, was established by the Constitution. The subordinate officers have been created by Congress, and increased according to the growing wants of this expanding nation. Their pay and emoluments also have been fixed by Congress. Even the number of Clerks in each Department, and the pay of every Clerk, is regulated and ascertained by law. It had, indeed, been remarked by the gentleman from Virginia, [Mr. RANDOLPH] that the contingent expenses of this House had increased in a much greater ratio than its numbers; that, in twenty years, the numbers of the members had only doubled, and the expenses were nearly quadrupled. This matter is entirely under the regulation of the House. If the expense be too great, let it be checked and controlled, by limiting, if it be possible, those branches of service which occasion the expense. But he did not believe the numerical argument precisely correct, or that, in this case, 2 and 2 would necessarily only make 4. When it was considered that this Confederation now embraced twenty-four States, and three Territories; when we considered the extent of the country, and the space through which information was to be diffused; he thought it would be a great error to suppose that the expenses would increase only according to the increase of the number of Representatives. He rather thought, that, like the price of plate, glass, or diamonds, they would increase in somewhat of a geometrical ratio. The greater part of the expense, however, it was obvious, was incurred for the purpose of giving information, and this was an object of too much importance to be sacrificed for the purpose of saving expense.

The establishments of the country had been formed in the same way—the Army, the Navy, the foreign intercourse. On what basis do they stand? Each on the footing upon which it has been deliberately placed by Congress, after carefully considering what the public service required, and what they were respectively worth. There may have been error—nothing human is exempt from liability to error. Sometimes, however, it is imputed with unjust severity. But, if there be error, let it be pointed out, examined, and corrected. There let the wisdom of Congress apply the remedy, at the point where the evil exists.

There was an additional reason why he would not have offered such a resolution, and especially at the present moment. He would state it freely. At the same time, he thought it proper to say, that he had no doubt the resolution was fairly and honestly meant, and for the direct purpose which the mover himself had stated. He (the mover) thought, and some of his constituents thought, that there were points in which reform was necessary, and that they might be embraced by a general inquiry. But his, (Mr. S's) objection to himself bringing forward

such a resolution, was this: a general allegation of extravagance and abuse, such as the resolution seems to imply, cannot be accurately and satisfactorily met. It is impossible, whatever may be the fact, to give it a demonstrative refutation, because it presents no specific subject for discussion. It may do harm: it is calculated to spread abroad an opinion that abuse and extravagance exist, and are allowed here, at the Seat of Government, under the very eye of Congress. It was calculated to weaken the attachment of the People to the Government—not to the Administration—he did not mean that—not to this set of men in power, or to that set of men—but to the Government itself; and to give point to an inquiry he had seen in a newspaper with great regret—of what advantage or use is this Government to the People?—This is especially the case where the allegation includes ourselves.

There was one part of the resolution to which he had the strongest repugnance as a subject of discussion. He never had discussed it, and he did not think he ever would. He referred to the inquiry about our own pay. The amount of the pay of members of Congress has never been altered but once since the adoption of the Constitution. [Mr. RANDOLPH—Twice.] Twice altered the mode of compensation, the amount but once. The *per diem* now allowed was intended to be about equal in substance (he had no exact calculation) to the *per annum* allowed by the compensation law. Two dollars a day, and no more, had been added to the pay fixed at the organization of the Government. This could not be deemed an extravagant or exorbitant addition. He looked back, he said, to the period of that law (compensation law) with great regret. Not that he thought the *per annum* compensation injurious in principle, or wrong in amount, but he regretted extremely that the public mind should have been agitated as it was by such a question. He would rather have forgone any advantage to himself. No: the advantage was not worth estimating—he would rather have forgone the whole pay for the time, than have been instrumental in furnishing such a cause for regret.

Dismissing this subject of the pay of the members, (always accompanied with unpleasant feelings,) he said he was, on general grounds, prepared to believe, from some examination, that the suggestion of extravagance or abuse, and the consequent necessity of reform, as applied to this House, to the Executive Departments, or to any branch of the service, was not supported. He did not mean to say that there was no useless office. But there was no proof, nor reason to believe, that there is any such office. Nor would he say that there was no useless expenditure. But he would say that he knew of none, and in this debate none had been designated. As all the offices are created by the Constitution, or by act of Congress, as even the clerks are numbered and their salaries fixed, and both were in the power of Congress, he could not suppose, until some ground for the belief had previously been laid, that there was in these particulars extravagance or abuse.

On the contrary, he said, there was the strongest general evidence of a wise and economical administration of the affairs of this country. He did not mean the present administration merely—he meant the Government in general, giving to the present administration their just portion of credit. As far as they were concerned, they were entitled to the praise of fairly contributing to give effect to a wise system of economy. Much of the merit belonged to Congress.

Matters of revenue and expenditure, necessarily sounded in figures. He would not contradict those who seemed to think that even figures might deceive; but he would say that he did not know how such a subject could be understood without resorting to them. It

H. OF R.]

Retrenchment.

[FEB. 2, 1828.]

was a matter of calculation, after all; and nothing but calculation, however tedious the process, would lead to sure results. He did not intend to restrict himself, in this inquiry, to the term of the present administration. Beginning with the peace, when the nation was liberated from the extraordinary demands of war, he would embrace the whole period of the last administration, (which one gentleman had said he thought was wasteful and prodigal,) and as much of the time of the present administration as had already expired, in order to show that there had been, and still continued to be, a wise and economical management of the affairs of the country. What had been accomplished during that period?

From the Treasury report of 1816, it appears that the public debt was then estimated (30th September, 1815) at

\$119,635,558 46

"Subject," the report adds, "to considerable changes and additions," estimated at

7,000,000, 00

Making a total of \$126,635,558 46

There were, besides, large floating claims growing out of the war, for which Congress has been obliged, from time to time, to make provision. The public debt, therefore, in January, 1816, was, in round numbers, one hundred and twenty-six millions and a half of dollars. What is it now? Nominally, sixty-seven millions. But, of this aggregate, seven millions were the subscription to the Bank of the United States, for which we have the same amount in stock of equal or of greater value. Deduct that sum, and the total debt is but sixty millions. So that, during the period of about twelve years, beginning immediately after the war, there has been an extinguishment of debt to the amount of rather more than sixty-six millions. But this is not all. There has been created, during the same time, a debt of five millions of dollars to purchase Florida—that is, to pay the claims of our own citizens, stipulated by the treaty with Spain to be paid as the price of that purchase. This sum being added, as it ought to be, there is an aggregate of seventy-one millions, or nearly six millions of dollars a year, during the whole of that period, besides paying the interest of the debt, the expenses of the Government, and making liberal provisions for the public service. This is something. But much more had been done. For what he was about to say, he referred to the report of the Committee of Ways and Means in the year 1816. At the head of that committee was a gentleman who could not be remembered without feelings of deep regret at the public loss sustained by his early death. He possessed, in an uncommon degree, the confidence of this House, and he well deserved it. With so much knowledge, and with powers which enabled him to delight and to instruct the House, there was united so much gentleness and kindness, and such real unaffected modesty, that you were already prepared to be subdued before he exerted his commanding powers of argument. He spoke, he said, of the public loss. As to the individual himself, (the late William Lowndes, of South Carolina,) he had lived long enough to acquire the best possible reputation—a reputation earned by a well-spent life. But to return to the immediate subject. It appeared from the report, that, at the period referred to, (1816,) there was a direct tax of more than five millions and an half; there were internal taxes, consisting of licenses to distillers, tax on carriages, licenses to retailers, auction duties, tax on furniture, on manufactures, excise on distilled spirits, and increased postage, to the amount of seven millions, making an aggregate of more than twelve millions and an half of dollars. From all this weight of burthen the People of this country had been relieved. Above twelve millions and an half of revenue had been surrendered. Yet

the interest of the public debt, amounting, at the beginning of the period, to more than six millions of dollars per annum, had been duly paid; the claims growing out of the war, of very large amount, had been paid; the Army establishment supported; the Navy maintained and augmented; a system of fortifications established and prosecuted, commensurate with the wants of the country; the claims under the treaty with Spain had been satisfied; the regular operations of the Government carried on; and, besides occasional appropriations by Congress, a permanent provision (a heavy draught on the Treasury, but well applied) had been made for adding to the comforts of the declining years of the veterans of the Revolution. Something, not inconsiderable, too, had been done in internal improvement. And, during the same period, as he had already stated, seventy millions had been paid off of the principal of the public debt. Of this amount, he thought it proper to add, more than sixteen millions (principal of the public debt) had been paid during the present administration.

A Government which has effected this, he said, would seem to be entitled to the praise of being wise and economical, at least until the contrary appeared by some proof of extravagance. And what is our position now? There is no internal tax—no direct burthen—the expenses of our Government are entirely defrayed by the indirect taxation of the customs. We are in the full enjoyment of civil, religious, and political liberty, to an extent without example; and last, not least, there is as much abstinence on the part of the Government, in the exercise of its powers over individuals, as can possibly be observed: much greater than any known Government ever did, or now does observe. We enjoy under it ample protection, and yet we never feel its pressure. We know of its existence only by the benefits it confers.

Out of the income and revenue of the country, ten millions a year are irrevocably destined as a sinking fund, to extinguish the public debt. The process is rapidly going on. He would not repeat the accurate and satisfactory statement which had been made by his colleague [Mr. STEWART.] The annual appropriation is more than sufficient to pay off the debt at the periods when, by the terms of the several loans, it is redeemable. The whole may be paid off in the year 1835, and a large surplus accumulated in the Treasury. After that period, the present revenue will exceed, by at least ten millions of dollars, the wants of the Government, and may be accordingly reduced. Such is our condition, and such our prospects.

But there is other proof, more precise, and in some respects, more satisfactory, upon this point of wise economy. What are the total expenditures of the Government, the public debt included? Let us take the year 1826. It affords a better basis than the year just ended, because it is all matter of exact knowledge, and no part estimated. The whole expenditure is about twenty-four millions of dollars. The population of the United States at the present moment is not exactly known. But, upon the lowest estimate, that can be reasonably formed, this expenditure is less than two dollars for each individual composing it. How then can it be supposed, as it seemed to be by the gentleman from Virginia [Mr. FLORIN] that the comparison with other countries would be disadvantageous to us? There is no comparison in the case. Take the Government of England, for example. The taxation there, according to the latest statement I have seen, taking an average of five years, ending in 1823, is no less than fifty-three millions sterling, and the parochial taxes are stated at seven millions more, making a total of sixty millions. This is equal to three pounds sterling a head of the whole population, or, at the present rate of exchange, fifteen dollars a head. But he understood the member from Virginia [Mr. FLORIN] to say, that we must



FEB. 2, 1838.]

Retrenchment.

[H. or R.]

add the expense of our State Governments and local charges, and, these being added, our Government would appear to be an expensive one. In the state which he [Mr. S.] had the honor in part to represent, there were no taxes for the support of Government. The only State taxes existing were some which had been recently imposed, for the purpose of carrying on a great system of beneficial improvement, which could not with any propriety enter into the calculation. The proper expenses of the State Government did not, according to his recollection—he spoke merely from memory—exceed ten or fifteen cents for each of the People. As to local charges of various kinds, it would be sufficient to say, that, if they were to be added on one side, they must also, for the purpose of comparison, be added on the other. They existed every where. If we pay in our cities and towns for paving, lighting and cleansing, are they exempt from similar charges in England? If we pay for water, do not they pay too? These charges are, in fact, only equivalents for comforts we obtain, and which are better and more cheaply obtained by common contribution. No one is exempt from them. He who lives in the country must either forego these things (some of them he cannot dispense with) or procure them at his own expense. He must sink his own well to get water, and it will cost him more. He must go unlighted in the dark, or he must carry his own light. He must make his own path. If he come to a place where he cannot put down his foot, he must himself lay down a log or a stone to step upon. He repeated, therefore, that these charges, local ones, were only equivalents for comforts which could not be to cheaply had in any other way. They were no part of the present calculation. He then said this was far the cheapest Government—it made less exactions of any sort from the citizen. This was a fair ground for presuming that it was not wasteful or extravagant.

Now, Sir, said he, let us see how this annual expenditure is distributed. That will be coming nearer to the very point in question, and will afford satisfactory information. The total expenditure, rejecting fractions, was twenty-four millions. Of this amount, nearly one half, that is, eleven millions, were applied to the payment of the principal and interest of the public debt. For the military establishment, including fortifications and military pensions six millions two hundred thousand dollars. For the navy, four millions two hundred thousand dollars. All these are expenditures necessary for carrying into effect laws made upon deliberate consideration, and they will continue to be necessary until Congress, upon the same deliberation, shall think proper to reduce these establishments, or, (which will speedily arrive,) the public debt shall be paid off. When that day comes, the necessary expenditure, and of course the requisite revenue, will be reduced nearly one half. For the civil, diplomatic, and miscellaneous expenditure of the Government, it appears, therefore, that there is left only about two millions six hundred thousand dollars, or a little more than one-tenth part of the whole expenditure.

This expenditure, of a little more than two millions and a half of dollars, or rather more than one-tenth of the whole expenditure, provides for the following objects: The whole of the Legislature of this Union of twenty-four States, contingent expenses included: the whole of the Executive, including the State, Treasury, War, and Navy Departments: the expenses of the Post Office Department, covering a greater extent of territory, and diffusing a greater amount of accommodation, than any other known establishment of that kind: the surveying of the Public Lands: the Mint establishment of the United States: the Governments of three Territories: the whole Judiciary of the United States: The light-house establishment: The whole of the expenses of our foreign intercourse, and some miscellaneous items, which, not be-

longing properly to any other head, are placed under this.

Is it not rather amazing, that a Government, extending over twenty-four States and three Territories, embracing so large a space, and so great a population, and providing adequately for all, should be carried on at so small an expense? In other parts of the world, it would scarcely be credited. It does the highest honor to the Government, Congress included. It seems to me to show, most satisfactorily, that the Government, instituted by the People, and for the People, has, up to this moment, been true to its appropriate and characteristic principle, of promoting the public welfare—and that instead of being surrounded, as some have appeared to imagine, by extravagance and abuses, we are still in the pure days of the Republic. If, hereafter, abuses should occur; if corruption should grow up, and our institutions be perverted or overthrown, the patriot—for even then there will be patriots—will look back to our time with mingled admiration and regret, as a portion of the happy and honest period of our history.

He said he had been very much struck with a remark made by a gentleman, whom he was obliged to designate as one of the Opposition—that this was not a favorable time for retrenchment. If retrenchment were necessary, he [Mr. S.] thought that there could be no more favorable time. The People could never have higher security than they now have. For we are sure that this Administration will be closely watched, and that no error, however slight, will be left undetected and unexposed. There is the most unceasing vigilance. There has not been, there will not be, a single particular, that will escape the watchful attention of Congress. He did not mean to say that its vigilance ever slumbered. But, assuredly, it can never be more wide awake and active than when stimulated, as it now is, by the feelings which are admitted to exist. There is all the ordinary vigilance and something more. How then can abuse, always obnoxious to the censure of Congress, hope, at this time particularly, to escape examination and exposure? How can it be believed that it has so escaped?

These were some of the reasons why he would not have felt himself bound to offer such a resolution. They were not reasons for opposing it when offered by another, but rather for giving it the fullest and freest course. If, in any quarter of the country, there is an impression of extravagance or abuse, let it be removed. If, said he, any member of this House desires to institute a general inquiry, however unpromising I may think it on account of its aiming at too much, I, for one, will not withhold from him the opportunity, though the mere inquiry seems to imply a censure upon the Government or upon some branch of it. Such an investigation is a very weighty one. It requires a careful examination of the whole structure of the Government, and of all its parts. But I cannot agree with the gentleman from Virginia and the gentleman from South Carolina, that it requires the cordial co-operation of the Executive, nor any co-operation at all. The gentleman from South Carolina who last addressed the House, [Mr. HAMILTON] says the keys of the Treasury are in the hands of the Executive, and he speaks of the Executive as occupying a fortress inaccessible to us without his leave. Sir, the keys of the Treasury are in the hands of this House, lodged there by the Constitution. The keys of every Department are in the hands of this House. Not an avenue, part, or place, in the Government, that is not open to us, when we command it to be open. We have an unlimited power to enter, examine, and inquire. We are not obliged to trust to what any one may tell us, nor to adopt the representation of any Head of a Department. I acknowledge—and if the Administration were to be changed to-morrow, I would make the same acknowledgment—I do acknowledge that one concession ought, in my

H. or R.]

Retrenchment.

[FEB. 2, 1838.]

opinion, to be made—a very humble concession, indeed, to a co-ordinate branch of the Government, and to the elevated character of the men who fill those elevated places—the concession that we may rely upon the truth of what they tell us, in matters of fact. As to opinion, we can form it for ourselves. Less than this cannot be supposed or conceded.

There were other reasons, he said, why he had not voted to lay the resolution upon the table, and would not do so. Such a vote might be interpreted into evidence of a disposition to prevent inquiry. But, especially, he could not consent to such a vote, when the motion was accompanied with a remark, often since repeated as the ground of it, that this was not the time for inquiry, retrenchment, or reform. What does this argument amount to? What does it mean? It means, I suppose, what others have said—that it is not a propitious moment; that we cannot expect a “cordial co-operation” on the part of the Executive; it is pointed, therefore, directly at the present Executive; it is a charge of a serious nature, calculated to prejudice the Executive in the estimation of the People, and to bear upon the pending election of President, to the injury of one of the candidates. He could not give it his sanction, because he knew nothing to warrant it. If reform and retrenchment were proper and necessary, he believed the present Executive would give us his aid as cheerfully and as effectually as any we could have.

The gentleman from South Carolina [Mr. HAMILTON] has very frankly given another version to the suggestion that this is not the time. He would be willing now to collect materials for reform and retrenchment, but he would not be willing now to make reform or retrenchment. And why? Because he did not wish to give the merit of such a work to the present Administration, but to reserve it for a future Administration. This is candid, undoubtedly, but it is unsound doctrine. The gentleman from South Carolina will be obliged, upon reflection, to abandon it. Is it consistent with the duty we owe to the People, to postpone the reform of abuses, if we really believe it necessary, in order that we may strip one Administration of the merit, and bestow the grace of it upon another? Is it not our first duty to do what is required for promoting the public welfare, and to do it at the time when it is required? Can we justify ourselves in delaying it for any consideration whatever, much less for such an one as that which had been stated? He thought not. It would be entirely at variance with every notion he had of the proper functions of Congress. He would therefore say, that, so far as the motion to lay upon the table was calculated to do injury to the present Administration, he was opposed to it upon that ground. And with this declaration, he was sure the gentleman from South Carolina was too candid to find any fault. So far as such a motion was calculated to prevent or to retard inquiry or reform, or had the appearance of being so calculated, he was opposed to it, because he would not willingly place any obstruction in the way.

He said he was not going to enter into the contest of crimination and recrimination which had been carried on here. He felt himself entirely unfit for it. Some topics, however, had been introduced, having something of a specific shape, upon which he would trouble the House with a few observations. The diplomatic intercourse of the country has been charged with extravagance and mismanagement; and with what may perhaps be termed want of taste in its style. He understood a gentleman from Virginia, [Mr. FLORN] to contend, that the whole character of our foreign intercourse ought to be changed. If the allowance to our Ministers was too low, he [Mr. FLORN] would agree to raise it; but they should come home when the business was done. There should be no permanent missions in other countries—no Minis-

ters remaining abroad. This, said Mr. S., would be an entire change of the system acted upon by the Government ever since its foundation. It ought not to be adopted without being thoroughly considered. He would appeal, then, to the House, whether, in the present state of the world, any civilized Nation was at liberty to withhold, or refuse the ordinary and established duties of courtesy and hospitality? If she claim to be of the family of civilized nations, and wish to maintain the relations of peace and commerce, is it in her power to withdraw herself from associating with them upon the terms, and in the manner, which the common convenience has settled? An individual may shut himself up in his house—may refuse to visit—may determine that he will neither give nor receive invitations: if he do, it will not only be at the expense of much innocent gratification to himself, and at the expense, too, of many great advantages to himself, but it will be a positive injury and wrong to society; for, as far as his example goes, it must, if adopted, cut up society by the roots. It is the same with nations. No one can shut herself up. It has been the policy of this nation, from the beginning, to perform her part in this system of mutual and friendly intercourse. Ay, sir, said he, and let it be remembered, that one of the first and highest gratifications this country ever received, was the reception of her Minister at the Court of France—an act which publicly owned her as one of the family of Independent Nations, and increased her moral power both at home and abroad. If the system is to be changed, Congress must do it. As long as it continues, the duty of the Executive is to give it effect; and no blame can attach to the Administration for executing the provisions of the Constitution and the law.

It was true, he said, that, within a few years past, our diplomatic intercourse had been extended, and its expenses increased. The family of nations had been enlarged by the interesting addition of the new States of this hemisphere. It was, in every view, particularly interesting to us. They were new, near, and valuable neighbors, with whom we must have relations, and with whom there could be no doubt it was desirable that these should be the relations of peace, of friendship, and mutual good understanding. Upon this point, the People of the United States were in advance of Congress—he did not speak hastily—the public sentiment was in advance of Congress, and Congress was in advance of the Executive. The missions were not instituted, until this House, by a resolution, passed with almost unexampled unanimity—(but one member voted against it, a gentleman from Virginia, not now a member,)—until this House, stimulating the Executive to open the intercourse, pledged itself to support him in the measure, and offered a liberal provision for the expense. There has been no expression since of a wish to abandon or to limit that intercourse. Whatever may be the expense of those missions to the new States, all who read the newspapers, and know any thing of the nature of our commercial intercourse with them—all who know how they are solicited, courted, and caressed, by the European Powers, and the struggle that is carried on for their favor—to say nothing of other and more general considerations—will see the importance of cultivating good feelings, and maintaining a good correspondence with them; and that we cannot neglect these things, without risking the loss of valuable advantages. His own clear opinion was, that we ought to omit no fair exertions to preserve them, and that the missions ought to be maintained. He thought them of the greatest consequence.

Remarks had been made upon the style of our foreign Ministers, their dress particularly. Why, said the gentleman from Virginia, [Mr. FLORN] not let him appear with the simplicity of Franklin and Livingston? The House would excuse a word in reply. He [Mr. S.] knew

FEB. 2, 1828.]

Retrenchment.

[H. of R.]

nothing of the simplicity of Mr. Livingston. That gentleman was not near to the time of Franklin. He was appointed to France soon after Mr. Jefferson became President, he believed in 1801. But this he did know, from the best information, that he was a gentleman of large fortune, and liberal disposition, accustomed every where to a liberal way of life, and that the liberality of his style of living in France, was such as most materially, as he had understood, to encroach upon, and reduce his private fortune. In what dress he appeared at Court, he could not say; but he took it for granted he accommodated himself in that respect to the fashion of the Court. As to Franklin, he said, consider the circumstances under which he appeared in France. The Representative of a young Republic, just come into existence, and in its very cradle exhibiting Herculean strength, by maintaining, single-handed, a contest for its independence with one of the strongest nations that existed; attracting the earnest attention of the whole civilized world, and especially engaging the attention and the good wishes of France, because the contest was with her habitual enemy, and promised to diminish his power. When a nation, so circumstanced, shall have a Franklin for her Envoy, I do not believe it will be very material to inquire what dress he wears. To that state we shall never return. And, I may be allowed to add, we have not Franklins to send. He carried with him the fruits of more than seventy years, devoted, with the aid of extraordinary natural genius, and especially of the most uncommon sagacity, to the acquisition of knowledge, and with the great reputation he had justly acquired, by diffusing the treasures of his wisdom and observation. He was known for his examination before the House of Commons: he was known for the fierce and virulent obloquy that had been heaped upon him (for he, too, was visited with obloquy) by Wedderburne, afterwards Lord Loughborough, before the Privy Council; he was known as a man of letters, as a scientific philosopher, and, what is more, as a practical philosopher, too; and he was known as a statesman and as a patriot. His fame had gone before him—it shed a lustre upon his country, wherever there were men who could appreciate his merit, and that lustre is still undiminished. I do not exactly know what coat he wore. It is somewhere recorded, that, in French society, his straight combed, venerable locks, and simple dress, were admired by the ladies, who then gave the tone to society. It was something strange, out of the common way, and if it had been even uncouth, it might have attracted still more attention. How he appeared at Court,\* as to dress, I do not remember to have seen particularly stated. He was a long time in France before he was received. His public reception was not till about the time of the treaty.

This livery, however, as it has been reproachfully called—I cannot say I have worn it—but I know what it is—and have heard something of his history. Our Ministers abroad are very poorly paid. They cannot bear the expense of Court dresses. If borne by the Treasury, as a contingent expense, it is so much money thrown away. If borne by Ministers, it makes an unreasonable charge upon their allowance. The salaries of our ministers abroad were higher, by above twenty-six hundred dollars, in the time of Franklin, than they are now, though the expenses of living were then probably not more than half of what they are at this time. The present rate of allowance was fixed as long ago as the year 1784, by an act of the old Congress. How, then, does the matter stand? The House will recollect, from a statement made by the gentleman from Massachusetts, that our dis-

tinguished fellow citizen, the late President of the United States [Mr. Monroe] was engaged in four missions in the course of little more than a year. Claims growing out of that employment have lately been allowed by Congress. He was led in rapid succession to different Courts, and probably obliged at each to conform to the mode established by etiquette. The expense would be for a single occasion. There are instances of charges allowed by the Government, for the dresses of Ministers for particular occasions. When Mr. Madison was President, and Mr. Monroe Secretary of State, the present plan was adopted as a relief. It is not obligatory upon the Minister. He may dispense with it if he think fit. It is no expense to the Treasury, for the Minister must pay for it himself. But he has the sanction of his country to wear it. As long as it lasts, he need make no change. Wherever he goes, he is in the dress of his own country, and stands upon his own ground, instead of being obliged to conform to foreign fashions. It has been spoken of as costing 750 dollars. That is too high. It costs something more than half that sum; but the Minister pays for it, not the Treasury. Why call it reproachfully, livery? It is no more a livery than the coat of an officer of the Army or the Navy—it is probably not finer than the coat of a general officer. If it be a livery, is there any disgrace in wearing it? We are all servants of the People—they are our masters—the livery worn by their servants is one which no man need be ashamed to wear. It is the livery of the People of the United States. This is understood to be the history of the coat. If any one within the sound of my voice should hereafter be appointed a Minister—my advice may be of little value—but I recommend him to put on the livery of his country.

It is not questioned that it is the duty of the Executive to conform to existing laws and policy. It is admitted that, if the appointment be directed by law, there is no choice. But he understood his colleague [Mr. INGHAM] to assert the application of a rule of judgment, which he was sure, upon deliberate consideration, he [Mr. I.] would see to be unjust, infinitely mischievous, and dangerous. He was understood to say, that, even where the act is lawful, he would inquire into the intention, the *quo animo*. He would appeal to his colleague, if this mode of judging was not the root of incalculable mischief and injustice. A man performs his duty, walks cautiously, is, if you please, a religious man—some one chooses to inquire into the *quo animo*, and pronounces him a hypocrite. [Mr. INGHAM explained. He did not say that he would apply that rule. He had said that it would be applied elsewhere.]

Mr. SERGEANT said he accepted the explanation of his colleague, whom he should be sorry to misunderstand. No doubt he meant that it was not a rule which, as a member of the House, he would apply here. But he submitted to him that it was unsafe and uncharitable every where. He had the sanction of the House for saying it was unjust. The first rule we are obliged to adopt is, that no member shall be at liberty to impeach another member's intention. Upon what grounds the People of this country would decide the question now pending before them, he would not now enquire—he would not say a single word. As one of the People, he had his rights, which at proper times and on proper occasions he would freely exercise.

Some particular instances have been more or less alluded to in the debate. Among the rest was the mission to England. It was said the Minister had returned *re infecta*, and of course it must have been meant that there was all the expense of the mission without any correspondent benefit. What was the fact? The hand of sickness had fallen upon the Minister, as it may upon any of us—it may now be upon some of us—and incapacitated him to perform the duty. Can this be matter of charge against any body?

\*It is believed, upon good authority, that he appeared in a full Court dress. The character of this eminent man would lead us to believe, that he would, in this respect, conform to the usage of the Court.—*Note by Mr. S.*

H. or R.]

Retrenchment.

[Feb. 2, 1855.]

[Mr. RANDOLPH explained. He expressed his deep regret for that gentleman, [Mr. King] and declared that the words did not import any reflection upon him, nor attach any blame to him.]\*

Mr. SERGEANT proceeded. They were not so understood. He was sure that the gentleman from Virginia did not mean to say one unkind or reproachful word of Mr. King. The allusion to the unproductiveness of the mission had come from another quarter, and he [Mr. S.] had adopted the phrase used by the gentleman from Virginia, [Mr. RANDOLPH.] It was his [Mr. S's] object, to show, that no one was to blame for the issue, neither he who undertook the mission, nor those who appointed him. Of that eminent man, all know something; but few of us, probably, know the full extent and measure of his services to his country. He confessed that he had himself been ignorant till within a few days past, when he was led into an inquiry which discovered to him a length and magnitude of public service, beyond what he had before known or supposed. With regard to his age, it was sufficient to say, that he had just left the Senate when he was appointed to England, and that body afterwards approved the nomination. He was not so old as Franklin was when he left this country for France, and Franklin served his country faithfully and ably as their Minister, for eight years and a half. [Mr. RANDOLPH was here understood to say—"there could not have been a better choice."]

Of that mission, he said, which had also been alluded to, in which he had the honor to have a part, the mission to Panama, he should always have difficulty in speaking, for very obvious reasons. At this time, it was impossible he should enter into the subject, because the mission was still pending, in the hands of our Minister at Mexico. He would say, however, in reply to the allegations which had been made against it, that the mission had the clear sanction of all the branches of the Government. What has since occurred, could neither make it right or wrong: It stood upon the same footing as at first. If it was right then, it cannot be wrong now. But he would say—and he said it with the utmost sincerity, it was but the humble opinion of an individual—he would say, from all that he had seen, and all that he had heard, that, if the Congress should assemble at Tacubaya, or elsewhere, it was of the greatest importance to the interests of the United States that we should be represented in it. He was not about to debate the matter. He merely gave this as his own single, humble, perhaps valueless opinion.

He would take up, he said, but little more of the time of the House, to notice one or two other topics which had been introduced into the discussion. A great deal had been said about the patronage of the Government, and its employment to strengthen the Administration in the possession of power. This had been particularly and forcibly insisted upon by the gentleman from South Carolina. Upon this point, he said, he [Mr. S.] might probably differ from many, and perhaps be thought singular. But so far from thinking patronage a source of power, he regarded it as a destroying canker, let it be employed as it might. He was much inclined to believe, that the Executive would be stronger without it. He would not appeal in support of this opinion, to a statesman of former times—he did not like the authority; that statesman had employed a more direct mode—but he would appeal to the nature of man. Let gentlemen reflect, and then, he said, let them tell me which are the strongest passions

and feelings of our nature—those which seek our own gratification, or those which terminate in doing good or in doing justice to others? Gratitude, for example, or self love, revenge, dislike. The one is moderate, and dull—the other, active, violent, and enduring. He who has the power to appoint, must also disappoint. For one that he can appoint, he must disappoint ten; and all who are disappointed are very apt to be offended, and think themselves injured. The one who is selected may feel a cool and temperate regard for the Executive. Even this is not always the case; in many instances, pride suggests to us that we owe nothing but to our own proper merits. The disappointed applicants, on the contrary, each of whom supposes himself to be at least as deserving as the successful candidate, deeply feel the wrong they think has been done them, and they yield themselves to the resentment it naturally excites. No, [said he:] give me no patronage, where there are so many to solicit, who think they have equal claims. But this is not all. The present debate proves it. There is no part of the conduct of a public man so liable to misconstruction—say, so inevitably exposed to misconstruction, especially in times of party excitement, as the exercise of this power, called patronage. He must exercise it, because the Constitution and laws require him to do so; he has no choice but to make the needful appointments; and yet, the moment he has made them, by the application of the rule of *quo animo*, they are imputed to unworthy motives. If he appoint a friend, it is to secure him. If he appoints an enemy, it is to buy him. Every way it is corrupt.

He cannot possibly escape censure, unless perhaps he could find some comfortable neutral, sitting quietly by his fireside, ignorant of the political storm that is raging around him, who has never heard, or, if he has heard, has forgotten, that there are two candidates for the Presidency, and who is so entirely destitute of all public feeling and knowledge, as to be on that account unfit for office. If he appoint friend or foe, it is sure to be wrong. How such patronage could be deemed a source of power, especially of undue power, endangering the fair working of the Constitution, he could not understand. The power of appointment must be deposited somewhere. If any one can show that, as now deposited, it is likely to do injury, and that it can with greater safety be placed elsewhere, he, for one, would willingly concur in the change. The condition of public men in this country—there is no danger, in saying this, of extinguishing ambition in the heart of man—was far, very far from enviable. He who enters into this career, with the purpose of devoting himself to the public service, takes a vow of perpetual poverty—a vow, too, which he will be obliged to keep. Circumstances will extort from him its observance, without any extraordinary effort of virtue on his part to keep it. Unless he has a private fortune to support him, this must be his doom. There are lamentable instances in our history to prove it. With poverty, he must be prepared to bear reproach. If he attain to an elevated station, he is immediately an object of envy, for that which, after all, is not enviable. In times of strong excitement, of party excitement particularly, he must be judged by men who, though they believe themselves just, and may be really disposed to be just, yet cannot be just, because they are under the dominion of passion. He must be judged by party opponents in the heat of angry contest. It becomes us, then, in the discharge of the functions belonging to us by the Constitution, not to indulge too readily in suspicion and misconstruction of a co-ordinate branch of the Government.

Parties exist in this House, and in the country. Of all the bad effects of high party feeling, there is none more obvious, and none more injurious, than the disposition to do injustice to each other's motives and intentions.

\* Note by Mr. Randolph.—Mr. R. has observed, in the report of Mr. Sergeant's speech, that, what he said in reference to Mr. Rufus King, is stated in a way to give room for very wrong inferences, on the part of the reader; but he has not had either health, or leisure, to write down what he did say on the occasion. He purposes doing so at the first spare moment.

Saturday, March 8, 1855; 11 A. M.

FEB. 2, 1828.]

*Retrenchment.*

[H. of R.]

see how it operates here. We have every inducement to cultivate a good understanding, and to think well of each other. And yet, let what will be before the House, unless it be some matter purely local, whatever a member says, and whatever he does, is immediately referred to party views and motives. If, standing here upon a footing of equality, in habits of daily intercourse, and with every disposition to maintain relations of mutual kindness and respect, we yet cannot escape unjust judgment from each other, what chance have those who are separated from us by distance and employment, and whose places are the object of contention? This Government, as has already been said, in all its branches, was instituted by the People, and for the People, to promote their own welfare. Looking to that purpose, the People, true to themselves, will test the conduct of the Administration by its measures. Are those measures such as are calculated to promote the great object of Government, and such as the People approve? If they are, the People, applying the test by which they try the conduct of all public servants, will give them their approbation. And why should it not be so? If the Constitution and the laws have been faithfully executed, if the public welfare has been promoted—assumption may suggest other inquiries, but here, upon every sober estimate, they must, and here I believe they will end.

The gentleman from Virginia, [Mr. RANDOLPH] assuming what yet remains to be decided, that the People had already condemned the Administration, went on to say, that, as there was a majority against them, in both Houses of Congress, they ought to retire—that there was no instance till that of the younger Pitt, of a Minister remaining in power when he was in the minority, and he had obtained a parritch triumph over the Constitution of his country. Sir, [said Mr. SERGEANT] is there any such analogy between the Constitution of Great Britain, and the Constitution of the United States, that we ought to adopt, in this respect, the doctrine of England? What is the Constitution of Great Britain? There is a hereditary Crown. The Ministry is appointed by the King, and that Ministry carries on the business of the Nation by means of a majority in Parliament as its instrument. This is the practical working of the British Constitution. The Ministry is generally secure of a majority, though for a moment Mr. Pitt was without it. In the practice under that Constitution, every measure originates with the Ministry, and the Minister is to answer for it, and he is to answer, too, for its failure. If he cannot pass his measures through Parliament, what happens then? The crown is placed aloft, to glitter in the eyes of the Nation, and is not to be disturbed. It is irresponsible. The King can do no wrong. The Minister is accountable for everything. If he cannot wield the power of Parliament, he must go out, and give place to one who can; and thus the harmony of the Constitution is—not restored—but reserved. How and by what means it happens that the Minister generally has a majority in Parliament, we all very well know. That is their Government, and as it concerns only themselves, if they are satisfied, we have no right to object. But, is that the Constitution of the United States? He would not be guilty of the absurdity of asking whether we had a hereditary Crown, or Ministers appointed by the Crown. He meant to ask, and to ask seriously, whether it was indispensable to the working of our Constitution, that the two Houses of Congress and the Executive, both deriving their authority from the same source, the People of the United States, should be in such entire accord, that, whatever the Executive may send us shall pass, and whatever he does not send us, shall not pass. He had never so understood it.

Constituted as our Government is, he said he could not see with what propriety it could be said that there was a majority of this House opposed to the President. He did

not understand it, speaking the language of the Constitution of the United States. He understood it perfectly as applied to the Government of Great Britain. How can there be a majority of this House against the President? When, as is now the case, an election of Chief Magistrate is approaching, there may be a majority of the members, who are individually opposed to the re-election of the President. But would a majority of this House, on that account, oppose his administration, if right in itself? Would they, for that reason, oppose a measure which he should recommend, simply because he recommended it, though it were manifestly wise and fit in itself? That would be factious. It would be inconsistent with the sound doctrine of the Constitution. We do not come here to carry through the measures of the Executive, as the majority of the House of Commons carry through the measures of the Ministry. Neither do we come here to carry on a regular opposition. We have full power ourselves to originate plans for the public good, and we ought to adopt the recommendations and views of the Executive when they appear to us conducive to the same end.

It would, indeed, be an extraordinary anomaly, if a majority of Congress could turn out, or drive out, a President, during the period for which he is elected. So far was this from being the case, that the Government would work just as well if we could not tell who, in this House, was for, and who against, the Administration. Mr. Pitt, it has been said by the gentleman from Virginia, overthrew, or triumphed over, the Constitution, by maintaining his post against a majority of the House—that is, the Constitution as it was understood in practice before that time: for in theory, such was not the Constitution, even of England. But what followed? Mr. Pitt dissolved the Parliament, and threw himself upon the nation for support. The People approved his measures; gave him a majority in Parliament: and thenceforth, I suppose, according to theory and practice both, he was rightfully a Minister. As far as our institutions will permit, something of the same sort may happen here. Not that the People of this country will choose a Congress for or against the President: that is not the issue. There is an appeal now pending before the People: it is still pending, however the gentleman from Virginia may think it already decided: it is yet to be decided by the free voice of the People of the United States, at the next election of President. If it should be decided differently from what he thinks, and if, at the same time, it should happen—that members should be sent here who, like the present, are opposed to the Administration, still he [Mr. S.] saw nothing to prevent co-operation in promoting the public welfare. However that might be, he [Mr. R.] surely would not then contend that the President ought to retire and vacate the place to which he was constitutionally elected, because there was a majority of Congress against him. We all derive our authority from the same source; we hold by the same tenure; we are co-ordinate branches of the same Government; and not one an instrument in the hands of the other, or subjected to the will or power of the other. We have not the British Constitution.

He said he was no prophet, and would venture no prediction as to the result of that great appeal. If the People of this country should think with the gentleman from Virginia, that military capacity, whether in exercise or not, was desirable or indispensable in the head of this Government, it might have an influence upon their decision.

Mr. RANDOLPH explained.

Mr. SERGEANT proceeded: I do not wish to misunderstand or mistake the gentleman from Virginia, and I accept his explanation—that he only stated, that sagacity and courage, and the capacity for managing men, which are necessary military talents, are equally necessary in civil affairs. Thus understood, it means nothing more

than that the genius, which constitutes a great military man, is a very high quality, and may be equally useful in the cabinet and in the field; that it has a sort of universality, equally applicable to all affairs. We had seen undoubtedly, one instance of a rare and wonderful combination of civil and military qualifications—both of the highest order. WASHINGTON was equally illustrious in either department. But WASHINGTON was the production of an age. He belongs to an age, and will give it character by his matchless worth. When ages shall have rolled away, he will stand still more exalted, above all those who have so much occupied our attention, with their bustling and restless ambition. He will be remembered when they are forgotten, and his memory will continue to be without blot or stain. That the greatest civil qualifications may be found united with the highest military ones, is what no one will deny, who thinks of WASHINGTON. But, that such a combination is rare and extraordinary, the fame of WASHINGTON sufficiently attests. If it were common, why was he so illustrious?

But let it be remembered, also, that WASHINGTON had experience in civil, as well as in military affairs; and his country had had experience of him in both. He was a member of the Virginia Legislature before the Revolution. He was a delegate from Virginia to the first Congress. He left his seat in Congress to take command of his country's army in the field. He was a member, and he was the chosen President of the Convention which formed the Constitution of the United States. In civil employment, and for high civil qualifications, he was well known to his country, before he was entrusted with the high office of President of the United States, and there was a thorough assurance that he had the requisite knowledge, temper, and habit. It is not questioned, therefore, that, in WASHINGTON, civil and military qualifications were combined, both in the highest degree. But the gentleman from Virginia will not deny—no one who has read the history, or considered the nature of man, can deny—that the talent for war may exist, without the qualifications or acquirements for civil rule; that there may be evidence of the one, and no evidence of the other; nay, it appears to me to be impossible to deny, that qualities which are perfectly compatible with the character of a valiant and successful soldier, may be utterly inconsistent with the peaceful administration of a Republic. I will not, [said Mr. S.] detain the House, by entering into a historical discussion of Caesar and Cromwell, and Napoleon—familiar subjects and well understood; nor will I inquire how far their bad example is palliated by the apology which has been attempted for them, that they were the offspring of the times, and made no change for the worse. Say what you will, it cannot alter the fact. But, selecting one of them for a moment's consideration, I would ask, what did Cromwell do for England, with all his military genius? He overthrew the monarchy, and established dictatorial power in his own person. And what happened next? Another soldier overthrew the dictatorship, and restored the monarchy. The sword effected both. Cromwell made one revolution, and Monk another; and what did the People of England gain by it? Nothing, absolutely nothing. The rights and liberties of Englishmen, as they now exist, were settled and established at the revolution in 1688. Now mark the difference. By whom was that revolution begun and conducted? Was it by soldiers—by military genius—by the sword? No. It was the work of statesmen and of eminent lawyers; never distinguished for military exploits. The faculty may have existed—the dormant faculty. That is what no one can affirm, and no one can deny. But it would have been thought an absurd and extravagant thing to propose, that one of those eminent statesmen and lawyers, in reliance upon this possible dormant faculty, should be sent afterwards, instead of the

Duke of Marlborough, to command the English forces on the Continent. These, then, are the fruits of civil wisdom, which England had not gained under Cromwell, nor by the aid of Monk—and there they flourish still, as they grew out of the revolution in 1688, planted by the hands of statesmen.

In this humble plea for civil qualification, let me advert to another, and greater, and, to us, much more interesting transaction. Who achieved the freedom and the independence of this, our country? Washington effected much in the field; but where were the Franklins, the Adamses, the Hancocks, the Jeffersons, and the Lees—the band of sages and patriots whose memory we revere? They were assembled in council. The heart of the Revolution was in the Hall of Congress. There was the power which, beginning with appeals to the King, and to the British nation, at length made an irresistible appeal to the world, and consummated the Revolution by the Declaration of Independence, which Washington, clothed with their authority, and bearing their commission, supported by arms. And what has this band of patriots, of sages, and of statesmen, given to us? Not what Caesar gave to Rome; not what Cromwell gave to England; or Napoleon to France: they established for us the great principles of civil, political, and religious liberty, upon the strong foundations on which they have hitherto stood, and secured for us the signal blessings we now enjoy. There may have been military capacity in Congress; but can any one deny that it is to the wisdom of sages, Washington being one, we are indebted for many of the best of our enjoyments? Look at the condition of the new States of this hemisphere. One great cause of disorder, it appears to me, which prevents them from settling down in peace, is, that they have no such band of sages to direct their course. Whenever you hear of disturbance, it is General against General, soldier against soldier—it is the military spirit, generated by their wars, and not yet sufficiently controlled by the councils of peaceful wisdom.

I will not, [said Mr. S.] be tempted to reflect upon the distinguished soldier who has been honored, ay, highly honored, by his country. Far be it from me, in this plea for civil virtues, to detract from his military renown. He has done good service. So has his great competitor. I do not pretend to say what will be the result of the election. But this I do know—time will judge us all, and award to every one according to his real merits, undisturbed by the mists of prejudice and of passion. The warrior crown will adorn the brow of the soldier—the wreath of civic merit cannot be denied to the patriot who has faithfully served his country for forty years, without reproach. I would not needlessly pluck a leaf from either.

Mr. S. said he would not have made these remarks, but for what appeared to him the bearing of the argument he had heard yesterday from the gentleman from Virginia. He had occupied more time than he had intended, and probably dwelt on some points with tedious minuteness. Here he would leave the matter, thanking the House for its attention. He acknowledged a decided opinion and disposition to one side of the great question so often alluded to; but, however strong his wishes were for its success, he did not desire unnecessarily to inflict a wound upon any one.

[The House adjourned to Monday]

MONDAY, FEBRUARY 4, 1828.

#### RETRENCHMENT.

The House having again proceeded to the consideration of the resolutions of Mr. CHILTON, as proposed to be amended by Mr. BLAKE, and Mr. HAMILTON—

Mr. BUCHANAN rose, and said, perhaps it would be vain to inquire by whom this debate was introduced. It



FEB. 4, 1828.]

Retrenchment.

[H. OF R.]

is certain that we have now got into it, and no gentleman can predict when it will close. I cannot agree with the gentleman from Massachusetts, [Mr. EVERETT] that the Opposition are justly chargeable with its introduction in the party form which it has assumed, nor for its protracted character. My friend from Kentucky, [Mr. LETCHER] has truly stated, what would have been the probable course of the resolutions, had it not been for the interference of the gentleman from Maryland, [Mr. BARNET.] The mover of them, who is a young member of the House, would have made a speech in favor of their passage, and they would then have rested quietly with the numberless resolutions which have gone before them. The gentleman from Maryland, however, opposed their passage, upon the ground that no cause existed even to suspect the present Administration of any abuses. From that moment the debate assumed a party complexion.

This debate would have ended on Thursday last, after the solemn appeal for that purpose, which was made to the House by the venerable gentleman from Louisiana, [Mr. LIVINGSTON] had not the gentleman from Massachusetts himself prevented it, by moving an adjournment. That gentleman ought to know, that he can never throw himself into any debate, without giving it fresh vigor and importance.

It is true that a single straggler from the ranks of the Opposition introduced these resolutions, but without the least intention of bringing on a general engagement. When he was attacked, he defended himself in gallant style, and we were obliged both by duty and by policy to sustain him. It is for that purpose I have risen. The gentleman from Massachusetts, [Mr. EVERETT] and my friend and colleague from Pennsylvania, [Mr. SEBASTYAN] have entirely changed the character of the debate, and have gone into an elaborate vindication of the present Administration. It is my purpose to reply to their arguments.

My colleague commenced his remarks, by assigning several reasons why he would not have offered the resolutions which had been submitted to the House by the gentleman from Kentucky, [Mr. CHILTON.] Against these reasons, with one exception, I have no complaint to make. My colleague has declared, that he would not have introduced such resolutions, because they might tend to injure the Government of the country, in the estimation of the People. Against this position I take leave to enter my solemn protest. Is it the Republican doctrine? What, sir, are we to be told that we shall not inquire into the existence of abuses in this Government, because such an inquiry might tend to make the Government less popular? This is new doctrine to me—doctrine which I have never heard before upon this floor.

Liberty, sir, is a precious gift, which can never long be enjoyed by any People, without the most watchful jealousy. It is Hesperian fruit, which the ever-wakeful jealousy of the People can alone preserve. The very possession of power has a strong—a natural tendency, to corrupt the heart. The lust of dominion grows with its possession; and the man who, in humble life, was pure, and innocent, and just, has often been transformed, by the long possession of power, into a monster. In the Sacred Book, which contains lessons of wisdom for the politician, as well as for the Christian, we find a happy illustration of the corrupting influence of power upon the human heart. When Hazael came to consult Elisha, whether his master, the King of Syria, would recover from a dangerous illness, the prophet, looking through the vista of futurity, saw the crimes of which the messenger who stood before him would be guilty, and he wept. Hazael asked, why weepeth my Lord? The prophet then recounted to him, the murders and the cruelties of which he should be guilty, towards the children of Israel. Hazael, in the spirit of virtuous indignation, replied—Is thy ser-

vant a dog that he should do this thing? "And Elisha answered, the Lord hath shewed me, that thou shalt be king over Syria." This man afterwards became king, by the murder of his master, and was guilty of enormities, the bare recital of which would make us shudder.

The nature of man is the same under Republics and under Monarchies. The history of the human race proves, that liberty can never long be preserved, without popular jealousy. It is the condition of its enjoyment. Our rulers must be narrowly watched. When my colleague advanced the position which he did, he could not have foreseen the consequences to which his doctrine would lead. I know that he never could have intended that it should reach thus far; but yet my inference is perfectly fair, when I declare that it is a doctrine which only suits the calm of despotism. It is the maxim of despots, that the People should never inquire into the concerns of Government. Those who have enslaved mankind, from Caesar to Bonaparte, have always endeavored, by presenting them with amusements, and by every other means in their power, to attract the attention of the People from the conduct of their rulers. I therefore differ, *tofo celo*, from my colleague, upon this point. If the resolutions of the gentleman from Kentucky, [Mr. CHILTON] shall have the effect of more earnestly and more closely directing the attention of the People to the concerns of the Government, the result will be most fortunate. If the Government has been administered upon correct principles, an intelligent People will do justice to their rulers; if not, they will take care that every abuse shall be corrected.

My colleague used an argument, for the purpose of sustaining the present Administration, which I should not have expected from that quarter. He has stated, that, since the year 1816, the national debt had been reduced, from 126 to 66 millions of dollars. This is very true; and from the argument of the gentleman, one who was ignorant of the subject might be induced to believe, that a large portion of this reduction may be fairly attributed to the present Administration. He evidently endeavored to make this impression upon the House.

I would ask the gentleman what agency had the present Administration—nay, what agency could they possibly have had, in the reduction of the public debt? Are they entitled to the least credit upon that account? Certainly not. It was a subject over which they had no control. The laws which brought the revenue into the Treasury, out of which the debt was paid, existed long before they came into existence. Commerce waited into our ports wealth from all nations, and the duties which were collected on the importation of foreign merchandise, they were bound to apply to the extinguishment of the demands which existed against the country. The Administration only did that, which they could not have avoided doing. The money flowed into the Treasury without their agency, and they applied that portion of it which they were bound by law to apply, to the extinguishment of the public debt. I have hitherto admitted, that they applied it fairly. The ancient British monarch, who, to show his People the impotence of human power, commanded the tides of the ocean not to flow, had no more authority over the laws of nature, than the present Administration could have had, in preventing the tide of wealth, out of which the public debt has been reduced, from flowing into the country. Men can never be entitled to credit for doing that which they could not have avoided. The praise, therefore, which the gentleman wishes to bestow upon the present Administration, for paying the national debt, is certainly not their due.

It is true that, in times like the present, the Republic is always most in danger. When the clouds of adversity are lowering over the country, and when direct taxation becomes necessary for the support of the Government,

H. or R.]

Retrenchment.

[Feb. 4, 1828.]

the People are watchful and jealous, and will then attend strictly to their own concerns. It is in the halcyon days of peace and prosperity, when the jealousy of the People slumbers, that abuses are most likely to steal into the administration of your Government. I charge not the present Administration with corruption; but I do most solemnly believe, that several of their measures have had a strong tendency towards it. I thank Heaven that, in these days, a "Military Chieftain" has arisen, whose name is familiar to the lips of even the most humble citizen of this country, because his services live in their hearts, who will be able, by the suffrages of the People, to wrest the power of this Government from the hands of its present possessors. No one else could, at this time, have successfully opposed the immense patronage and power of the Administration.

I think I have shown, that the present Administration have not the least claim to merit, for the payment of the public debt. It is a claim which has no foundation upon which to rest. It is one of the splendid generalities to which my colleague has resorted, which, when you come to examine minutely, vanishes from the touch.

I shall now leave my colleague from Pennsylvania, but with the intention of returning to him, after I shall have disposed of some of the arguments of the gentleman from Massachusetts, [Mr. EVERETT.] Before, however I commence my reply to that gentleman, I beg leave to make a few observations upon the last Presidential election. I shall purposely pass over every charge which has been made, that it was accomplished by bargain and sale, or by actual corruption. If that were the case, I have no knowledge of the fact; and shall therefore say nothing about it. I shall argue this question as though no such charges had ever been made. So far as it regards the conduct which the people of the United States ought to pursue, at the approaching election, I agree entirely with the eloquent gentleman from Virginia, [Mr. RANDOLPH] (I cannot with propriety call him my friend,) that it can make no difference whether a bargain existed or not. Nay, in some aspects in which the subject may be viewed, the danger to the People would be the greater, if no corruption had existed. 'It is true, that this circumstance ought greatly to influence our individual opinions of the men who now wield the destinies of the Republic; but yet the precedent would be at least equally dangerous, in the one case, as in the other. If flagrant and gross corruption had existed, every honest man would start from it with instinctive horror, and the People would indignantly hurl those men from the seats of power, who had thus betrayed their dearest interests. If the election were pure, there is, therefore, the greater danger in the precedent. I believe, in my soul, that the precedent which was established at the last Presidential election, ought to be reversed by the People, and this is one of my principal reasons for opposing the re-election of the present Chief Magistrate.

Let us examine this subject more closely. General Jackson was returned by the People of this country to the House of Representatives, with a plurality of electoral votes. The distinguished individual who is now the Secretary of State, was then the Speaker of this House. It is perfectly well known, that, without his vote and influence, Mr. Adams could not have been elected President. After the election, we beheld that distinguished individual, and no man in the United States witnessed the spectacle with more regret than I did, descending—yes, sir, I say descending—from the elevated station which you now occupy, into the cabinet of the President whom he had elected.

*"Quantum mutatus es, ille."*

In the midnight of danger, during the darkest period of the late war, "his thrilling trumpet had cheered the land." Although among the great men of that day there

was no acknowledged leader upon this floor, yet I have been informed, upon the best authority, that he was "*primus inter pares*." I did wish, at a future time, to see him elevated still higher. I am one of the last men in the country who could triumph over his fallen fortunes. Should he ever return to what I believe to be correct political principles, I shall willingly fight in the same ranks with him as a companion—nay, after a short probation, I should willingly acknowledge him as a leader. What brilliant prospects has that man not sacrificed!

This precedent, should it be confirmed by the People at the next election, will be one of most dangerous character to the Republic. The election of President must, I fear, often devolve upon this House. We have but little reason to expect, that any amendment, in relation to this subject, will be made to the Constitution in our day. There are so many conflicting interests to reconcile, so many powers to balance, that, when we consider the large majority in each branch of Congress, and the still larger majority of States, required to amend the Constitution, the prospect of any change is almost hopeless. I believe it will long remain just as it is. What an example, then, will this precedent, in the pure age of the Republic, present to future times! The People owe it to themselves, if the election must devolve upon this House, never to sanction the principle that one of its members may accept, from the person whom he has elected, any high office, much less the highest in his gift. Such a principle, if once established, must, in the end, destroy the purity of this House, and convert it into a corrupt electoral conclave. If the individual to whom I have alluded, could elect a President, and receive from him the office of Secretary of State, from the purest motives, other men may, and hereafter will, pursue the same policy, from the most corrupt. "If they do these things in the green tree, what shall be done in the dry?" This precedent will become a cover, under which future bargains and corrupt combinations will be sanctioned; under which the spirit of the Constitution will be sacrificed to its letter.

I shall now, Mr. Speaker, enter upon a more particular reply to the arguments of the gentleman from Massachusetts, [Mr. EVERETT.] I wish I were able to follow the example of the gentleman from Virginia, [Mr. RANDOLPH] and to take the general and comprehensive views of political subjects, which he recommended. As I cannot pursue that course, I must enter into detail, and make such a speech as he would attribute to a lawyer.

What was the first important act of the present Administration? No, not the first, but the first after that message which certainly partook much more of the spirit of the "Statesman of 40 years," who had been bred in foreign courts, than that of the plain simple American Republican. The President claimed the power, and mere courtesy prevented him from exercising it, of commissioning ministers to attend the Congress of Panama, without "the advice and consent of the Senate." My friend from North Carolina, [Mr. CARSON] was, in my opinion, correct, when he declared, that one of the first important acts of the President had been, to claim a power in direct violation of the Constitution. That instrument declares, that the President "shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law." This is a clear, plain provision. Upon what authority, then, did the President claim the right to send Ministers to this Congress, without the consent of the Senate? The gentleman from Massachusetts [Mr. EVERETT] has answered the question, and has sustained this claim of power, by a most novel argument. He

FEB. 4, 1828.]

*Retrenchment.*

[H. or R.]

has read to us the act of Congress, of July 1, 1790, which provides, "that the President of the United States shall be, and he hereby is, authorized to draw from the Treasury of the United States, a sum not exceeding forty thousand dollars, annually, to be paid out of the moneys arising from the duties on imports and tonnage for the support of such persons as he shall commission to serve the United States in foreign parts, and for the expense incident to the business in which they may be employed." How commission? Without the advice and consent of the Senate? Certainly not; unless you can suppose that the very first Congress under the Constitution, deliberately intended to destroy the power which the Constitution had wisely conferred upon the Senate. The language of the act of Congress is perfectly consistent with the power of the Senate; because the President does, in fact, always commission public Ministers and other officers of the Government, after the Senate have advised and consented to their appointment. This phraseology was continued, in the several acts providing the means of intercourse between the United States and foreign nations, until the year 1800, when the act of the 19th of March, 1798, the last in which it had been used, was suffered to expire. Since that time, no such expression has ever been introduced into any of the subsequent acts. And yet this phrase, which had been employed in acts that have long ceased to exist, was laid hold of by the President to justify this extraordinary claim of power. Whilst it affords no ground for his justification, it shows how desirous men in power are to lay hold of every pretext, no matter how trifling, to extend their authority. This is a law of nature, which can never be abolished by any law of man. It proves, conclusively, the wisdom and the necessity of watching over our rulers, with a jealous eye.

I shall now proceed to assail another position of the gentleman from Massachusetts, [Mr. EVERETT.] He argued against including in the resolutions before the House the contingent expenses of foreign intercourse. The gentleman shakes his head. He certainly did say, that it looked like trenching upon the prerogatives of the Executive. The gentleman believes that the expenditure of the contingent fund for foreign intercourse, is a prominent point before the House. I think so too.

The application of this entire fund is left to the sound discretion of the Executive, and is to be accounted for at the Treasury, in a two-fold manner. It is his duty to account specially, and produce regular vouchers, "in all instances, wherein the expenditure thereof may, in his judgment, be made public." When that is not the case, he settles the account, "by making a certificate of the amount of such expenditures as he may think it advisable not to specify." This last is called the secret service money. This is the distinction between the two portions of the fund. It is necessary for the good of the People, that the manner in which the secret service money is expended, should not be made public. If the names of those persons to whom it is given were not kept secret, the Government, in times of peril, might be prevented from getting important information, which they could otherwise obtain. But, Mr. Speaker, give me the Administration which requires but little secret service money, especially in time of peace. Indeed, I am inclined to believe, that none is then necessary. A Republican Government ought to be open in its conduct, and have as few secrets as possible. Upon one occasion, Jefferson returned the entire contingent fund, which had been appropriated for foreign intercourse, untouched. I am just informed by the gentleman from Virginia, [Mr. RANDOLPH] that Washington did the same. These are examples well worthy of imitation in our day.

I do not wish to know the manner in which the present Administration have applied the secret service money. I

shall never knowingly invade a single right which belongs to the Executive. These resolutions contain no such principle; but one great reason, why they have found any favor in my eyes, is, that I wish to ascertain the aggregate amount, not the items, of the secret service money which has been expended since the present Administration came into power, and I wish to have a special account laid before this House, of the manner in which the residue of the contingent fund for foreign intercourse has been expended. This will be an invasion of no prerogative which belongs to the President.

I now approach the main argument of the gentleman from Massachusetts, [Mr. EVERETT] and in the commencement, I shall lay down a position broadly, which I believe I shall be able to prove conclusively—that the President of the United States did receive an outfit of \$9000, whilst he was a Minister abroad, in direct and palpable violation of a law of the United States; and that at this day he retains in his pocket one half of that sum, in opposition to the declared opinion of the Congress of the United States. If I shall not establish this proposition, I have never been more mistaken in my life.

In relation to outfits to be granted to public Ministers, all the acts of Congress which preceded that of the 1st May, 1810, spoke the same language. The gentleman from Massachusetts [Mr. EVERETT] gave us an historical sketch of these laws; but, as they are all the same in regard to the question I am now about to argue, I shall only refer to the act of the 10th May, 1800. It was that act, which ascertained the compensation of public Ministers, from its date, until it was repealed by the act of 1st May, 1810. I shall read its first section.

"Be it enacted, &c. That exclusive of an outfit, which shall, in no case, exceed the amount of one year's salary to any Minister Plenipotentiary, or *Chargé des Affaires*, to whom the same may be allowed, the President of the United States shall not allow to any Minister Plenipotentiary a greater sum than at the rate of nine thousand dollars per annum, as a compensation for all his services and expenses; nor a greater sum for the same, than four thousand five hundred dollars per annum to a *Chargé des Affaires*; nor a greater sum for the same than one thousand three hundred and fifty dollars per annum to the Secretary of any Minister Plenipotentiary."

From the origin of the government, until the year 1810, the President clearly had the right to allow an outfit to a Minister, whom he might think proper to transfer from one European Court to another. The language of the act of 1800, and of the previous acts, is general and indefinite. Whether they would have justified him in making such an allowance, to a Minister whom he might have employed upon a new mission, the functions of which were to be exercised at the Court where he resided, is a question upon which I shall express no opinion.

The act of 1810 limited the general language of that of 1800, and confined the discretion of the President, in the allowance of outfits, to the case of a Minister "on going from the United States to any foreign country." The first section of that act, after fixing the annual compensation of foreign Ministers, *Chargés*, and Secretaries of Legation, contains the following enactment: "Provided, it shall be lawful for the President of the United States to allow to a Minister Plenipotentiary, or *Chargé des Affaires*, on going from the United States to any foreign country, an outfit, which shall in no case exceed one year's full salary of such Minister or *Chargé des Affaires*." This act, in express terms, limits the general expressions of former laws. It authorizes the President to allow an outfit to every public Minister, upon his first appointment, for the purpose of establishing him abroad. After he has received one outfit, and has gone from the United States to the Government to which he has been sent, in case he

H. or R.]

Retrenchment.

[Feb. 4, 1828.]

should be transferred from it to another Government, the President, since the act of 1810, has not had the power of allowing him a second outfit.

I am glad that the gentleman from Massachusetts [Mr. EVERETT] cited the cases which he has done, of the allowance of outfits to Ministers, by the Executive, upon transferring them from one European court to another. If the gentleman had not done so, we might have been at a loss to account for the change of phraseology in the act of 1810, and the difference between it, and all former acts upon the same subject. The case of the outfit to Mr. Monroe, upon his transfer from England to France, and all the other cases brought into the view of the House by the gentleman, were determined, under former laws which clearly gave to the President power over the question. These cases are authorities against the gentleman; because they conclusively show the reason which guided the Legislature, in 1810, in changing the law, and in limiting the power of the President, in the allowance of outfits to the case of Ministers, on their departure from the United States to a foreign country.

I may be asked, did Congress mean to declare, that no outfit should ever be allowed upon the transfer of a Minister from one Court to another? I answer, by no means. They intended to reserve to themselves the power of deciding, in each particular case, whether any new outfit ought to be allowed, and, if so, what should be its amount. If a Minister should be transferred from one extremity of Europe to another—from Lisbon to St. Petersburg, a new outfit of \$9000 might be necessary. But, in the case of a transfer from Lisbon to Madrid, there might be no occasion for any new outfit; and, if there were, the one half of a full outfit, or even less, would probably be sufficient. The present Administration, in the estimates which they submitted to this House, at the last session of Congress, asked a second outfit of \$9000 for our Minister at Mexico, because they intended to transfer him from the City of Mexico to Tacubaya, a distance of only eight or nine miles. Although I did not think it proper to allow a full outfit, in such a case, yet I was glad that the request had been made; because it showed, that the Executive were returning to a correct construction of the law, in relation to this subject. It showed that the President was unwilling to follow the precedents which existed heretofore, upon the transfer of a Minister from one court to another; or otherwise he would have allowed him an outfit, without consulting Congress.

In my judgment, the act of 1810 is so plain, that he who runs may read. It is a universal rule of construction, that when a law delegates a special power to an individual, and confines its exercise to a particular case, that it necessarily excludes him from the exercise of general power, over all other cases. The act of Congress gave to the President the special power of allowing an outfit to a Minister, when he was leaving the United States and going to a foreign country; but yet, that act has received such a construction, that the Executive have claimed and exercised the power of allowing outfits, in all cases, without limitation, and without restraint. For this purpose, the contingent fund is used, in violation of the law.

It will not only be curious, but instructive, to mark the gradual progress of the Executive, until at length they repealed the act of 1810. In the month of April, 1813, the present President, then being our resident Minister at Russia, was appointed one of the Envoys Extraordinary, under the joint commission, to treat with England. As this commission owed its origin to the mediation of the Emperor of Russia, the seat of the negotiation was to be at St. Petersburg. A short time after the appointment, Mr. Monroe then Secretary of State, transmitted to Mr. Adams, \$9000, a full outfit; although, at the time, it was not contemplated that Mr. Adams should change his re-

sidence. The House will, therefore observe, that this was not even the case of a transfer from one court to another; but it was the allowance of a full second outfit to the same Minister, while he continued at the same court. The then President, when he directed the money to be sent, no doubt expected that Congress would sanction his conduct. Accordingly, we find that an appropriation was asked to cover this outfit. The question was then brought before the Congress of the United States, for their determination, and was deliberately decided. A legislative construction was given in August, 1816, to the act of 1810, against this outfit; but Congress, exercising a liberal discretion, allowed Mr. Adams \$4,500 instead of \$9,000.

Sometime after this determination of the question, (too long, perhaps,) on the 23d June, 1814, Mr. Monroe wrote to Mr. Adams, in the following words: "It is necessary to apprise you, that, although a full outfit was transmitted to you by the Neptune, and intended to be allowed you by the Executive, as a member of the extra mission at St. Petersburg, yet the Legislature, on a reference of the subject to them, for an appropriation, decided the principle by the amount appropriated, and the discussion which took place at the time, that half an outfit only could be allowed to a Minister, under circumstances applicable to your case. In your drafts on the bankers, and in your future accounts, you will be pleased to keep this deduction in view." After the present President had thus discovered, that the money was sent to him by mistake, did he submit to the decision of Congress? No, sir. Although, within the period of eight years, before his return to this country, he had received \$115,000 from this "penurious Government;" yet he still continued to persist in retaining the whole outfit in his pocket. Congress gave a construction to their own law. They believed it had been violated, when an outfit of \$9,000 was sent by the President to Mr. Adams; yet they liberally allowed him \$4,500. Instead of accepting that sum with gratitude, he made a complaint against this "penurious Government," and denied the right of the Legislature of the Union to interfere. He declared "that the principle which Congress would settle, by an ultimate refusal to allow the appropriation, could be no other than a principle to confiscate, without any alleged offence."

The next year, however, conveyed him good tidings from this country. On the 19th November, 1815, Mr. Monroe wrote a letter to Mr. Adams, marked "private," from which the following is an extract. "It was doubted whether the inhibition of a greater sum than one year's salary as an outfit, contained in the terms on going from the United States, might not be construed, as precluding an allowance by way of outfit, to any Minister who did not go from the United States. Mr. Erving's appointment to Spain involved the same question. It was wished to reserve the point for more deliberate consideration, than could be bestowed on it, when the letter of March 15th was written to you. I have now the satisfaction to inform you, that the subject has been maturely weighed, and that the result has been in favor of the outfit, on the principle that those restrictive terms, if applicable to Ministers already in Europe, are no further so, than to confine the allowance to them, within the same limit." This letter communicated to him that construction of the Executive Department, which, since it was made, has entirely repealed in practice the limitation upon the allowance of outfits, contained in the act of 1810, and secured to him his full outfit, in opposition to the will of the Legislature, which had been clearly expressed in 1813. From 1810 till November, 1815, this act was obeyed both in its letter and in its spirit. Then, and not till then, did it sink under Executive construction.

FEB. 4, 1828.]

*Retrenchment.*

[H. OF R.]

The accounts of Mr. Adams continued unsettled at the Treasury, a balance appearing against him, until after the passage of the general appropriation bill, in April, 1822. That act provided "that no money appropriated by the said act, shall be paid to any person for his compensation, who is in arrears to the United States, until such person shall have accounted for, and paid into the Treasury, all sums for which he may be liable." In consequence of the existence of this salutary provision, the Comptroller of the Treasury refused to pay Mr. Adams his salary as Secretary of State, until his account, as a Foreign Minister, should be liquidated. He appealed from this decision to Mr. Monroe, the then President, and, in support of his appeal, cited the private letter which Mr. Monroe, when Secretary of State, had written to him in November, 1815, as conclusive of the question. In this appeal, he says, "that the President was authorized, by the first section of the act of Congress, of 1st May, 1810, to make this allowance, cannot be questioned, under the construction which has uniformly been given to it, a construction applied upon full deliberation and advisement, and which has been admitted in other cases upon the settlement of accounts at the Treasury. For this construction, I refer to the copy of your letter of the 19th November, 1815, herewith submitted."

This subject was referred, by the President, to the Attorney General of the United States, and the construction which had been placed upon the act of Congress, by the Administration, in 1815, was fully sustained, in the broadest terms, by that officer. In his opinion, dated June 5th, 1822, he declares, that the question of outfit is given to the President exclusively, and without limit, save only he is not to exceed a whole year's salary." And thus, sir, you perceive in what manner a law, which, in express terms, limited the exercise of the discretion of the President, in the allowance of outfits, to Ministers "on going from the United States to a foreign country," has become unlimited; and how the exclusive power over the question of outfit has been conferred upon the President. Notwithstanding this high authority, however, I think I have maintained my proposition, and established, conclusively, that Mr. Adams now retains in his pocket \$4,500, in violation of the act of 1810 and in violation of the solemn legislative construction which it received, in 1813.

But, says the gentleman from Massachusetts, [Mr. EVERETT,] even if there were any thing wrong in the settlement of the accounts of Mr. Adams, he is not to blame. He did not interfere—he left all these matters to the accounting officers of the Treasury. Is this the fact? Did he not receive the money, and does he not still retain it? Did he not refuse to refund it, when it was demanded by the Comptroller? Did he not appeal from the decision of that officer, to the President of the United States? And was not his refusal to comply with the decision of Congress, the cause why the act of 1810 has received that construction, which has given to the President "exclusively, and without limit," the power over outfits?

There is one matter of fact, which I wish to put right, before I proceed further. Mr. Adams, in his account, on the 30th June, 1814, charged the sum of \$886 86, the expenses of a journey from St. Petersburg to Ghent. It is but just to him to say, that he had left his family behind him, at St. Petersburg. He never did return from Ghent to St. Petersburg; but, yet, there was allowed to him the sum of \$886 86, for his expenses in returning to that capital. This is what has been so often called his constructive journey. The construction, however, did not end here. After this allowance had been made, it was discovered that the travelling expenses of Mr. Bayard and Mr. Gallatin, from St. Petersburg to London, and

from thence to Ghent, amounted, for each, to the sum of \$1,556 54. Their journey was accomplished chiefly by land. In the final settlement of the account of Mr. Adams, instead of \$886 86, which had been at first allowed to him for the expense of a journey which he never made, he was allowed the sum of \$1,556 54. The reason for this change, which is spread upon the face of the account itself, is, that he was at first allowed but \$886 86, "under an impression that the same sum, charged by him for the journey from St. Petersburg to Ghent, would be equal to the expenses of his return, but which now appears, would not have been the case, as that journey was made chiefly by water, but his return must have been by land, and by the same route as that taken by Messrs. Gallatin and Bayard, and equally expensive."

These are the facts. I shall not argue this point, but will leave it to my colleague and friend from Pennsylvania, [Mr. INGRAM] and the gentleman from Rhode Island. I do not say that some allowance ought not to have been made to Mr. Adams, under the peculiar circumstances of the case. One thing, however, is certain; that he did receive \$1,556 54, for the expenses of a journey which he never made; because he never did return from Ghent to St. Petersburg.

[Here Mr. RANDOLPH asked Mr. BUCHANAN to define what was a constructive journey.]

Mr. B. said, I cannot comply with the request of the gentleman from Virginia. If he cannot define it himself, no man in this House can.

But, it has been urged by the gentleman from Massachusetts, [Mr. EVERETT] that precedents sanction the allowance of the outfit to Mr. Adams. I admit there have been precedents in abundance since 1815; but it is against this very doctrine of "safe precedents," that I am now contending. On the fourth of March next, it will be seven and twenty years since the inauguration of Mr. Jefferson. What has been our history ever since? Each President has nominated his successor, as regularly as though the Constitution conferred upon him that power. During this period, each President has been called upon to sanction that which he had done as Secretary of State. The line of "safe precedents" has been unbroken, and the first office in the world has passed as regularly to each succeeding Secretary of State, as the imperial crown ever descended from father to son. How is it possible that abuses can ever be corrected, under such circumstances? A trifling departure from the law to-day, becomes a precedent for a greater violation to-morrow; and whilst power continues to flow in one unbroken line, abuses must still continue increasing. There is no remedy for the People, but by breaking this line of safe precedents. It is this regular course of succession, which, in the lapse of time, destroys monarchies. The abuses which the father introduces, are sanctioned and extended by the son, until at length, after a few generations, the whole Government becomes tainted with corruption, and there is nothing left for the People, but the dreadful remedy of a revolution. It is the principle against which I am now contending, without a special reference to any particular Administration. The People of the United States have at length determined to break this line of Cabinet succession, and to reverse the doctrine of safe precedents; and I trust and believe they will accomplish their purpose. Rotation in office—that salutary principle, in a Republican Government, which purifies the political atmosphere, and causes the successor to view, with a jealous and scrutinizing eye, the acts of those who have gone before him—has had no real existence, in the Federal Government, since the days of Thomas Jefferson. There has been a regular succession ever since. Is an abuse now pointed out? We are at once told, it is sanctioned by a precedent; the Monroes

H. OF R.]

*Retrenchment.*

[FEB. 4, 1828.]

and the Gallatins have done the same thing, and why shall we not do so too? I answer, when the law forbids it, precedents ought to be disregarded. All the precedents which have existed since 1815, although they have violated, can never repeal the act of 1810.

I now come to that part of the argument of the gentleman from Massachusetts, [Mr. EVANS] which relates to the billiard table. I should not have said one word upon this subject, did it not differ entirely, in relation to it, from the gentlemen from Virginia and South Carolina, [Mr. RANDOLPH and Mr. HAMILTON.] I admit that the expenditure of fifty dollars is a very little matter, and this has ever been the opinion of my friend from North Carolina, [Mr. CARSON] who has been so often introduced into the debate. If there be any gentleman in the House, who regards fifty dollars less than he does, I do not know the man. The question worthy of our consideration, is, not whether the price of the billiard table was paid out of the Public Treasury, or out of the private purse of the President; but whether a billiard table ought to be set up, as an article of furniture, in the House of the President of the United States? I am free to say, I think it ought not. In the State of Virginia, billiard tables are prohibited even in the mansions of private gentlemen, under very severe penalties. The gentleman from Virginia, therefore, cannot now indulge in this game at home: for I know him too well to believe that he would violate the laws of his own State. This shows the moral sense of the People of that ancient and respectable Commonwealth, in relation to the game of billiards. To use a familiar expression of their own, they do not go against either the exercise or the amusement of the play; but they know the temptation which it presents to gambling, and the consequent ruin which must follow in its train. It has a direct tendency to corrupt the morals of our youth. Indeed, I doubt whether there be a single State in the Union which has not prohibited the game of billiards. The People of the United States are generally a moral and religious People; a proper regard, therefore, for public opinion, for the scruples of the pious, ought to have prevented the first Magistrate of the Union from setting such an example. [Here Mr. RANDOLPH observed, there was no law in the District of Columbia, against playing billiards.] Mr. BUCHANAN then said, the President of the United States is not only the President of the District of Columbia, but of the whole American People; and they condemn this and every other species of gambling. Ought, then, the man who has been elevated to the most exalted station upon earth, and whose example must have a most powerful and extensive influence upon the morals of the youth of our country, to set up a billiard table, as an article of furniture, in the House which belongs to the American People? He certainly ought not to keep such an article of furniture in that house, nor ought he there to play at the game. I should never have invaded his domestic retirement, for the purpose of discovering whether he kept a billiard table or not. I should never have been the first to bring this matter, either before the House, or the country. It has been brought here by others, and I felt it to be my duty to express my opinion upon the subject.

It has been said that Washington played at billiards. Be it so. I will, however, venture the assertion, that he never set up a billiard table in the house which he occupied, at the Seat of Government, whilst he was President of the United States.

Descending from the man who occupies the most exalted station in the country, nay, in the world, to the Judges of your Courts of Justice, I would ask, whether public opinion, in any portion of this Union, would tolerate, that such a magistrate might establish a billiard table in his house, or even play publicly at the game?

Upon this subject, although I differ from the gentle-

men from Virginia and South Carolina, yet I feel certain I do not differ from the People of the United States. They believe that the President ought never to have set such an example. Although I do not pretend to be a rigid moralist myself, yet these are my opinions.

I will now make a few remarks upon another subject, and then I shall have done with the gentleman from Massachusetts [Mr. EVANS.] I do most sincerely, and from the bottom of my heart, regret, that the gentleman should have introduced the libel, which he says has been extensively circulated throughout the State of New Hampshire, into this debate. I never heard it before. I believe that the person to whom he has alluded is not only a lady by courtesy, but a lady by nature and education. I shall not credit one word derogatory to her reputation. I believe she would shrink from the idea of having her name introduced upon this floor, and thus sent over the United States in connexion with such a libel. I doubt, therefore, whether the gentleman has rendered her an acceptable service, in defending her before this House. I fear that he has exposed her to unjust and ungenerous attacks; although every feeling of honor, and every dictate of policy, will be roused for her protection. The man who attempts to destroy the character of a woman, destroys his own. The American People are chivalrous and generous in their feelings. If I were asked to say, what single circumstance has done Mr. Adams the most injury in Pennsylvania, I should answer, without hesitation, the unmanly, the ungenerous, and the unjust attacks which have been made—not by him, for I believe him to be wholly incapable of such conduct—but by the presses devoted to the Administration, against the pious, the benevolent, and the amiable lady of General Jackson. I hope none of the presses in the Opposition will follow this infamous example.

The lady to whom the gentleman has alluded stands high in the public estimation, and in mine. I trust that her name may never be connected with the politics of the day; but that, freed from any public observation which might wound her feelings, she may be left to enjoy the consciousness of having done her duty in every station of life in which she has been placed.

I shall now return to my colleague from Pennsylvania, and after noticing a few of his arguments, I shall no longer continue to exhaust the patience of the House. He has introduced into this debate, the late mission of Mr. King to England; and has attempted to defend the Administration from any blame on account of its failure. I never have, and never shall, utter a single word against the memory of that distinguished man. I know his worth too well; I am proud to say that I believe I was honored with his friendship. The failure of the mission is fairly to be attributed to the neglect of the Administration, and not either to the illness or neglect of the Minister. It is not because he was sick, but because he never received any instructions from his Government, that we have lost our trade with the British West Indies. The negotiation between this country and England in relation to the West India trade, was nearly completed by Mr. Rush, in July, 1824. There was then but a single point of difference between the two Governments. This Government claimed the right to have its productions admitted into the British West Indies upon the same terms with those of the British colony of Canada. The British Government replied, that they never could yield to such a demand; and that, upon the same principle, they might claim to have the sugar of the West Indies admitted into the ports of the United States upon the same terms with that from Louisiana. When Mr. King left this country, if he had been instructed to yield this pretension, as Mr. Gallatin was afterwards instructed to do, the treaty would have been closed, and we should, at this time, have been in the enjoyment of the trade. Is it not clear, then, that



FEB. 4, 1828.]

*Retrenchment.*

[H. or R.]

the neglect of the Administration has occasioned the failure of the negotiation? Mr. King was sent from this country early in the Summer of 1825, and did not leave London until about the 1st of July, 1826. During the whole of that period, he never received a line of instructions in relation to the principal object of his mission. Although this trade was by far the most important point in dispute between the two Governments, it was as entirely abandoned as though a question about it had never existed. All that the Administration had to say to Mr. King, was, go to England, abandon our former claim, and close the treaty; and we have every reason to believe the treaty would have been closed. When Mr. Gallatin afterwards went to England, he received such instructions, but it was then too late. Although I should trust but little to the friendship of the British Government towards this country, yet I must believe, from the testimony before me, that, if Mr. King had received the same instructions which Mr. Gallatin afterwards did, we should not have lost the trade.

But it is said by the President of the United States, in his last message, that, in losing this trade, we have actually lost nothing. What have we lost? It is true that our productions still find their way to the British West Indies, through the neutral islands and through Canada; but the farmers of Virginia, Maryland, and Pennsylvania, are compelled to pay the additional expense of the circuitous trade, both in the reduced price of the articles which we send to those markets and in the enhanced value of those which we receive in return.

There is also now a most unequal distribution of these losses among different portions of the Union. The direct trade with Canada is not prohibited; and thus we are playing into the hands of the British Government. It has been their policy to hold out every encouragement to this trade, so that they may have the carriage of our productions to their West Indies. Our flour, therefore, flows freely and directly through the St. Lawrence to the British West Indies; and thus, whilst the farmers in that portion of the Union enjoy all the benefits of a direct trade, those in every other portion are compelled to bear the burden of a trade that is circuitous.

But I am not yet done with this mission to England. Mr. John A. King went out with his father to London, as Secretary of Legation. In this character he was entitled to receive, under the act of 1810, at the rate of \$2,000 per annum for his services. The illness of Mr. King prevented him from remaining in London until the arrival of Mr. Gallatin, who had been appointed his successor. He was, therefore, under the necessity of leaving his son behind him in charge of the legation, where he remained during the months of July and August, 1826, and then, upon the arrival of Mr. Gallatin, he followed his father to this country. Upon his return home, the President of the United States allowed him \$4,500, the full outfit of a *Chargé des Affaires*.

Who is a *Chargé des Affaires* under the laws of this country? In every particular, so far as regards his powers, he is placed upon the same footing with our foreign Ministers. His rank is lower, and he receives but the one-half of the outfit, and one-half of the salary. Officers of this grade, from motives of economy, have usually been sent from this country to inferior courts. The act of 1810 expressly provides, that, to entitle any *Chargé des Affaires* either to an outfit or salary, he must be appointed such by the President, with the advice and consent of the Senate, if in session; if not, he may be appointed by the President alone, who is, in that case, obliged to submit the appointment to the Senate, at its next session, for their advice and consent. This act also contains a negative provision on the subject, and declares that "no compensation shall be allowed to any *Chargé des Affaires* who shall not be appointed as aforesaid." A

mere Secretary of Legation, such as John A. King was, who, from accidental circumstances, had been left in charge of our affairs during an interval of a few weeks between the departure of one Minister, and the arrival of another, is certainly not such a *Chargé des Affaires* as the act of Congress recognizes.

Outfits were intended to enable our public Ministers and *Chargés* to create establishments at foreign courts, where the law intended they should reside; but John A. King received his outfit upon his return home. Although he never was appointed a *Chargé* by the President, either with or without the consent of the Senate, yet he received a salary as such, for sixty days service, and an outfit, amounting together to the sum of \$5,200. This outfit was given to him, not "on going from the United States," for the purpose of establishing himself in England, but upon his return from England to this country. Thus, at length, by the existence of "safe precedents," the Administration have been brought so far to violate the law, that they have allowed an outfit for returning home, instead of going abroad. [Here Mr. RANDOLPH observed that this was an infit.] It is but just that I should admit that the Administration are not without precedents to sanction their construction of the law, although I do not believe that any one exists which goes the length of the case I have brought before the House. The existence of such precedents shows, in a more striking point of view, the necessity of returning to an economical and strict administration of the Government.

I have one word to say concerning the mission of Mr. Gallatin. If, under the existing laws, our Ministers do not receive a sufficient compensation to support them abroad (and upon this point I should be disposed to rely much upon the opinion of my colleague) let their salaries be increased. I have heard, and I have given credit to the report, that Mr. Gallatin refused to go to England, unless upon the condition that he might return after one year's absence. If such a practice should prevail, our Ministers, in violation of the spirit of the existing law, will receive, by adding the outfit to the salary, \$18,000, instead of \$9,000, for one year's service. This is far from being the greatest evil which will flow from such a practice. You send a Minister abroad, but for one year; and as soon as he has established himself in the confidence of the Government to which he is sent, he is permitted to return home. In this manner, the public service may be seriously injured. I am against the practice.

I now advance to attack a position in the argument of my colleague, which I believe to be a perfect paradox. He asserted, and attempted to prove, that the patronage of the Government did not tend to strengthen but rather to weaken the Administration by which it was distributed. If that gentleman's character for candor were not above suspicion, as I firmly believe it to be, I should doubt his sincerity. To establish this position, he said that gratitude was a weaker passion than self love, which I admit; and that, therefore, the Administration lost more by disappointing candidates, than they gained by their appointment. But does not the gentleman know, that, when a man is once appointed to office, all the selfish passions of his nature are enlisted, for the purpose of retaining it? The office-holders are the enlisted soldiers of that Administration by which they are sustained. Their comfortable existence often depends upon the re-election of their patron. Nor does disappointment long rankle in the hearts of the disappointed. Hope is still left to them; and bearing disappointment with patience, they know will present a new claim to office, at a future time.

In my humble judgment, the present Administration could not have proceeded a single year, with the least hope of re-election, but for their patronage. This patronage may have been used unwisely, as my friend from Kentucky, [Mr. LETCHER] has insinuated. I have ne-

H. or R.]

*Retrenchment.*

[Feb. 4, 1828.]

ver blamed them, I shall never blame them, for adhering to their friends. Be true to your friends, and they will be true to you, is the dictate both of justice and of sound policy. I shall never participate in abusing the Administration for remembering their friends. If you go too much abroad with this patronage, for the purpose of making new friends, you will offend your old ones, and make but very insincere converts.

But has the gentleman from Pennsylvania adverted to the consequences of his doctrine? There is no danger from patronage! If so, there is no occasion for jealousy on the part of the States, towards this Government. All the principles which actuated our fathers, which made them watch the Federal Government with Argus eyes, for the purpose of restraining it within the limits of the Constitution, were utterly vain. For my own part, judging from history, when this Government was commencing its operation, and when its patronage was comparatively small, it required the immense weight of character which the Father of his Country possessed, to put the wheels of the machine into successful motion. I think there was then more danger of a dissolution, than a consolidation of the confederacy. I should then, when the words had some meaning, have been a Federalist, rather than an anti-Federalist. I have been called a Federalist, and I shall never be ashamed of the name. The times have since greatly changed. The power and the patronage of this Government have been extended, and are felt in every neighbourhood of this vast empire. There is now infinitely more danger of consolidation than of disunion; and the States should now be jealous of every encroachment upon their rights. The argument of my colleague would put them to sleep. Upon his theory, the British Government must be very weak; because it possesses ten, nay, I might say twenty-fold the patronage of this Government.

I shall now approach another branch of my colleague's argument. I fully assent to his general proposition, that it is both our duty and our interest to cultivate friendly relations with every civilized nation; and for that purpose we should interchange with them ministers and diplomatic agents. Our ministers, when sent to a foreign court, should remain there, and not return home at the end of the year. The question upon which I would say, I should join issue with the gentleman, did this expression not "smell of the shop," is in what manner ought our ministers to appear abroad? Ours is the only pure Republican Government upon the earth. All our habits and our manners ought to be congenial to the simplicity and dignity of our institutions. Among men of sense abroad, our ministers, attired in the style of country gentlemen, would be more respectable, and more respected, than if they were bedizened in all the colors of the rainbow. In every attempt to ape the splendor of the representatives of monarchical Governments, we must fail. The veriest menial of the most contemptible court in Europe, who appears abroad in the character of a foreign minister, will be able to eclipse in dress and in finery, the representatives of the American People.

What was the example of the ancient Romans? In the days of their purity and their greatness, did they ever attempt to vie with the splendor of the Asiatic despots whom they subdued? Did they send ambassadors to the East, clothed in gorgeous apparel? No, they went in the simple dignity of Roman citizens, clothed with the majesty and power of the Roman People: and they carried respect for the Roman name, wherever they went. It was upon this model that Dr. Franklin acted, when he appeared as our minister at the Court of France, in the plain dress of a country gentleman. He would have deserved immortality for this act alone. He set an example from which his successors ought never to have departed.

What is now the case? The last Administration have prescribed a uniform to be worn by our foreign Ministers. It consists of a military coat, covered, and glittering with gold lace, the cost of which is not less than 500 dollars, and a chapeau and small sword, corresponding with it, in splendor! And this dress is what my colleague has called the livery of the American People, which our ministers ought to be proud to wear! I protest against this dress being called the livery of the American People. It is not so. It is the livery of the last, and the present Administration. No gentleman, who valued his standing with the People of this country, would ever appear before them in such a garb. The People of the United States do not even know that such a dress has been prescribed for their Ministers abroad. In many instances it must make us appear ridiculous in the eyes of foreign nations. Imagine to yourself a grave and venerable statesman, who never attended a militia training in his life, but who has been elevated to the station of a foreign Minister, in consequence of his civil attainments, appearing at Court, arrayed in this military coat, with a chapeau under his arm, and a small sword dangling at his side! Is not such a man compelled, by conforming to this regulation, to render himself ridiculous? "A military chieftain," who, in early life, had received his education at West Point, not the old "citizen soldier" who resides upon his farm, might sport a dress of this kind with some degree of grace; but what a ridiculous spectacle would a grave lawyer, or judge, of sixty years of age, present, arrayed in such a costume? If the salary of our foreign Ministers be not sufficient to enable them to exercise that liberal, but plain hospitality, which belongs to the character of their country, I say again, let it be increased; but let them never forget, in their dress, or in their manners, the simple grandeur which belongs to the character of Republicans. I trust, that, ere long, the days of Franklin will again return.

The gentleman has informed us, that it is his opinion we ought to be represented at the Congress of Tacubaya, should it ever assemble. Whatever I may have thought of the Mission, I most heartily approved of the selection of the Minister. For one, I shall never sanction any improper allusions made upon this floor to that gentleman, in relation to this Mission. There is no man in the ranks of the Administration, whom I should rather see promoted, nor is there any man among them more deserving of promotion. If he should ever again go to Tacubaya, I should regret to see him in any dress, but in that of an American gentleman. In that costume, he will infinitely better represent his own character, and that of the American People, than if he were decked out in all the splendid uniform prescribed by the Administration. He will then set an example of plainness and simplicity, which may be useful to the Republics of the South.

The gentleman has awarded the laurel crown, to deck the brow of the Military Chieftain; but has decreed the civic wreath to the statesman ripened by the experience of 40 years. He has informed us, he was no prophet; and I believe the fates will never confirm his decree. I trust and believe, that the People of the United States will elevate the 'citizen soldier' to the supreme magistracy of the Union. In that event, and after he shall have been tried by them, I venture to predict, that their award will entwine the civic wreath with the laurel crown; and that Jackson will live in the history of his country, as the man, of the present age, who was "first in war, first in peace, and first in the hearts of his countrymen." I believe that the annals of the human race will furnish but few examples of men, who were endowed by nature with rare and distinguished military talents, without, at the same time, possessing the capacity for civil command. It would be easy to quote a splendid catalogue of names, in proof of this assertion; but I shall only mention those

SE. 5, 1828.]

Retrenchment.

[H. or R.]

f Pericles, Cincinnatus, Charlemagne, Alfred, Henry the 4th of France, Napoleon—and, above all, our own unequalled Washington.

I shall now descend from the lofty heights to which we have been soaring, and make a few remarks upon the resolutions which have not been before the House, for several days past. I should have been opposed to their introduction, had I been consulted upon the subject. I should be willing, in this particular, to take the sagacity of the gentleman from Virginia as my guide. I agree with him, that it is not our business to originate any proposition, except such as have the necessary legislation of the country directly in view. The party in this House, opposed to the re-election of the present President, do not require any caucussing to direct their conduct. The path of policy, as well as duty, lies open before them. They ought to do the Legislative business of the country, and then go home, leaving the great question of the Presidential election to be decided by the American People. They will think more of us, if we should let it alone. For these reasons, I shall not vote, during the present session, in favor of considering either the amendments to the Constitution, or the constitutionality of the old Sedition Law, or any other subject which must necessarily divert our attention from the business of the nation, to the politics of the day. Had any question been taken, should not, at this time, have even voted in favor of considering the resolution to inquire into the expediency of placing a picture of the battle of New Orleans in the rotundo of the Capitol. As to the resolutions, to what do they amount? Do gentlemen suppose that the character of the Administration is to be tried by a Committee of Accounts? I believe that there are some supernumerary officers in the Departments; but I do not think that the salaries, of such as ought to be retained, are too high. In less than three years, the late war gave rise to an expenditure of \$120,000,000, beyond the usual amount. After its close, there were an immense number of accounts to be settled, which produced a new organization of the Departments, to meet the necessity of the case. These accounts have nearly all been liquidated; but still all the new offices and clerkships, which were then created, continue to exist, and others have been added. This is not so much the fault of the Administration, as of Congress. A reduction in the number of these officers and clerks, and a more strict and economical application of the different contingent funds, to the purposes for which they were intended, embrace every thing which I expect the committee will be able to accomplish. They possibly may make some discoveries in relation to the past expenditures of the different contingent funds, which have not yet been brought before the House.

In conclusion, I must express my most sincere thanks to the House, for their polite attention; an attention which I do not, at any time, deserve; much less at this time, after they have been exhausted by so long and so fatiguing a debate.

[Here the debate closed for this day.]

TUESDAY, FEBRUARY 5, 1828.

The House again took up the resolution on Retrenchment.

Mr. RIVES, who was entitled to the floor on the adjournment of the previous day, rose, for the purpose of addressing the House; when,

Mr. RANDOLPH requested his colleague [Mr. RIVES] to yield him the floor for a few moments, while he made to the House a statement of fact. The House no doubt, recollect—I, sir, can never forget it: their polite attention has riveted it in my memory—some remarks of mine on Friday last. Yesterday morning, in consequence of rumours that

were afloat in various directions, a friend of mine from North Carolina asked me if I had seen the United States' Telegraph, of Saturday last? I replied that I had not; for, though I am a subscriber to that paper, I rarely see it: it comes to me very irregularly. My friend said I had better look at it: for, it struck him, that there was something stated there not as I had said it. I did so; and my eye was first attracted to an article under what is called the editorial head, entitled "The Bargain." As soon as I had read it, I sat down, and addressed a note to the Editors, stating that an unwarranted and unwarrantable use had been made of my name. I state the substance of the note; and, in this part, the words also; and I added that the article purported to state what I had said, but not as I had said it. Sir, I hunted the whole Capitoline for the paper, before I could find one copy of Saturday's paper. At last, I got one from the other House. My eye was then attracted to the report of my remarks. Just at that moment, I was invited to an interview with the senior Editor, in an adjoining room, which invitation I did not accept. I preferred, sir, to stay, and listen to the speech of the gentleman from Pennsylvania, [Mr. BURCHAMAN.] I was then finishing a second hurried note, stating that I had, since my note of the morning, adverted to the report, and that it was obnoxious to the same objection as the Editorial article. On looking over it since then, I find that it is so, in a yet higher degree. I waited patiently to see whether any notice of the errors would be taken in this morning's paper; and I borrowed it at the house adjoining that in which I lodge. As no notice whatever is there taken of the matter, I think it due to myself and to the House to declare, that report not only presents my statement not as I said it, but it states what I did not say—[Here Mr. R. quoted the report]—"that there was no coalition until Mr. C's exclusion." Sir, I said no such thing. I said something that might have been mistaken for what is here. I know nothing of the motives of the statement, I care nothing for the motives—the motive does not affect the statement: it does affect the act, as it regards the agent; but not as it regards the object of that act. The effect to me is not altered, if a man blows my brains out, by his motives in doing it. That it was not until Mr. Crawford obstinately refused to die, and a certain candidate was excluded from the possibility of being elected, that the present incumbent became a party to the Coalition, or was taken into the firm. This is what I said: I said what I had said in the Senate two years ago: and I said what I did not say in the Senate two years ago. The whole tenor and tendency of this report is to make an impression on the public mind that I came forward here, with a certain knowing air, as if I were privy to some mighty thing, which other people did not know: as if I was tendering myself as a witness. Sir, I did no such thing. So far from volunteering as a witness, I had rather be excluded from giving testimony. I am not, certainly, an incompetent witness; and I should be the last man, most certainly, to impeach my own credibility: but I do not wish to press my testimony, for reasons which will be understood by every gentleman. But the tendency of that report, is, to lead the reader to believe that I spoke of certain things as having taken place—*pendente lite*—I mean while the Presidential election was pending. I said no such thing. This is what I said—that I had been told by the party in question that if we would give them (himself and his friends) any other person except John Q. Adams for President, they would support him. I state it over again with reluctance—I did not wish it to go abroad till it should go as I said it, and with all the concomitant facts and arguments to illustrate its meaning. I said that I had reason to know the sentiments of two certain parties in that business, concerning a third party. But, sir, I had no communication with either of them after my return from Europe. I neither said nor insinuated

H. or R.]

Retrenchment.

[Feb. 5, 1838.]

that I had. What I spoke of happened prior to my voyage to Europe. I spoke of a subject which was matter of general notoriety—and I spoke of it as personally known to me: it was personally known to me. I mentioned, too, how I got the knowledge of it. I did not want the knowledge; but in cases like this, as in all other cases, I like to act on the highest possible evidence, and that highest possible evidence is to me the evidence of my own senses. I had other evidence of it besides. The evidence was abundant and superabundant. I speak of the opinion held by the first and the second man now in this Administration, respecting each other. It was so notorious, that they may have been paid to have put their hands and seals to that opinion, and to have published it to the world. Sir, if there is any thing which can do mischief, it is such reports and such editorial remarks. I am personally ignorant of one of the Editors. I never spoke but to one of them (the senior editor) in my life; and that was once, this session, on the steps of this Capitol, when, in reply to his address, I bade him "good morning." This has been the whole of our intercourse. Sir, if any thing can do away the effect of statements made here, it is such exaggeration, or such careless misrepresentation as this. If I were to put my hand to that statement, I should put my hand to what is not true: for, as sure as I hold this paper in my hand, the statement in it is false—[throwing the paper on the floor.] I said no such thing, as every body knows that took the trouble to listen to me. I spoke of an agreement, or an understanding—call it what you will—between the two high contracting parties—neither of whom is the President of the United States—which took place long previously to a certain event, and long previously to its being ascertained that one of those parties was excluded, as a candidate, from the House of Representatives. The evidences of it were given on this floor, in the contest which took place between one of those parties and another, whom I had almost called his colleague: for they had represented the same State and town. It was given in another way, both before and after my departure for Europe—in a manner not to be misunderstood. This instance was before I went to Europe, in 1824. I did not know of the fact of his exclusion till after my return, in Dec. 1824. The first news I heard of it was from Capt. Fish, who came down in the Steam Boat, with his usual attention and cordiality, and greeted me on my return: he gave me the first news that Jackson was ahead of all—and that there was every reason to believe that Clay would not come into the House. I had no communication with either of these high contracting parties after that—[except one—of a certain sort with one of them, [Mr. W.] which was finished to my entire satisfaction] during that session. Yes, I had—once in the room which is called yours, Sir—I was covering over the fire on the morning of the election, and then believing that New York would not give her vote for the present President—the Speaker came in, and I said to him, "I hope we shall not be kept long a balloting." He no doubt smiled at my simplicity. Sir, what I said on Friday, I shall put in black and white—as soon as I have time to correct certain minutes, or whatever else they are called, that is if they are corrigible. Sir, that compact, or understanding between the two high parties, was long anterior to the time when either of them thought of the present President as the successor to Mr. Monroe. To believe that it then had for its object the elevation of the present incumbent, one must suppose, that one of the parties, who was himself a candidate, wanted to defeat his own election. Sir, it is a simple case of *reductio ad absurdum*—not one of those we have lately seen—in which the Speaker himself, and not the proposition, was reduced *ad absurdum*. Yet we must suppose so, if the individual I spoke of would have a communication with Eastern gentlemen early in 1834, with a

view to put the present President into the chair. Sir, it is so absurd, that there is not a child who can be brought to believe it, even by the help of sugar candy—[putting a bit into his mouth.] Our intercourse was merely casual, when he used the expression I mentioned. Sir, this is not the first, or the second, or the third time, that I have had occasion to complain of the same paper, and have written to the editors to that effect. On a late occasion, I said, "do able and practised statesmen believe that if they trump, their adversaries will not trump too? Why, sir, Hoyle might have taught them better." The report in that paper made me say, "why, sir, Hoyle, their own favorite book of games, might have taught them better." Who does not see that this takes off the point entirely? Sir, it makes that flat, and coarse; and vulgar, and base, which I maintain was strictly parliamentary, and not without point. With one exception—that about the Irish—and that is one where I should have thought no man could have misunderstood me—with that one exception, sir, I have not seen one report in that paper, of any remarks of mine, (one only, which I corrected for it,) which has not filled me with disgust. And I feel the more indignant at it, because those reports are copied into other opposition papers. Sir, even that report about the Irish, with the single exception referred to, was a miserable report—I do not say there was prepossessive malice—I do not believe that there was any—but I do say that it was a most wretched report. Sir, I must here notice another journal, on another occasion. During a certain debate here, I spoke of a bull having been fulminated. Well, sir, the printers had that, "by those under whose orders militiamen had been shot, a bill." During the same debate, while a member [Mr. WAIGHT] was speaking on the other side of the House, I was told that I had been misinformed in the statement I had made in relation to the shooting of militiamen at Norfolk. Now, sir, such is my horror of stating as a fact that which is not a fact, that I rose immediately, interrupted a member in an argument which had no reference to that subject, and with all the distinctness of articulation of which I am capable, I made an explanation, taking back what I had before stated, before it could be noticed any where, in relation to the shooting of the militiamen—and said that I did not wish it to go abroad without the correction. I expected that this counter statement would appear in the papers next day; but it was only said, that Mr. RAYBOLDS said a few words in explanation. This was on Saturday—Sunday is a blank day, as we used to say when I was a fox-hunter—that statement got to Richmond on Sunday afternoon. The error could not be corrected sooner than Monday, and would reach Richmond on Tuesday—here, sir, were forty-eight hours for the mischief to brew in. The party referred to was a man of gallantry, and a man of honor—to say more is unnecessary.

Sir, I am not imputing motives—the motives are nothing to me—but if this misrepresentation had not appeared, the House should not now have heard any thing from me. If the printers would only let us alone, sir—but I know no public man can exist an hour without the press, and I, sir, am a public man. Sir, I am conscious I have stated that imperfectly and lamely, which I thought I could state very clearly in six words; but I shall only serve as a foil to my colleague, on whose courtesy, as well as that of the House, I have trespassed too long, and will now hear him with pleasure.

Mr. RIVES said, that, in embarking upon the wide ocean of debate which lay before him, he hardly knew from what point to take his departure, or in what direction to steer his course. But, as some chart was indispensably necessary, on so extensive a voyage, he would endeavor to take the resolutions upon the table for his guide, with no other deviations than the stress of antecedent debate should unavoidably force him into. In pur-

FEB. 2, 1828.]

*Retrenchment.*

[H. of R.]

suings this course of discussion, he should very much regret if any thing he might say should excite a single unpleasant sensation in the bosom of any member of the House, or be considered, in any degree, indecorous or disrespectful towards any member of the Government. I may truly affirm, said Mr. R. that I entertain none other than the kindest feelings for every gentleman with whom I have the honor to be associated upon this floor; and towards the members of the Administration, however much I may be politically opposed to them, I have never harbored the slightest sentiment of ill-will or personal antipathy. But, as guardians of the public weal, and sentinels of the public liberty, it sometimes becomes our duty here to speak unpalatable truths. In doing so, I have always endeavored to separate the private from the public characters of persons in office; and while I reserve to myself, at all times, every legitimate freedom of remark upon their official conduct, I hope I shall never say any thing which would be a just cause of personal offence to them or their friends.

In this spirit, I proceed to the consideration of the resolutions upon the table. There are two features common to all the propositions. They all contemplate an inquiry into the expediency of retrenching the future expenses of the Government, and an examination into its past disbursements. Sir, I am decidedly friendly to both of these objects. But as a means of effecting them, I prefer the resolution recently submitted by my friend from South-Carolina, [Mr. HAMILTON] because it is more specific and practical in its character, and because it proposes to employ the instrumentality of a special, instead of a Standing Committee. Sir, I am persuaded, from the extent and magnitude of the inquiry, that it cannot be satisfactorily conducted by any of the Standing Committees, already burthened with pre-existing duties. I hope, therefore, that the proposition of the gentleman from S. Carolina, will receive the support of every one who has the cause of retrenchment really at heart.

Though it is rather old-fashioned doctrine, Mr. Speaker, I am one of those who have the cause of retrenchment really at heart. I believe there is great occasion for it. It is now twenty-five years since there has been any systematic reformation in the organization and expenses of the several Departments of the Government. The reformation I allude to, was at the commencement of Mr. Jefferson's Administration, when it was thorough and complete. Considering the tendency of all Governments to abuse, to the accumulation of unnecessary expenses, and the incumbrance of useless offices, I cannot doubt that there has arisen much since that period which requires correction. The tree of Executive patronage is continually throwing out new shoots and branches, which as constantly call for the application of the pruning-knife.

While the gentleman from Massachusetts, [Mr. EVERETT] assented to the general tendency of all Governments to abuse, he said, that the abuse to which this Government was most prone, was the abuse of parsimony. Sir, this idea is contradicted by the whole history of the operations of the Government; and a little reflection will, I think, satisfy the gentleman himself that his notion is fallacious. How are the expenses of this Government supplied? By direct impositions upon the great body of the people? No, sir, if this were the case, it would be some check upon the extravagance of the Government. In the State Governments, whenever a new expenditure is authorized, the means of meeting that expenditure must be provided by direct taxation upon the People. The tax-gatherer goes annually to the citizen, and exacts from him his share of the public contributions. If he finds that share greater than it was the year before, he knows by whose act it is so; he demands of his Representative the reason for it; and unless that reason is satisfactory, he dismisses him, and chooses another. It is this direct and

undisguised operation of the system of public revenue, under the State Governments, which renders the Representative practically and constantly responsible to his constituents, and this responsibility is a sufficient security against prodigality in the Government.

But, in this Government, the revenue which supplies the public expenditures, is not drawn into the Treasury directly from the pockets of the People, although they ultimately pay it. They pay it, however, in the shape of an increased price for the commodities they consume; and instead of tracing that increase of price to an act of the Government, they generally look no farther than the merchant with whom they deal. In this way, the imposition is disguised, and the Representative is screened from responsibility. Hence it is, that we vote millions of dollars here, with not so much hesitation or compunction as we vote thousands in the State Legislatures. It is for this reason, that the tendency of this Government, so long as the national revenue is derived principally from external duties, will be to profusion and extravagance; and not, as the gentleman from Massachusetts supposes, to parsimony.

These general considerations sufficiently indicate to my mind, the necessity of some revision of the expenses of the Government, with a view to retrenchment. But the gentleman from Pennsylvania [Mr. SHERMAN] said, that some basis ought to be laid for the inquiry. What, sir! does the gentleman require actual proof of the existence of abuses? This proof cannot be had without inquiry. If, then, we can take no initiatory measure, for the correction of abuses, without previous proof of their existence; as that proof cannot be had without inquiry, and as, according to the doctrine of the gentleman from Pennsylvania, no inquiry on the subject ought to be made without proof, abuses must ever remain uncorrected. The effect of the doctrine is to shelter the abuses of Government with an inviolable sanctuary.

But, sir, the honorable gentleman suggested another reason against this inquiry, which surprised me no less. He said he would not move such an inquiry, because it was calculated to weaken the affections of the People for the Government, (not the Executive Department more, but the whole Government) by giving sanction to the idea that there are abuses here. Sir, I would respectfully submit it to that gentleman, whether the affections and confidence of the People will be most weakened by the suppression of inquiry, and thereby producing upon the public mind the impression that we are disposed to connive at, and acquiesce in, abuses, or by pursuing inquiry to show a determination either to purify the Government from abuses, if they exist, or to clear it of the odium and suspicion of them, if they do not exist.

But, sir, the gentleman from Pennsylvania took still bolder ground. He not only said that there was no sufficient proof of abuses calling for reform, but he attempted to show, that, in fact, there are no abuses, and that the administration of the Government is distinguished by extraordinary economy. Sir, how did he make this out? By reviewing the fiscal operations of the Government for the last twelve years, from 1815 to 1827, and exhibiting their accumulated results. He told us that, within that period, seventy millions of the public debt had been paid off, besides maintaining the Army, the Navy, the Civil list, and all the other branches of the public service; and seemed to rely upon this as a conclusive proof of the economical administration of our finances. Sir, the first remark which occurs upon this statement is, that, admitting its sufficiency as evidence of economy, it does not prove, what is the only matter with which we have any concern, that the Administration of the Government is, at the present time, an economical one. It could prove only, that, in times past, there has been economy!

But, sir, I waive this objection, and will go back with

H. or R.]

Retrenchment.

[FEB. 5, 1828.]

the honorable gentleman in his retrospect. Is it not a little singular, that, while the gentleman was telling us of the amount of debt which had been paid off, and the expenses which had been met by the Government, as evidence of its economy, it did not occur to him that he ought to have told us something of the means which had been put at its disposal, for the accomplishment of these objects? Economy, sir, is a relative thing; it depends on the proportion between the results which have been accomplished, and the resources which have been furnished for accomplishing them.

Now, sir, what were the resources of the Government during those twelve years, from which the honorable gentleman has collected the results he so fondly displayed to the admiration of the House? Why, sir, more than 300 millions of dollars. During several years of the period included in the honorable gentleman's retrospect, we had direct taxes, and a system of internal revenue; and from those sources, added to the customs, the sales of public lands, and the bank bonus and dividends, the whole revenue which flowed into the public Treasury, from 1815 to 1827, considerably exceeded 300 millions of dollars! Now, sir, with such a fund as this at its disposal, is it proof, either of extraordinary frugality, or of consummate financial skill in the Government, to have paid off 70 millions of the debt, and defrayed its current expenses?

The average annual receipts of the Government, during this period, amounted to more than 25 millions. We will suppose that about 10 millions were annually applied to the principal and interest of the public debt. The ordinary current expenses of the Government may have amounted to about another sum of 10 millions annually; and there then remained a sum of 5 millions to be expended *ad libitum*. How the honorable gentleman can deduce, from these facts, an evidence of the economy of the Government, I cannot conceive.

But, sir, the gentleman from Pennsylvania exhibited another view of this subject, for the purpose of showing us how lightly we are taxed for the support of our institutions. He told us that the whole expenditure of the Government, for the year 1826, was 24 millions of dollars, which, assessed upon our twelve millions of population, produces a charge of only two dollars a head, while, according to a statement he made, the taxation of the British People amounts to fifteen dollars a head. Observing, (in passing merely,) that the gentleman has stated the amount of public burthens in Great Britain, enormous as they certainly are, at a higher rate than I have ever seen any authority for, I think I shall be able to satisfy him, that he has put our own much too low. His statement pretermits several important items, which undoubtedly enter largely into our complicated system of public burthens.

He seemed to assume the amount of duties paid to the Government, as the full measure of American taxation. But, Sir, this is not so. It is true that the proceeds of the duties are all which the Government receives, but they are not all that the People pay. The merchant, who pays the duties to the Government in advance, must have his profit upon that advance included in the price of the goods; and this profit, repeated and multiplied through a series of exchanges, amounts, at last, to a heavy tax upon the consumer, over and above the amount of duties paid to the Government. The ordinary amount of duties is twenty-odd millions, and the usual mercantile profit, of from 33, to 50 per cent. upon that sum, would raise the whole charge, imposed by the General Government, to about thirty millions of dollars. But to ascertain the full amount of public burthens sustained by the People of this country, you must also take into the account the taxes imposed by the State Governments, with all their subordinate local jurisdictions, comprehending, besides the

general revenue of the State, the county levies, the parish rates, and numerous other public exactions of one sort or another, which have been estimated by a most able statistic, as well as statesman, [Col. BENTON, of the Senate,] at a round sum of twenty millions of dollars more.

We have thus a grand total of fifty millions of dollars, instead of twenty-odd millions, for the amount of public contributions levied upon the People of this country which, deducting from our population, two millions for slaves who pay nothing, makes a charge upon the residue, of five, instead of two dollars a head. Now, Sir, this does appear to me to be an enormous load of taxation, even for a much older People than we are; and, accordingly one of the most profound politicians of the old world, the celebrated Talleyrand, (as has been stated elsewhere by the gentleman to whom I have already alluded,) in graduating the actual taxation of different countries, has placed us upon the scale in a middle position between Great Britain, the most heavily taxed, and France, the next most heavily taxed country, (but for the exception he makes of us,) in the world.

But, Sir, the comparison which the gentleman from Pennsylvania made between this country and Great Britain, for the purpose of showing the relative moderation of our public burthens, is obviously unfair, in many respects. The British Government is now nearly eight centuries old, and during that time has been engaged in a long succession of wars, foreign or domestic, which have accumulated upon it an immense mass of public debt. To pay the interest of this debt, and whatever portion of its principal it may, and at the same time to support the cumbrous and expensive establishments which result from its political organization, it must impose upon its subjects a weight of taxation equal to their utmost capacity to bear. But our situation is altogether different. Our national existence hardly extends beyond half a century, and the simplicity of our republican institutions neither requires nor tolerates the costly appendages which belong to other Governments. The public debt of Great Britain amounts, at this moment, between three and four thousand millions of dollars; an amount more than fifty times greater than our national debt. Now, as the burthens imposed by every Government, must be in proportion to the charges existing upon it, I would ask, with what propriety a comparison can be made between Great Britain and this country, under these widely different circumstances, with a view to test the economy of our Government?

But, Sir, I protest altogether against comparisons with Foreign Governments. Our institutions, our situation, moral and physical, the genius and habits of our People, are all peculiar. They are *sui generis*. In having the freest Government in the world, we are entitled, by the favor of Providence, to the greatest share of public blessings; and among them, that we should not be subjected to a relentless taxation which takes "from the mouth of labor, the bread it has earned." In what consists the value of a free Government, if it is not that, by the constant influence and control of the will of the People over their rulers, the Government is restrained from oppression, pecuniary as well as personal? Sir, the honorable gentleman from Pennsylvania did not tell us to what a situation the People of Great Britain had been reduced by their public burthens—of the number of their paupers and starvelings—that two-fifths of the whole population of that country were kept alive by being billeted upon the constrained charity of the remaining three fifths.

Would the worthy gentleman have us esteem ourselves, happy, and without any cause to complain of governmental exactions, as long as we can keep within the limit of this extremity of wretchedness? I hope not, Sir. I have long thought, Mr. Speaker, if I may venture to express such an opinion, that there is too great a disposition among



[Feb. 5, 1828.]

*Retrenchment.*

[H. or R.]

ome of our distinguished Statesmen to bring our affairs, our policy and our principles, to the standard of Foreign Governments. A prominent feature in the celebrated first Message of the present Chief Magistrate to Congress, was its perpetual fond recurrence to the proceedings of Foreign Governments, as the lesson of our political duties, and the measure of our political powers. He told us what France, what Russia, what Great Britain had done, and gave us to understand that we should go and do likewise. Now, Sir, to all this I object, as anti-American—as anti-Republican. Our circumstances and our institutions are peculiar, and so too should be our policy.

But, Sir, to return to the subject of our public expenditures. I would say to the honorable gentleman from Pennsylvania, that the true mode of testing the economy of our Government, at any given period, is not to compare its expenses with those of a Foreign Government, but with its own at some antecedent period. Now, Sir, if we do this we shall find that, during Mr. Jefferson's Administration, in 1802, for example, the whole expenditures of the Government, exclusive of the payments of the public debt, amounted to \$3,737,079, while the same class of expenditures, during the year 1826, according to the last Treasury report, amounted to \$13,062,316. Here, then we have an increase of expenditure equal to 350 per cent, in less than 25 years, which, after making every allowance for the growth of the country, and the expansion of its institutions, does seem to me to be disproportionate and extravagant.

Sir, I have dwelt the longer upon these views, because I have a deep and settled conviction, that economy is a cardinal virtue in every Republican Government. It is not merely for the pecuniary saving, and the consequent relief to the industry and resources of the People, which it brings with it, that I esteem it. It is still more for its political effects. It is not only the close ally, but the surest guarantee of the public liberty. It is the great instrument for restraining that dangerous principle of Executive influence, which is perpetually undermining and assailing the fabric of free Government every where, and of our own not less than others. This influence exerts and enlarges itself through the disbursements of public money, ultimately under one shape or another. Diminish the public expenditure, then, and you at the same time diminish Executive influence.

Sir, I may have fears upon this subject, which firmer minds can and do repel; but it has long been my opinion, that there is a decided tendency in our Government to a dangerous and disproportionate accumulation of power in the Executive branch, and that Monarchy is the euthanasia of our political system. Gentlemen who treat these fears as altogether visionary, and those especially, who like, the distinguished member from Pennsylvania, consider patronage a disadvantage, rather than an aid to an Administration, have not, I am persuaded, explored the full extent and range of this powerful engine, in the magnitude which it has, at present, attained. Having been led, by particular circumstances, during the last session of Congress, to look into this subject, I will repeat here the result of an investigation then very carefully made. Many persons have hastily supposed that the patronage of the Executive consisted exclusively in appointments to office. But an equally, if not more important branch of patronage, consists in the disposition of public moneys through the medium of contracts made under the direction of the Executive. Both of these branches were included in an estimate of the amount of Executive patronage, made by Mr. Gallatin in '99, and I took the list of items, enumerated by him, as the basis of my calculation.

In doing this, I found that the "annual pay of the officers in the several Departments of the Treasury, State,

War, and Navy, and their dependencies; of the Attorney General, and Postmaster General, Judges, Marshals, and District Attorneys, Officers of the Customs, Postmasters; of Diplomatic characters, Commercial Agents, (exclusive of Consuls,) Commissioners under Treaties, Territorial Officers, Indian Agents, Surveyors, Registers, Receivers, &c.;" in fine, the pay of all Civil Officers, whose appointments depend upon the Executive, added to the commissioned officers of the Army and Navy, amounted to about \$3,500,000; and that the amount of moneys disposed of by contracts made under the direction of the Executive, including Fortifications, Docks, Navy Yards, Internal Improvements, Light-houses, transportation of the Mail, supplying the provisions, clothing, guns, cannon, &c. for the Army, building ships, and furnishing supplies necessary for the Navy, was about \$4,500,000; making an aggregate of eight millions annually: four times the amount of Executive patronage, as estimated by Mr. Gallatin in '99.

Now, Sir, when the honorable gentleman from Pennsylvania comes to survey this immense field, so productive in rich rewards, he can no longer, I am sure, consider its possession a disadvantage to those who enjoy it. He will see that, although the hopes of an expectant may be sometimes disappointed, in relation to a particular office, yet that, in the multiplicity of other boons and favors to be disposed of, ample means are afforded to retain his fidelity, and to console and indemnify him for his first disappointment.

Believing this immense force of Executive patronage to be dangerous to the public liberty, and as the disbursements of public money must necessarily be made by the Executive branch of the Government, that every increase of expenditure tends directly to increase the influence of that Department, I am for embracing every fit occasion to reduce the public expenditure to the real demands of the public service. It is with reference to this great political object, that I attach so much importance to a wise economy in the administration of our public affairs. When Mr. Burke proposed his great scheme of economical reform, he did not look merely to the saving of money, though that was something to a People groaning beneath the weight of their public burthens—but he looked beyond, to the higher object of diminishing, through the instrumentality of pecuniary retrenchment, the dangerous and growing influence of the Crown. When, in the same memorable year, Mr. Dunning submitted his celebrated resolution, affirming that the "influence of the Crown had increased, was increasing, and ought to be diminished," he submitted by the side of it, another resolution, affirming it to be the right and the duty of the House of Commons to examine into, and correct abuses, in the expenditure of the public revenue, and declared that both propositions stood upon one great principle.

Sir, there was a period in the history of our own country, when these doctrines were not only avowed, but practised. I allude, Sir, to the Presidency of Mr. Jefferson, which I have ever looked back to as the purest era of our Government—as the era of sound principles and of correct practices. As I hope the doctrines of that day will once again, at no very remote period, come into favor, and as they are particularly applicable to the subject of our present deliberations, I must beg permission to read a beautiful development of them in the words of their great teacher.

In his first official communication to Congress, he held the following language:

"These views are formed on the expectation that a sensible, and, at the same time, a salutary reduction, may take place in our habitual expenditures. For this purpose, those of the Civil Government, the Army, and Navy, will need revival. When we consider that this Government is charged with the external and mutual rela-

tions only of these States; that the States themselves have the principal care of our persons, our property, and our reputation, constituting the great field of human concerns, we may well doubt whether our organization is not too complicated, too expensive—whether offices and officers have not been multiplied unnecessarily, and sometimes injuriously to the service they were meant to promote. I will cause to be laid before you an essay towards a statement of those who, under the public employment of various kinds, draw money from the Treasury, or from our citizens. Time has not permitted a perfect enumeration, the ramifications of office being too multiplied and too remote to be completely traced in a first trial. Among those who are dependent on Executive discretion, I have begun the reduction of what was deemed unnecessary. The expenses of diplomatic agency have been considerably diminished. The inspectors of internal revenue, who were found to obstruct the accountability of the institution, have been discontinued. Several agencies, created by the Executive authority, on salaries fixed by that also, have been suppressed, and should suggest the expediency of regulating that power by law, so as to subject its exercise to the legislative inspection and sanction. Other reformatorys of the same kind will be pursued, with that caution which is requisite, in removing useless things, not to injure what is retained. But the great mass of public offices is established by law, and, therefore, by law alone can be abolished. Should the Legislature think it expedient to pass this roll in review, and to try all its parts by the test of public utility, they may be assured of every aid and light which Executive information can yield. Considering the general tendency to multiply officers and dependencies, and to increase expense to the ultimate term of burthen which the citizen can bear, it behoves us to avail ourselves of every occasion which presents itself for taking off the surcharge; that it never may be seen here, that, after leaving to labor the smallest portion of its earnings, on which it can subsist, Government shall itself consume the residue of what it was instituted to guard. In our case, too, of the public contributions entrusted to our direction, it would be prudent to multiply barriers against their dissipation, by appropriating specific sums to every specific purpose susceptible of definition; by disallowing all applications of money varying from the appropriation in object, or transcending it in amount; by reducing the undefined field of contingencies, and thereby circumscribing discretionary powers over money; and by bringing back to a single department, all accountabilities for money, where the examination may be prompt, efficacious, and uniform."

I said, Mr. Speaker, that I had always regarded the Administration of Mr. Jefferson as the purest and brightest era of our Government. Is not the pregnant extract, which I have just read from his first message to Congress, sufficient evidence, in itself, of the justness of this praise? It is possible to conceive a nobler spectacle than he presented on that occasion? The Chief Magistrate of a nation voluntarily divesting himself, by his own act, where it was competent for him to do so, of every attribute of his power, which, however advantageous to himself, he deemed to be inconsistent with the public interest; and in cases where it was not competent for him to apply the remedy, calling upon the legislative authority to do so, by reducing his patronage, circumscribing his discretion, and defining his powers! Sir, the spectacle is rare as it was noble. If it was not presumption in me, I would venture to recommend it to the imitation of the distinguished individuals who now preside over the administration of our public affairs. They might find it, perhaps, the most effectual means of acquiring present popularity, as it certainly would be of earning true glory for the future. But they seem to have taken a different view of what became their situation.

Their whole course has been in striking contrast with

the self-denying republicanism of Mr. Jefferson. Instead of renouncing the exercise of power which the laws and the Constitution had given them, we have seen them laying claim to powers which are sanctioned by neither; instead of the suppression of unnecessary offices, and the curtailment of Executive patronage, we have seen them rapidly multiplied and increased, under their auspices; instead of recommending the limitation of Executive discretion over the public disbursements, we have seen them asking for large grants of public money, to be expended at their mere will and pleasure. To descend a little more into detail—let me ask if "the expenses of diplomatic agency have been considerably diminished?" It is notorious that they have increased, and I shall presently attempt to give some idea of the extent of that increase. Have "any agencies, created by Executive authority, on salaries fixed by that also, been suppressed?" Let the secret history of the Executive Departments give the answer.

What respect has been paid by the present Administration to those great maxims of fiscal responsibility, inculcated by Mr. Jefferson? Have they been willing to acquiesce in the doctrine of "appropriating specific sums to every specific purpose susceptible of definition?" For an answer, I refer to an estimate of one of the Departments; in which, to effect a survey of roads and canals of national importance, which may surely be defined, if any thing be susceptible of definition, we are asked to appropriate a sum of \$50,000—it was \$30,000 last year—for the survey of such routes as the President may think proper to denominate national. Have they shown more respect for another of those maxims, that which enjoins a "disallowance of all applications of money varying from the appropriation in object, or transcending it in amount?" There is now a communication upon our tables from the Head of another of the Departments, seeking to be emancipated from this restraint, and asking for the privilege of transferring appropriations from one object of expenditure to another. Has there been a disposition manifested in the estimates of any of the Departments, to "reduce the undefined field of contingencies, and thereby circumscribe discretionary powers over money?" Sir, it will be found that this "field of contingencies," instead of being reduced by the present Administration, has been greatly extended, and that "the discretionary powers of the Executive over the public money," have been proportionally enlarged. Some of the items in this increase of "contingencies," I shall have occasion to bring more particularly to the notice of the House.

As I have thus ventured, Mr. Speaker, to present myself in the unfashionable, if not invidious character, of an economist, I must be permitted to state, somewhat more in detail, what are my notions upon this subject. Though the advocate of economy, I am not, Sir, the advocate of a niggardly parsimony. I would do away all sinecure places; all supernumerary offices, which serve no other purpose than to be snug receptacles for court favorites, and channels of Executive influence. But, in relation to officers who are really necessary to the public service, I would give them liberal compensations. I know not, at this moment, a solitary officer, whose salary I would reduce. I would touch the salary only through the office; and by one and the same act, wherever I found a sinecure, or a mere nominal employment, I would sweep both the salary and the office. In regard to those great public establishments essential to the security of the country, I would maintain them all in a state of salutary vigor and efficiency; but as the best means of doing that, I would endeavor to free them from incumbrance, and to purge them from abuse in every branch of their Administration. This, Sir, is my idea of public economy.

Sir, I have been very much surprised that this proposition of retrenchment has been so promptly met as an attack upon the present Administration. Are they not friends of economy? The President has given us the

FEB. 5, 1838.]

Retrenchment.

[H. OF R.]

amplest professions upon this subject—even of a “strict” and “vigilant” economy. Do his friends distrust his sincerity, or does their sensibility, on the present occasion, arise from the proposed inquiry into the disbursements of the Government? Sir, this is made our duty annually, by the Standing Rules and Orders of the House. It is a duty imposed upon us by a still higher authority—that of the Constitution itself; which requires that “a regular statement and account of the receipts and expenditures of all public money, shall be published from time to time.” Now, sir, to make this published statement of the expenditures of public money what it was designed to be, a check on extravagance and abuse, it must, sometimes, at least, embrace particulars and details which can be elicited only by special inquiry.

But an honorable gentleman from Massachusetts, [Mr. EVANS] seemed to think that we had no rightful authority to enquire into the expenditure of one of the funds embraced by the proposed enquiry—the fund for the contingent expenses of foreign intercourse. He seemed to think that this fund was put into the hands of the President as the constitutional organ of our intercourse with foreign nations, and that as such he had a right to dispose of it in any manner he pleased, without disclosing the particulars of its expenditure to any one, and that, by the proposed enquiry, we should invade a high prerogative of the Presidential office. Sir, I will first remark that this objection proceeds from a misapprehension in point of fact. None of the resolutions call for the particulars of the expenditures out of this fund. They only ask for the respective amounts of what has been expended out of this fund, and settled at the Treasury, without any specification of the nature of the expenditure, and of what has been expended and settled, in the usual way, upon specific vouchers. The law authorizes the President to cause the expenditures out of this fund to be settled at the Treasury, “by specially accounting for the same, in all instances wherein the expenditure may, in his judgment be made public;” and in other instances “by merely making a certificate of the amount of such expenditure as he may think it advisable not to specify.” Now, sir, the resolutions under consideration ask only for the aggregates of these two classes of expenditures; and do not seek a disclosure of the particular items of either. There is, therefore, no foundation, in point of fact, for considering these resolutions as invading any prerogative of the President, even if the doctrine of the gentleman from Massachusetts were correct.

But, sir, as I consider that doctrine altogether erroneous, and of dangerous consequence to the legitimate functions of this House, I beg leave here to protest against it. It was once contended in England, that the House of Commons had no right to inquire into the expenditure of the civil list revenue, because that was to be regarded in the nature of a private and personal grant to the King, subject exclusively to his own discretion. There was a plausible ground for that claim in England, inasmuch as the civil list revenue is always settled upon the King, at his accession, for life. But even there, it has been long since repudiated, and abandoned by Ministers themselves, and the civil list revenue, as well as every other branch of the public revenue, is held to be a trust, in the hands of the sovereign, subject at all times, to examination and control by the Representatives of the People. If this be the acknowledged doctrine in England, in relation to a monarch holding his power independently of any express act of consent on the part of the People, how much more applicable is it to a Government like ours, where the Chief Magistrate is the immediate creature and servant of the public will and responsible for all his acts?

This idea of the responsibility of the President, in regard to the disbursements of what is commonly called “the secret service” fund, is founded upon a total misconception of the act of Congress, to which I have already

referred. That act of Congress, properly considered, does not vest any right in the President. It only conveys an authority to the accounting officers of the Treasury, and empowers them to credit disbursements of public money, in certain cases, without specific vouchers, which, otherwise, they would not have been authorized to credit. Hence, the concluding declaration of the law, that, in cases of secret service, the mere “certificate of the President shall be deemed a sufficient voucher for the sum or sums therein expressed to have been expended.” The true purpose and effect of the law, is to protect the President from disclosing the nature of his expenditures out of this fund, to the accounting officers of the Treasury, and not from communicating them to the Representatives of the People, in their high official character, as the grand inquest of the nation, if they deem it expedient to call for them. This power of Congress is an inherent and fundamental right of the People, and can never be abandoned in principle, without betraying the interests and privileges of our constituents. How far it may be safe and prudent to exercise it, is another question—one of mere discretion, which must depend upon the particular circumstances of each case, as it shall arise.

Believing it to be the right and the duty of this House, at all times, to institute any inquiries it may deem necessary into the disbursements of public money, I should vote for the present inquiry upon general principles alone. But I confess, sir, I have a further reason for giving my assent to the proposed investigation, in the present instance. I find that much larger sums have been furnished to the present Administration, on account of all the funds embraced in the scope of this inquiry, than were furnished to the Administration which preceded it; and hence it seems to me to be particularly proper, that we should inquire what has created the necessity for these increased supplies, and in what manner they have been disposed of. For the purpose of exhibiting this difference more distinctly to the House, I have compiled from our appropriation laws, a comparative statement, showing the sums appropriated for the contingent expenses of the several Departments, and the contingent expenses of foreign intercourse, during the three last years of the last Administration, to wit, 1822, 1823, and 1824; and the sums appropriated for the same objects during the three years of the present Administration, to wit, 1825, 1826, and 1827. [Here Mr. R. exhibited the following table.]

	1822.	1823.	1824.	Total.
Contingent expenses of State Dep.	24,492	18,800	27,350	70,642
Do. do. Tr'y Dep.	36,000	36,300	26,150	98,450
Do. do. War Dep.	6,000	6,800	7,000	19,800
Do. do. Navy Dep.	6,068	6,768	6,450	19,286
Do. do. of For. Inter.	0	0	40,000	40,000
Do. do. of Missions.	10,000	10,000	20,000	40,000
	82,560	70,668	126,950	280,378
Aggregate expenses of Foreign Intercourse }	183,000	82,000	193,500	458,500
Contingent ex. Dep. and ex. Foreign Intercourse }	265,560	152,668	320,450	738,678
	1825.	1826.	1827.	Total.
Contingent expenses of State Dep.	25,450	28,095	28,050	81,595
Do. do. Tr'y Dep.	30,150	36,930	36,750	103,830
Do. do. War Dep.	7,000	9,910	11,050	27,960
Do. do. Navy Dep.	6,953	5,990	6,950	18,893
Do. do. For. Inter.	40,000	40,000	30,000	110,000
Do. do. of Missions.	30,000	30,000	30,000	90,000
	126,553	160,905	132,800	419,343
Aggregate expenses of Foreign Intercourse }	217,800	231,800	188,000	634,000
Contingent ex. Dep. and ex. Foreign Intercourse }	336,150	382,405	317,800	1,045,444

H. or R.]

Retirement.

[FEB. 5, 1828.]

From this exhibit, it will be seen, that the total amount of appropriations for each of the contingent funds in question, for the three years of the present Administration, has greatly exceeded the total amount of the appropriations for the same funds, during the last three years of the preceding Administration; presenting, in the aggregate, an increase of little less than 50 per cent. To this table, I have subjoined a statement of the appropriations for the whole expenses of foreign intercourse, both regular and contingent, for the same periods, exhibiting an increase of corresponding extent, in that branch of the public service, under the present Administration. I have included the appropriation for foreign intercourse generally, because that is a subject particularly referred by the Constitution and the practice of the Government, to the discretion of the Executive; and for the regulation of its expenses, therefore, the Executive is particularly responsible.

Some gentlemen may, upon the first blush, account for the great difference in the appropriations for this branch of the public service, under the present and late Administrations, by referring it to the opening of our diplomatic intercourse with the South American States. But it so happens, that that intercourse was opened several years before the commencement of the present Administration; and that, in the very first year embraced by the statement, to wit, in 1822, a sum of one hundred thousand dollars was appropriated, by a separate law, for defraying the expense of missions to the independent nations of South America. The comparison, then, is altogether fair, embracing two equal periods of time, when the circumstances of the country, in its foreign relations, were as similar as they well could be. The other subjects of comparison in the foregoing table, are confined to contingent appropriations, because, in the disbursement of them, the Executive and its officers have an unlimited discretion, and must, therefore, be held exclusively responsible for excessive or improper expenditures.

Before I take my leave of this table I will call the attention of the House to a fact disclosed by it, in connexion with a vaunting remark made by a friend of the Administration, [Mr. PEARCE] a few days ago. He claimed great credit for the Administration, that they asked no appropriation for contingent expenses of foreign intercourse, during the present year; and either he or some other gentleman gave us to understand that such a thing had not happened before, since the origin of the Government. Certain it is that I have seen this statement made in a tone of great confidence and self-applause, in several leading journals devoted to the support of the Administration. Now, sir, we are not under the necessity of travelling very far back, for a refutation of this assertion: for it so happens, that, in two out of three years of the last Administration, embraced by the statement I have exhibited, there was no such appropriation. The years 1822 and 1823, it will be seen, present perfect blanks as to this appropriation. If we go farther back, we shall find long tracts of time, during which there was no such appropriation. For four or five successive years of Mr. Jefferson's Administration there was none.

I said, Mr. Speaker, that the large increase in the supplies granted by Congress to the present Administration, for these objects, rendered it particularly proper that we should inquire into their disbursement. I do not mean to say (because I have no knowledge upon the subject) that there has been any thing wrong in that disbursement; nor do I mean to say, that the actual expenditure has been equal to the appropriations. But as we all know that the appropriations made by Congress are founded upon estimates, furnished by the several Departments of what they will require for their respective operations, the appropriations made must be regarded as a fair criterion for ap-

proximating, at least, the actual expenditures of the Government. If the increase of expenditure, in the several branches of the public service, embraced by the statement I have exhibited, has not kept equal pace with the increase of appropriations, I have seen enough to satisfy me that that increase has, at least, been very considerable, under the present Administration.

The aggregate expenditures of the Government have notoriously increased. I here speak of its ordinary current expenditures, by which I mean all expenditures, except payments on account of the public debt, and demands arising from treaties with foreign nations. Those expenditures, in 1822, were \$9,827,642; in 1823, \$9,784,152; in 1824, \$10,448,779, making a total sum, during the three last years of the last administration, of \$30,060,573. In 1825, the same class of expenditures amounted to \$11,416,582; in 1826, to \$13,062,316; 1827, to \$12,285,530, making a total sum during the three years of the present Administration, of \$36,764,428. The increase of the ordinary expenditures of the Government, under the present Administration, compared with a corresponding period of the last Administration, has amounted, then, to an annual sum of \$2,234,618.

Now, Sir, I do not mean to hold the Executive responsible for the whole of this increase of the public expenditure; but as their friends are ever ready to claim for them the credit of whatever good has been done since they came into power, it is but fair that they should bear a portion of the blame for the evil which may have been committed. We are perpetually told of the sixteen millions of the principal of the public debt, which have been extinguished under the present Administration, as an evidence of their good management, and as if the merit belonged personally and exclusively to them. If they are to have the whole credit of this operation, they must submit to bear a portion, at least, of the blame which may be imputed for not doing more. The statement which I have just made, shows that if the expenditures of the Government under the present Administration, had been kept within the limit assigned to them by the last Administration, a further sum of near seven millions of dollars might have been applied to the extinguishment of the public debt; and, instead of sixteen millions, twenty-three millions of it might have been discharged, since the present Administration came into office. Considering "the deep solicitude" which the President himself informs us, "is felt by every class of our citizens for the total discharge of the public debt," and the earnest desires professed by himself upon the subject, it was justly to have been expected that he would use all his influence and all his vigilance to hasten a "consummation so devoutly to be wished."

Now, sir, with such facts as these before our eyes, is it very surprising that some of us should entertain and venture to express the opinion, that, whatever other merits the present Administration may possess, an exemplary frugality is not one of them? There are many persons in this country who have not regarded the last Administration as a model of public economy. If they were obnoxious to the charge of extravagance, what must be said of the present Administration? And yet the honorable gentleman from Massachusetts, in his pathetic summary of the wrongs and persecutions of the present Administration, specially complained of the charge of extravagance. He seemed to think it a very hard case that those, whom he considered such good stewards of the public resources, should be regarded by others as rather deficient in some of the attributes of that character. He complained, too, that the members of the cabinet, whom he eulogised for their distinguished talents, their wisdom, their virtues, their public services, had been viewed and spoken of with less admiration by others; and set all this down to the account of a persecuting spirit.

FEB. 5, 1828.]

Retrenchment.

[H. OF R.]

Sir, I do not know a more legitimate subject for difference of opinion, than the talents and merits of public men. I will not say what I may think of the talents of the present cabinet, because I feel that, to give an opinion upon that point any weight, he who pronounces it must have some pretensions to talents himself. But, surely, those who are competent to judge, and who do not regard the abilities of the cabinet in the same favorable light that the gentleman from Massachusetts does, may be permitted to express their opinions without incurring the charge of persecution. What would the honorable gentleman do? Would he suppress all freedom of opinion? Will he refuse to make any allowance for inevitable differences of human judgment? No, sir; rather, I should hope, he would take the advice of Mr. Jefferson, and permit these deluded unfortunates to remain as "monuments of the safety with which error of opinion may be tolerated, while reason is left free to combat it."

The recurrence of this venerable name reminds me of a duty, which the introduction, I had almost said, the unhallowed introduction of it, by the gentlemen from Massachusetts, imposes upon me. Sir, that gentleman, while descending on the subject of the billiard table, brought in the name of Mr. Jefferson as authority for this courtly pastime, and stated he had been informed that Mr. Jefferson had proposed to introduce it at the University of Virginia, as a fit amusement for the students. If it had not been for this allusion, I certainly should have forbore to say any thing upon a theme already sufficiently hackneyed. But, standing in the relation in which I did to that illustrious man as his neighbor, his too much honored friend, and protégé—standing, too, in the relation in which I do to that Institution, which was the pride and bantling of his old age, I feel that I ought not to permit the remark of the gentleman from Massachusetts to pass without correction.

Sir, Mr. Jefferson was averse to all games of fashionable dissipation. I believe he never played at them himself. I am sure he always discouraged them in others. His principle, in regard to amusements—for he was a philosopher even in his amusements—was to make them, while they exercised the body and recreated the mind, subservient to some useful end; to the discharge of some practical duty. Hence his own favorite amusements were found in the superintendence of his farm, and in the cultivation of his garden; and, when the weather was such as to prevent him from taking his usual exercises without doors, (in which case some gentlemen have said that the billiard table might be a very proper amusement, even for "most potent, grave, and reverend seigniors" of state,) his habit was to occupy himself with the labors of the work-shop.

As every thing, however minute, which relates to the personal habits of a man like Mr. Jefferson, is interesting, I shall not be deemed tedious, I am sure, in mentioning the fact, known to you, Mr. Speaker, and others, as well as myself, that, in a room, adjoining his bed chamber, he kept a work bench, and a set of carpenter's tools, with which he employed himself, whenever the weather confined him to the house, in fabricating articles of domestic accommodation; and that many specimens of this kind now remain in his family, to attest his ingenuity, his industry, and the primitive simplicity of his habits. Whether the sage of Monticello at his work bench, or the President of the United States at the billiard table, would present the best moral lesson, the spectacle of truest sublimity, it is not for me to say.

Sir, the same views which directed Mr. Jefferson in his own amusements, governed him in recommending amusements to others. He never lost sight of the great principle of utility. In regard to a scheme of amusements for the University, I know he proposed the annexation of an experimental farm to it, that the students, in taking the

exercise necessary for their healths, should become acquainted with the offices of rural labor; he proposed, also, the establishment of a workshop, that they might become familiar with the processes of mechanical skill; and, if the gentleman from Massachusetts will pardon me for mentioning the fact, he even recommended the exercises of the *Campus Martius*. Yes, sir, in the spirit of our Virginia Bill of Rights, which declares that "a well regulated militia, composed of the whole body of our People, trained to arms, is the proper defence of every free State," and recognising the paramount obligation of every citizen to devote his person and life to the defence of his country, he proposed to introduce the performance of military exercises, as a part of the amusements of the University, that the accomplishments of the soldier might be superadded to the attainments of the scholar, and this he did without the slightest apprehension of fostering a military spirit, or producing a race of "Military Chieftains," who were to be the future destroyers of the liberties of their country.

It would seem, Mr. Speaker, from what has been said by the friends of the Administration, in the course of this discussion, that they expected, by the fascinations of their eloquence, to cheat us of the evidence of our senses. They have exhibited such delightful pictures of the peace and happiness of the country, and of the wisdom and beneficence of our rulers, that one would think we were in the midst of a political millenium; and when notes of discontent break upon the ear, we turn, with astonishment, to see from what hidden and malignant source the unwelcome sound proceeds, least of all supposing that it can be the voice of the people. The gentleman from Pennsylvania, [Mr. SENECAUS] consummated the climax of poetry and praise, by telling us, that, in after ages, the patriots of the land will look back to these times with mixed admiration and regret, as the pure and happy days of the Republic!

Upon what principle the gentleman from Pennsylvania can represent those as the pure and happy days of a Republic, in which, for the first time, the great body of the People have become divided from the Government, I am utterly at a loss to conceive. When, before, has it happened, that the People of this country, during the existence of an Administration, have returned to both Houses of Congress a majority opposed to that Administration? Even the elder Mr. Adams, odious as his Administration had become, retained a majority in both branches of the Legislature to the very last. Is this unprecedented popular discontent, then, without any cause?

Sir, I had been taught to believe, that the contentment and satisfaction of the People were the best evidence of a wise and faithful administration of the Government. Permit me to read what one of the ablest and most sagacious writers that ever employed his pen in the public cause, (Junius) has said upon this subject: "If," says he, "we see the People obedient to the laws, prosperous in their industry, united at home, and respected abroad, we may reasonably presume that their affairs are conducted by men of experience, abilities, and virtue. If, on the contrary, we see an universal spirit of distrust and dissatisfaction, a rapid decay of trade, dissensions in all parts of the empire, and a total loss of respect in the eyes of foreign Powers, we may pronounce, without hesitation, that the Government of that country is weak, distracted, and corrupt. The People, in all countries, are patient to a certain point. Ill usage may rouse their indignation, and hurry them into excesses; but the original fault is in Government."

Now, let us apply this test to the present Administration. Are the People prosperous in their industry? Let the depressed condition of agriculture and commerce, throughout the country, and the loud complaints even of the favorite child of the Government, manufactures, give

H. of R.]

Retrenchment.

[Feb. 5, 1828.]

the answer. Are we united at home? The notorious discontents of the public mind, and the agitations and contentions of this hall, furnish melancholy proof to the contrary. Are we respected abroad? Let the present state of our relations, both with Europe and America, the absolute refusal of the most powerful Government of the Old World to negotiate with us on a subject of mutual interest, and the jealous evasion of our friendly advances by the Confederate Governments of the new, with the insults and outrages of one of them, (Brazil) yet unatoned for, inform us.

If we then turn to the reverse of the picture, do we not find every trait of it almost literally fulfilled in our present condition? Is there not an universal spirit of distrust and dissatisfaction, a rapid decay of trade, dissensions in all parts of the empire, and an almost total loss of respect in the eyes of foreign Powers? As to the causes of this decay of trade, and the loss of respect in the eyes of foreign Powers, I will only say that, in my opinion, they are justly chargeable to the errors or blunders of the present Administration. As these subjects, however, have been much discussed elsewhere, and are necessarily involved in a great deal of detail, I will not take up the time of the House, at this moment, with a development of my views in relation to them.

But it may be instructive to inquire, whence has arisen the universal spirit of distrust and dissatisfaction, whence those dissensions in all parts of the empire, which are admitted to prevail? It is, Sir, because the People believe that, in the last election of their Chief Magistrate, the vital principle of their sovereignty was assailed. In that election, they saw the great principle of representative responsibility openly violated and disregarded; and that violation forthwith patronized and rewarded by the Chief Magistrate, with the first place in his cabinet, and subsequently, by bestowing favors upon all who, in contributing to his elevation, had forfeited the confidence, and lost the support of their constituents. The People, moreover, believe that, in the circumstances of that election, and the cabinet arrangements which succeeded it, taken in connexion with a certain doctrine of "safe precedents," then for the first time avowed, they see, if not an express design, an inherent and inevitable tendency in the thing itself, to supersede all agency of the public will, in the choice of the Chief Executive Magistrate, and virtually to transfer to the incumbent the right of nominating his successor.

These, Sir, are some of the causes of that spirit of distrust and dissatisfaction which now universally prevail. But they are not all. The present Chief Magistrate is hardly warm in his place before he proclaims, from the seat of authority, doctrines in relation to the powers of this Government, incompatible with every notion of a limited Constitution, and which threaten the rights of the States, and the liberties of the People, with total extirpation; and after having thus, by a lawless construction, indefinitely extended the powers of the Government, of which he forms a part, he seeks to appropriate to himself the largest share of the spoil, by new and unprecedented claims of Executive prerogative. In the true spirit of arrogated power, we then see him, in a time of profound peace, and when there was every reason to expect a speedy extinction of all grounds of controversy, heedlessly threatening a sovereign member of the Union with the military force of the nation, of which he is, theoretically at least, the Commander in Chief. Here, sir, we see another source of those dissensions—of that spirit of distrust and dissatisfaction which now pervade the land.

But, Sir, the People have had still other causes of dissatisfaction. They have seen the expenditures of the Government rapidly increased, at the same time that the revenue has been declining, till the fact has occurred, which the President himself, however disposed to palliate,

is compelled to admit, that the expenditures of the last year have exceeded its income by nine hundred thousand dollars. This the President calls a "small excess"—which may give some idea of the scale by which he graduates his notions of public economy. Sir, the People would not complain of this excess of expenditure, if they thought it had been bestowed on great national objects, connected with the safety or the glory of the country. But they believe that much of it has been bestowed, without any adequate consideration of public service, in extravagant allowances to favorites, and rewards to partisans, in extending the influence to the Executive through new and costly modes of patronage, and with a view to secure the continuance in office of the present incumbents.

Sir, these are some of the causes of that spirit of distrust and dissatisfaction which now universally prevail, and they show, according to the sagacious remark of the writer whom I have quoted, that the original fault is in Government. As long as these causes of distrust and dissatisfaction shall exist, I cannot agree with the gentleman from Pennsylvania, that these are the pure and happy days of the Republic! Sir, the day may come when the present period shall be looked back to as a proud and splendid era—proud and splendid for having witnessed a successful triumph over the will of the People, and the principles of the Constitution. But when that day arrives, this Government will be a Republic no longer.

Sir, I am sorry to have been under the necessity of making these remarks. But they have been extorted from me by the course of the friends of the Administration in this debate. Their extravagant eulogies of the Administration—their seductive representations of the present happy condition of the country, in regard to the enjoyment of political blessings, and the security of political rights, are so many accusations against the People for causeless discontent—for ingratitude—for injustice! As a Representative of the People, I have felt myself called upon to defend them against these accusations, and to show that their discontents have originated in something more than a querulous spirit of capricious disloyalty.

Mr. BARTLETT obtained the floor, and, after saying a few words, moved that the House now adjourn.

Mr. CLARK, of New York demanded the Yeas and Nays on this question; and they were ordered by the House.

Mr. BARTLETT said, that, as some gentlemen appeared averse to adjourning, he would withdraw his motion. He then proceeded, and observed, that his principal object in rising, was to propose an amendment, or, rather, to suggest one, which he intended to offer so soon as it should be in order to do so. Mr. B. then stated the amendment to which he referred, and was proceeding in his remarks, when

Mr. BURGESS moved an adjournment.

On this question Mr. HAILE demanded the Yeas and Nays, and they were ordered by the House, and being taken, the motion to adjourn was lost, Yeas 53, Nays 117.

Mr. BARTLETT then resumed, and said, that, as gentlemen whom he had himself heard with great pleasure, seemed to show an unwillingness to listen to the remarks of others, he should withdraw his intention of detaining the House one moment longer from taking the question.

The cries for the question were now loud in every part of the House, and the CHAIR having put the question on the adoption of the amendment of Mr. HAMILTON to the amendment of Mr. BLAKE,

Mr. DORSEY demanded that the question be taken by Yeas and Nays; and they were ordered by the House.

Mr. WHIPPLE said he did not intend to occupy the attention of the House for any length of time, nor to procrastinate, by extended debate, the business of the nation, which would be better done, by reasonable dis-



FEB. 5, 1828.]

Retrenchment.

[H. OF R.]

patch, than by promises to do it early and go home, whilst we were, at the same time, by protracted discussions, disappointing the reasonable expectations which we thus excite among the People. In the early part of this discussion, he had said to the House, that he was entirely willing to go into a full investigation of the expenditures in the several departments of the Government, and wished the investigation to be of the most full and fair kind, which might, at the same time, result in the correction of any abuses which might be found to exist, and also give the several officers of the Government an opportunity to be fully heard and fairly represented. No member delegated to this House could object to this course. It was our duty to grant supplies, and to know how those supplies had been expended, whether according to law, or not; but, at the same time, we ought to guard against the introduction of the characters of those entrusted with the execution of the laws.

The amendment now introduced by the gentleman from Maryland, [Mr. DORSEY] proposed to make the inquiry retrospective, so as to ascertain whether the contingent expenditures had increased or diminished during the present Administration, when compared with those of former ones. To this course he saw not only no unfairness, but much propriety and justice: for, should the investigation show, that more economy had been used by the present, than by former Administrations, it could not be the intention of even their adversaries to deny them the merit of having effected it; if so, he did not envy them their feelings. The gentleman from Virginia, [Mr. RIVES] to whom he always listened with attention, and with pleasure, had said, as had also another gentleman from the same State, [Mr. RANDOLPH] who, on account of his long experience in matters of Government, was entitled to some consideration, that the expenses of the Government had increased, were increasing, and ought to be diminished. If the expenses of Government have, within the period of the present Administration—increased in an undue proportion to the increase of population in the country—the increase of our various plans of improvement, which have been put into execution—then we might, indeed, be called on to retrench, with great force and propriety.

We should recollect, sir, that our necessary relations with other nations have increased. A new family of nations has sprung up to the South of us, who are certainly entitled to our respectful attentions, to say the least of it, and this must cause us some increase of expenditure. Our Navy was formerly small—we had but a very inferior marine, which is now grown quite respectable—the contingencies must therefore have been necessarily increased in this Department. Our intercourse with the Indians had also been extended, new purchases have been made, treaties concluded, in which some of the States felt a very deep interest, removals effected and effecting, of whole tribes. Such operations of the Government could not be carried on without an increase of expense: the appropriations were made by this House, were authorized by law, and were not, therefore, to be charged to the prodigality of the Administration. Mr. W. said he would not consume the time of the House, by enumerating the great increase in the extent, utility, and importance, of all our national institutions. He would, however, notice the land system, which had been much extended since its institution, had yielded yearly to the Treasury moneys to the amount of more than a million of dollars, and had also drawn from the Treasury as much, and more, than it had yielded to it, by about two millions and a half of dollars; yet the value of the land system to the People of this nation, widely extended as they were, was not to be estimated by a close account of dollars and cents, but by the extensive benefits which have been conferred upon the rapid-

ly increasing population of this nation. It was not giving to the People just notions of the operations of our Government, to say that no increase of expense was justifiable. It would be as rational to tell the farmer that he should continue his limited accommodations, in the same style, after he had grown wealthy, and make no improvements in his mode of culture, because he might incur an increase of expense. Economy is relative, and consists in the adjustment of means to ends—disbursements to receipts. If the expenditures of the Government have only increased in a just proportion to the increased means of the country, and have been expended for the ends to which they were by law destined, then the Administration is blameless. Yes, sir, if we have disproportioned our appropriations to the wants of the country, or the means of the Treasury, it is not the fault of the Administration. If extravagance has been introduced into this Government, let us know under whose Administration it commenced—let us give those who now administer the Government an opportunity to be compared with their predecessors, and, if entitled to approbation, let them receive it. If this amendment shall be adopted, Mr. W. said, his vote would be given for the resolution as amended; if not, at the proper stage of the proceeding, he should move to amend the original resolutions, so that the expenditures in the Departments might be brought under examination from a period commencing earlier than the year 1824.

Mr. STRONG inquired, whether, should the amendment be adopted, it would be in order to amend it.

The SPEAKER replied in the negative.

Mr. STRONG then said, that he would vote for the amendment of Mr. HAMILTON, if that part of it which designated the committee to which it should be referred, were left in blank. As the amendment now stood, he must vote against it, because he did not wish this inquiry to go to a Select Committee, but to the Committee of Ways and Means.

Mr. TAYLOR reminded his colleague that Mr. BLAKE's amendment referred the inquiry to the Committee of Ways and Means.

Mr. STRONG replied, he was aware of this, but he preferred Mr. HAMILTON's amendment to that of Mr. BLAKE, in every other respect but this. If the gentleman from South Carolina would put this in blank, he would vote for his amendment.

Mr. HAMILTON not signifying assent, the question was put on the amendment of Mr. HAMILTON to the amendment of Mr. BLAKE, and adopted, by Yeas and Nays, 112 to 74.

Mr. CHILTON said he had risen to express his satisfaction with the amendment of the gentleman from South Carolina, and, good natured as it might seem in the eyes of some gentlemen upon that floor, to signify his acceptance of that amendment as a modification of his resolution.

The CHAIR reminded Mr. CHILTON that this could not be done.

The original resolution was now read, as amended, when

Mr. DORSEY moved to amend Mr. HAMILTON's amendment, by inserting, after the words "secret service money," the words, "from the 1st July, 1790."

Mr. DORSEY said, that his only objection to the amendment of Mr. HAMILTON was, that it confined the inquiry with regard to the secret service money, to the present Administration; whereas it ought to go back to the beginning of the Government, that a comparative estimate might be made of the amount of this fund under the different Administrations of the Government. Justice demanded that the committee should be instructed to what point they were to extend their inquiry.

H. of R.]

Retrenchment.

[Feb. 5, 1828.]

Mr. HAMILTON replied that he had stated, in his amendment, no particular time, because he did not wish to embarrass the committee. He had purposely left this open, that the committee might accumulate all the information they could, consistently with rendering their report at the present session. If the House should order them to prosecute their inquiry to a particular given point of time, and it should turn out that they were not able to reach that point in time to report during the present session, what could the committee do? Must they make a partial report—an incomplete one? Then they would be subject to blame for not having performed all their duty.

Mr. DORSEY said, that, if the amendment he proposed embraced a general and extensive range of inquiries, the argument of the gentleman from South Carolina might apply. But his amendment only asked that the committee should inquire into the different amounts of one particular fund, under the successive Administrations, from the year 1790. Could this present such a very great difficulty? He appealed to the gentleman's candor for a reply.

Mr. HAMILTON answered, that if, in all the expenditures, the law had been fulfilled, it could be no matter where the inquiry should stop. But if the law had been violated, the gentleman from Maryland must himself acknowledge, that precedent would not justify its violation.

Mr. BURGESS said, it appeared to him very singular that, when the House was inquiring as to the amount of a fund, the expenditure of which was placed, by law, under the sound discretion of the President of the United States, gentlemen should object to turning back their eyes to the history of the preceding Administrations. He readily agreed that one violation of law could never justify another. But the inquiry related to a matter where there was no law—where the law had expressly refused to interfere, and had itself committed the expenditure of the fund to the discretion of the Executive. He, for one, wanted to see if the Executive was not as discreet now, with relation to this expenditure, as it had been in former days. The gentleman from South Carolina was apprehensive that there would not be time for this inquiry. But, the fund was disbursed in two parcels only, and there were now, perhaps, twenty accounts to be looked at. He would venture to say that there was not a gentleman in the House who could not make the whole examination in three days. All that was asked for was merely a few copies from the Treasury books: for he had not understood that this committee were to have power to send for persons and papers. They were not to sit as a body inquisitorial, and bring before them every President now alive. The President, when he had expended this sum, gave his certificate that he had done so. This was all the law required, and were this committee to put three Presidents of the United States under interrogatories, and demand of them why did you pay this item? and why did you pay that? He hardly believed it was the intention of the House, that the Committee should do that; and unless they went into such an inquiry, all that they wanted was already on paper, and could readily be obtained. He wished to know why gentlemen had gone into an inquiry of this invidious character? But if they must inquire about this discretionary fund, was it not proper, would it not be becoming and dignified, to compare the prudence and good judgment of one President, with that of another? Could gentlemen, by refusing this, wish to give to their inquiry the character of a mere electioneering project? Could it be their object to fix suspicion on the present President of the United States? If not, why must the Committee be forbidden to travel beyond the limits of the present or the past Administration? Let them go back to the beginning, and

then let the People judge how prudent the present Administration has been, when compared with those which have preceded it.

Mr. BATES, of Missouri, said that he did not rise to discuss the general question, but to make a suggestion to the gentleman from South Carolina, [Mr. HAMILTON.] That gentleman had specified no time whatever, within which the committee were to make this inquiry; and, as a reason for this omission, had expressed his fear, that, if any point were designated, the committee might not have time to reach it. But, if no point was specified, peradventure, the committee might begin at the other end, and so we may have the detail of half a dozen years, but not coming down far enough to touch the question. I, for one, said Mr. B. wish the House to probe this matter to the core. Let us do every thing that comports with justice and truth; let us inquire minutely and thoroughly; and then we shall be prepared to say whether we will acquit or condemn. According to the view of the gentleman from South Carolina himself, the committee might possibly not be able to do all that could be wished; but, if you leave them to begin wherever they please, they may shed all their light upon one spot, and that would "only make darkness visible."

Mr. M'DUFFIE said he had risen to suggest to the gentleman from Maryland [Mr. DORSEY] a modification of his motion, which he thought would more effectually accomplish the object he had in view. He said Mr. M'D. this inquiry is to assume the aspect of being intended to implicate the Administration, I, for one, should be very sorry to withhold from them whatever fairness and justice may require. I am in favor of giving the inquiry sufficient latitude to let a comparison be drawn, and yet, not enough to smother the inquiry altogether. If the gentleman would extend it back, so as to include the Administration of Mr. Monroe, he would vote for it. But he thought there was no propriety in including in the comparison the Administration of Mr. Madison, during a part of which, the country had been at war, and when there was a particular use for this fund. The comparison, in order to be fair, ought to be between Administrations analogously situated.

Mr. TAYLOR said that it would not require three hours' labor of a clerk to give all the results sought for by the amendment of the gentleman from Maryland. The time to be consumed, therefore, could form no objection. As to the different situation of an Administration when the country was at war, and in peace, there was sufficient intelligence in the American People to make the necessary allowances on this score. The information now sought had never yet been communicated in any report that he knew of.

Mr. T. concluded by demanding that the question on Mr. DORSEY's amendment should be taken by yeas and nays, and it was so ordered by the House. The question being now about to be put—

Mr. INGHAM said, that, as the yeas and nays had been ordered, he wished to give the reasons which would govern his vote. He thought it important that the House should establish the principle that it might at any time look into the conduct of the Administration of the Government, without being always compelled to go back to its origin. Suppose the Government was a thousand years old, and a future Administration should be charged with abuse, must our posterity be obliged to go back to the beginning of the Government, to see something to sanction it? There could be no reason for going back with this inquiry, unless it was to seek for some abuse. Sir, said Mr. I. we have been invited to this inquiry—we have been challenged, dared, taunted, and pressed to the inquiry. But now, when the resolution to inquire is passed, the scene changes, and the gentlemen who challenged us are not willing to go into the inquiry, unless

[B. 6, 1828.]

*Retrenchment.*

[H. or R.]

they can find some mantle from the past with which to cover the nakedness of this Administration. Sir, is this the tone which they have held for the last week or so? They told us to probe this matter to the bottom; to conceal nothing; to publish our discoveries to the world. But what are we told now? You must not inquire into the expenditure of the secret service fund, unless you go back and get something to cover the conduct of the Administration. Sir, I have no objections to the amendment, but they surely are the last gentlemen who ought to have made such a proposition. Their bold and manly tone is strangely changed, when we touch the contingent fund. Then we behold a fluttering—yes, sir, strange, unaccountable fluttering. We must be sent back to the days of Washington. But what has such an inquiry to do with this Administration? Were we not invited? Were we not pressed? Were we not urged to this inquiry? Why do gentlemen now back out, and change their ground?

Mr. BARTLETT said, when he had last taken his seat, he was happy in believing that the question was at last about to be put. But, sir, what do we witness now? Instead of taking the question, the discussion is protracted by those who have had the House to themselves for the last two days. Now, the gentleman says, we back out—we change our ground. Sir, since such language is held, I will no longer observe the courtesy I had intended, of withdrawing the remarks I had contemplated. Sir, what is the proposition before you? Is it to shrink from investigation? I do not understand the gentleman's language, if this is shrinking. Is it shrinking from inquiry to extend inquiry? In order to judge, we must have the means of comparison. The amendment will give us those means. Sir, the observations of the gentleman who has just taken his seat, have been of such a character as induces me, reluctant as I might be, at this late hour, to intrude myself upon the House, to recur to the remarks which it had been my intention to submit.

Mr. B. having proceeded thus far, the House adjourned.

WEDNESDAY, FEBRUARY 6, 1828.

The House again resumed the consideration of the resolution for retrenchment, as amended on the motion of Mr. HAMILTON; when

Mr. BARTLETT said, that, in the early stage of the debate, he had attempted to address the Chair, not for the purpose of engaging in the discussion, but to invoke the House to abstain from it. An appeal, the sentiments of which he most cordially approved, had been made—he was sorry to say, in vain had been made—by gentlemen from South Carolina, Tennessee, and Louisiana, [Messrs. McDUFFIE, BELL, and LIVINGSTON.] Since the debate had assumed a character somewhat different from that with which it commenced, I have [said Mr. B.] given some attention to the statements made by gentlemen in their arguments to this House. After the able and imposing speeches of the gentlemen from Pennsylvania and Virginia, [Mr. BUCHANAN and Mr. RIVES] to whom the House listened so attentively, through the last two days, I was disposed, should the discussion be continued, to submit some observations in reply. To ascertain the feeling of the House, the motion to adjourn was made, which, on seeing a disposition manifested to take the question, I most cheerfully withdrew. Untenable as I believed the positions attempted to be sustained by those gentlemen, I chose to forego any reply I might make, rather than contribute, by possibility, to the extension of the discussion to another day. When the motion to adjourn was renewed by another gentleman, I voted against it, upon the conviction that I could, in no way, do so acceptable a service, as to bring to an end, a debate, of which we,

as well as the whole country, are sick and tired. I yielded the floor for the sake of the question, and the question only. After much further debate, however, the gentleman from Pennsylvania [Mr. INGHAM] rose, and with much ardor of manner, charged the friends of the Administration of having urged them on to investigation, taunted, provoked them to it, and of then “backing out” from the inquiry. This charge I could only understand in reference to the fact, that I had withdrawn myself from the debate. I could no longer, by my silence, assent to an imputation so unjust.

[Mr. INGHAM rose to explain—and said, in his remark, he did not allude to Mr. B's having refrained from speaking—it was not intended to apply to him.]

Mr. B. proceeded. I may have been led to make such application, from not seeing any other cause for the remark. There surely was nothing of backing out in the amendment then before the House, which proposed a more extensive and thorough inquiry, and even comparison with a former Administration. But for this, I should not have felt compelled to intrude myself upon the attention of the House—should not, as I now do, suffer, both on my own account, and that of the House, most painful regrets for such necessity. However reluctantly I come to this duty, it shall not be mingled with any thing of a personal character, or of unkindness of feeling.

So long have we been listening to the topics of this debate, and so wide a range has been taken, that its origin is already disputed. The resolution itself has been subjected to so many mutations, that its identity may well be questioned: it now retains scarce a single feature originally given it by its putative father. Of the original resolution, it should be remembered, that it affirmed as fact, that abuses existed; reform was necessary, and could be effected only by certain process, &c.; that these positions were sustained by the friends of the mover, with other allegations and specifications of charges of maladministration of the Government. We have been told, sir, that the President has been guilty of illegally pocketing public money, before his election to office; that he has come to the office by corruption, and a violation of the Constitution. He has been compared to the midnight robber in our dwelling house; has been charged with abuse of his official power, and prostrating the interest of the country. And yet we are asked, why so sensitive? Why do gentlemen suppose the Administration is attacked? They do, indeed, cast around them firebrands, and arrows, and death, and say, are we not in sport? Sir, when we look back upon this discussion, on the one hand we have heard charges alleged, insinuations and imputations attempted to be fixed upon the President of the United States; while, on the other hand, no retaliation has been resorted to—no syllable has been uttered against him for whose supposed benefit such resort to accusation is had. Let not the friends of that individual mistake the cause of this abstinence from recrimination and attack. Are there no facts to sustain such a course? And if none, could we not find a justification in the example of our opponents, to call the whippers of calumny, newspaper reports, or even the fictions of fancy, to the reinforcements of such warfare? But I will not be provoked to a course, in my judgment, so unbecoming my character and that of my country.

This subject has been treated as one of individual concern—as intended only to accuse, or excuse, the President and Executive of the United States. I come to it for higher purposes. I am for such resolution as shall secure the most thorough, uncompromising investigation—the most unsparing reform; and I say, what it would give me pleasure to say were I friendly or adverse, that, in my belief, a rigid scrutiny will furnish them a most triumphant vindication of every charge upon their official conduct. I thank God that, in my bosom, the heat of

H. or R.]

Retrenchment.

[FEB. 6, 1828.]

party has not yet consumed that better, higher regard for my country. Personal partialities and prejudices are the lot of humanity; but I cannot forget that, here, I am to act for the whole People. I come to my duties here under the influence of considerations connected with the place in which we stand—the age in which we live; its boasted progress of mind and improvement—the memory of the past—the course and character of those sages to whom we owe our institutions—the contemplation of the future—the judgment that shall be pronounced upon us, or the consequence we may bring upon posterity: for, unimportant as we individually may be, we are the trustees of the interests of future generations.

There is a magic in the word retrenchment—economy. But what is the wealth of this nation? Is it the amount of shillings and pence in your Treasury? The extent of your domain? What has turned the eyes of the world upon this country? What has made the American name the proudest title of distinction in the civilized world? It is the character of our country. Was this bought with gold? And when degraded, debased, destroyed, can gold restore it? It is a treasure acquired by the services and sacrifices of patriots and sages, and sufferings and blood of martyrs. The character of our eminent men, in or out of office, is the property of our country; in which, sir, you and I, and all of us, have an interest. The Genius of America, when called upon for her treasures, points to her distinguished sons, and exclaims, "These, these are my jewels." And yet, sir, in this discussion, what have we been doing? Have we not been struggling to pluck from the diadem of our country's glory, and deface and tread into the dirt, those gems, which ages to come may not restore? Have we not been saying to the world that those individuals, whose patriotism, and talents, and public services, have been our pride and boast, are unprincipled traitors? Have we not said to the patriots in distant nations, struggling against oppression, and encouraging the friends of liberty, Look no longer to us for example—patriotism is but a name—public service is proof only of selfishness—and our institutions, in the newness of spring, are already rotten to the very foundations? What would be our judgment upon him who should wantonly demolish this splendid edifice? And yet it might be restored. The gentleman from Virginia [Mr. FLEET] has said, the Government may have foreign hirelings, English or German, employed to utter calumnies against our great and good men. The Government will never do it, and I pray Heaven that such employment may not be thought a fit service in which to earn our per diem. Let us not cast the firebrand of destruction here into the temple of our liberties, to acquire the infamous immortality of its incendiaries.

It is not from investigation that I would seek to protect any one, but from that indiscriminate denunciation which is uttered without proof; that sentence which precedes inquiry. In the contest now before the country—who shall be elected to preside over it—let us not set the example of degrading it, till such office shall no longer be worth the ambition of an honest man. The gentleman from Pennsylvania [Mr. BUCHANAN] has appealed to the House upon the enormity of sentiment which he imputes to the gentleman from Pennsylvania, [Mr. SEBASTIAN] who preceded him, "that inquiry would injure the Government." I beg leave to say, I heard no such sentiment advanced by that gentleman, and therefore his comment was uncalled for. The gentleman did say, he should not have proposed the resolution, from an opinion that it was not needed, and could, therefore, produce no good; and unavailing and unnecessary movements of this sort, were of evil tendency; but, since it was moved, he should vote for its adoption. He advanced no doctrine of secrecy and mystery, against which the gentleman spoke with so much earnestness. By gentlemen

on the other side have the objections been urged against pursuing this measure, now before us, to some result.

It is, say they, not the proper time. If abuses exist, the first moment of their discovery is the true time to set about their reform. But we are told the President and Heads of Departments might not choose that we should make inquiry. That they "hold the keys"—"stand at the gate of the fortress." And have we not indeed the power? Have this House recently asserted the power of sending and bringing citizens from their business, and families, at the extremes of the Union? Have they asserted the right to open their desks—their private books, and to lay them before the world; and have we not power to enter and examine our own offices—the departments of our own creation? If this House and the Executive differ in opinion on other subjects, it may ensure an investigation, that will in no point be remitted for favoritism. What are the People to be told, by such a resolution, and a refusal to pursue it? That cause for alarm exists; but that other means than the discharge of our duties here must be resorted to for a remedy. In relation to the Executive, I believe such alarm most groundless; but that, whatever evil may exist, we have ample power to correct it. I will not deny that abuses exist in relation to this House, to which I shall presently briefly advert, and which we may remedy.

Public opinion has been prepared for the charges now alleged against the present Executive, by imputations of aristocratic feelings and habits to the President, while his purely republican, unostentatious manners are proverbial, even to a degree to excite an ironical remark from the gentleman from South Carolina [Mr. HAMILTON] for his want of those airs and graces, which he thinks did not secure for us the Treaty of Ghent. Forty years service for his country have shown other qualities, if not as ornamental, to be quite as useful.

After, it would seem, that the whole vocabulary of harsh epithets had been exhausted upon those who administer the Government, the gentleman from South Carolina [Mr. HAMILTON] says, he will not have the "egregious folly" to bring charges against them. He will move nothing. The charges have been made, and the justice of the gentleman's character of them I will not controvert. But he has not at all times had the same fear of extra-legislative movements—in the resolution of the 8th of January, and that now upon our orders, relative to the Sedition Law.

Before advertising to the specific abuses alleged more directly against the President, I will bestow a passing notice upon the general view presented by the gentleman from Virginia, [Mr. RIVES] who, although one of the number who voted to put this resolution to sleep, seems now to favor an inquiry.

There surely can be no disposition to controvert the truism stated by the gentleman—the general tendency of all things to decay. The energies of manhood are to be lost in the imbecility of age; matter is destined to dissolution; these marble columns around us, grasped by the hand of Time, will crumble into dust; and even the globe which we inhabit, perish. But are we then to say that the vigor of youth is itself the paralysis of dotage; that we already feel this edifice tottering to its fall; that we, even now, hear the trump of the angel who shall announce the dissolution of nature? But, says the gentleman, it is twenty-five or twenty-six years since there has been any reform in the organization of the Departments of Government. One most important provision in our Constitution should at no time be lost sight of, and it furnishes an answer to most of the charges of abuse by the Executive in the expenditure of the public treasure, and should quiet the fears of those who apprehend we may be plundered by the President or Heads of Departments. It is the 1st article, 10th sec-

FEB. 6, 1828.]

*Retrenchment.*

[H. or R.]

tion: "No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time." Whatever, then, may be the organization of the Departments, or want of organization, the door is shut, and we hold the key of it. The gentleman, however, in his statement respecting the organization of the Departments, has not adverted to the history of our legislation upon that subject. I will notice only that of the Treasury. It was established by act of September 2, 1789. From that period, it has been under the constant revision of Congress, by acts passed upon the subject in 1791, 2, 3, 5, 7, 8, 1800, 6, 9, 13, 14, 17, 18, 20, 22, 24—twenty in number, the titles of some of which are, "For the organization of the Treasury Department," "For the better organization," &c. "To amend the acts," &c. By this legislation it appears, that in all early periods of the Government, appropriations of money were general, and the Executive applied it at discretion. Till 1809, whatever specifications were made, were of no effect, as transfers could be made from one fund to another; and in the recess of Congress the same could be done, up to the year 1817. At this period the specific purpose of each appropriation, and each part of every appropriation, is designated by law, and no other fund can be used, or that fund used for any other object. I name only these great reforms in principle, without going into the details of the improvements in the organization generally.

In answer to the interesting view of our financial prosperity, presented by the gentleman from Pennsylvania, [Mr. SPOONER] who addressed the House on Saturday, the gentleman from Virginia has said, that this and former Administrations have not accounted for all the means which came into their hands—that five millions a year are accounted for—that if, in twelve years, they have paid seventy millions of the public debt, they had three hundred millions of revenue. Whence the gentleman obtains his three hundred millions does not appear. But suppose that the true sum, he surely can be at no loss to find, in the interest of the public debt, an occasion for an application of the real difference between the receipts and the payment of the expenses of Government, and reduction of the principal. But take the gentleman's own position, and how eminently above every other Administration does he elevate the present. He makes nine years of former Administrations pay but thirty-seven millions of debt, with an income of two hundred and twenty-eight millions of revenue; while the present, in three years, has paid thirty-three millions of principal and interest, with but seventy-two millions revenue, and has also expended twelve millions for permanent works of internal improvement. "It will," says the Secretary, (in his last annual report) "be satisfactory to Congress to know, that, during the three years in question, besides these payments made on account of the debt, and all other payments to meet the annual expenses of Government, large sums have been applied to objects wearing a character neither temporary or annual." This sum thus expended for permanent improvements, is stated to be twelve millions. The Secretary adds, "a nation that, after providing for the regular support of its Government, is seen to proceed in this manner in the payment of its public debt, and in additional disbursements so considerable, for which equivalents remain, that, for the most part, are of permanent value to the nation, cannot be regarded as other than prosperous in its financial condition."

That part of the gentleman's calculations which was intended to show that burdens borne by the People of this country are greater than have been estimated, does not pretend to connect with that result any censure of those who now administer the Government. But I am

not willing that the People be induced to believe they are suffering evils from any causes that do not exist. If I understood the gentleman's purpose, it was to prove a great amount of tax to the Government, to be paid by the People; and with the liberty of assuming what premises we choose, any desirable result is easily obtained. He assumes, as the amount of revenue, twenty-five millions—the true receipts of the year being twenty-two millions. He adds five millions as the per centage of the merchant, of which I do not understand the process of converting into a Government tax. To this thirty millions, twenty millions are added for the taxes assessed for the support of Government by the States; while the fact is, that, if all the States assessed the same as Virginia and New-York, the whole sum would be but twelve millions. So far from this, many of the States raise no more than from forty to sixty thousand dollars annually for the support of Government, making a gross sum of about one million, instead of twenty millions. We should, of course, come to very different results; that gentleman assuming, as the amount paid, fifty millions of dollars, while we find no proof of a sum over twenty-three millions.

Another argument to support the charge of extravagant expenditure, is attempted to be founded upon a comparison of this and the Administration of Mr. Jefferson. I thank the gentleman for calling us to this comparison. It proves that the economical principles of Jefferson were not so successfully reduced to practice, even by himself, as they have been during the last three years. From three or four millions in Jefferson's Administration, says the gentleman, our expenditures have increased, in one fourth of a century, to twenty five millions.

[Mr. RIVES rose to explain. He said he considered three or four millions as the ordinary current expenses of Mr. Jefferson's Administration; and the ordinary current expenses of the present to be thirteen millions.

Mr. BARTLETT said he did not know how the gentleman made his thirteen millions.

Mr. RIVES said he would tell him. It was by taking the amount paid toward the debt from the whole amount of expenditures.]

Mr. BARTLETT. A much simpler process, and one which has the advantage of being accurate, is, to take the estimates of expenditures for the year, as appear by the Secretary's report, which, instead of thirteen millions, gives us the precise sum of \$8,990,380 44.

In 1801, the expenditures of the Government were \$12,624,646 36—the receipts of the same year were \$12,846,530 95. In 1808, the expenditures of Government were \$16,764,584 20—the receipts of the same year were \$17,160,661 93. In the first of which years, the amount of what the gentleman terms the current expenses of Government, was a fraction less than five millions, and in the last a fraction over six millions five hundred thousand dollars, instead of the sum of three or four millions, by him supposed.

What was the condition of this country then, and what is it now? Can the habiliments of the cradle be fitted to the size and proportions of manhood? At that period referred to, this House consisted of one hundred and forty members—now, of two hundred and thirteen. The Senate then consisted of thirty-two members—now, of forty-eight. The expenses of these two branches was then 164,526 dollars—it is now 471,800 dollars. For an army, in 1802, we had 2,400 men, at a cost of 844,009 dollars; we have now 6,000 men, at a cost of 2,050,317 dollars. We had then, instead of a navy, six frigates, seven sloops of war, and some gun-boats—with nine captains, thirty-six lieutenants, and one hundred and fifty midshipmen, at a cost of 900,000 dollars—we now have seven ships of the line, eleven frigates, twelve sloops of war, besides schooners and smaller vessels—with thirty-

H. of R.]

Retrenchment.

[Feb. 6, 1828.]

three captains, two hundred and twenty-nine lieutenants, and three hundred and ninety-two midshipmen, at a cost of 3,286,649 dollars. What was then our territory, compared with the present, and what the condition of it?—The whole region northwest of the Ohio sent a single Delegate—who is now in the Senate, supported by eighteen Representatives, and five other Senators from the same Territory. The arm of our Government, on the South, has been extended to the Gulf of Mexico; on the West, we approach the Rocky Mountains; and the gentleman from Virginia [Mr. Florn] is already impatient to plant our standard at the mouth of the Oregon.

Since that period, our domain has every where been extended by extinguishment of Indian title. Our country has been carried triumphantly through war. Millions, in claims growing out of it, have been paid, while a million and a half in a year has been distributed to the remnant of the Patriot Army of the Revolution. The soldiers of the Army, with their increased pay, and present perfect organization, it will be found, cost us less per man, than at the time referred to, while the permanent fortresses upon our coasts and frontiers, give security to our towns and territory. Though in war, our gallant Navy commands respect, and secures favor—yet, in peace, we feel its expenses and forget its protection. It is too often spoken of as an expenditure for the seaboard, and for the merchant. True, it is the shield to our citizen and his property in the remotest sea, but this benefit is enjoyed equally by the farmer beyond the Alleghany as the citizen of the port whence the squadron sails. The protection given to our commerce is a reduction from the rate of insurance, always in effect paid by the grower of the product, or the consumer of the import—and during one period of our government, an expenditure of 2,800,000 dollars, in increasing the Navy, saved to the country 8,600,000 dollars in a single year, in the reduction of premiums of insurance upon our tonnage.

The expenses of foreign intercourse have been a theme of great complaint, and one upon which the gentleman had also instituted a comparison. I will not only attend to his comparison, but extend it back to the origin of the Government. Let us, however, take with us the fact, that we have now more missions upon the continent of South America, than we have upon the continent of Europe. By the reduction of the grade of the mission at Chili to a Chargé, Government has been enabled to send a Chargé to Denmark, where we have claims in controversy.

The gentleman stated, that the expense of foreign intercourse in the three last years of Mr. Monroe's Administration, amounted to 280,000 dollars and the same expense in the three first years of the present amount to 413,000 dollars; making the present exceed the former by 267,000 dollars. The fallacy or error of the statement, is in imputing to Mr. Adams one year of the expenses incurred and provided for before he came to the office. The appropriation for 1825, was made in February, and with which Mr. A. had no more to do than his successor, whoever he may be, now has with the appropriation of this year. The amount of appropriations for foreign intercourse, then, stands thus:

In 1823,	\$82,000	In 1826	\$187,506
1824,	189,500	1827,	81,000
1825,	213,000	1828,	40,000 Panama
			49,000
	\$484,500		\$457,500

Leaving the expense of the last three years, 27,000 dollars less than the three last appropriations of the preceding Administration.

But, let us look still further back, and first, to Washington's Administration. The foreign intercourse appropriations were then as follows:

In 1791,	\$1,733 33	In the time of Mr. J. Adams.	
1792,	78,766 67	In 1797,	\$172,504 23
1793,	89,500 00	1798,	242,711 22
1794,	146,403 51	1799,	199,374 11
1795,	912 633 12	1800,	165,145 33
1796,	109,739 64		

\$1,338,734 37 \$799,734 89

In Mr. Jefferson's time, these expenses were—			
In 1801,	\$139,851 73	In 1805,	\$2,665,769 62
1802,	416,253 62	1806,	1,613,922 09
1803,	1,001,968 34	1807,	419,845 61
1804,	1,129,591 68	1808,	214,233 26

\$7,591,435 89

Exclusive of expense of Barbary intercourse.

These tables are authentic, and show how very far from the fact may be the conjectures and assertions respecting the increasing extravagance and prodigality of the Government.

Again. That item of the expense of foreign intercourse, embraced under the title of contingent expenses, has been adverted to as a source of great abuse. Here, for answer, let us resort to official documents.

There was expended of this fund—

In 1823,	\$30,584 37	In 1826,	\$18,627 07
1824,	20,145 78	1827,	36,248 63
1825,	25,474 95	1828,	no approp'n asked.

\$76,205 05

\$54,875 70

This, which is designated as the contingent fund till after the close of Mr. Jefferson's term, was not distinguished, but embraced in a general sum for Foreign Intercourse.

The amount of this fund expended in the five last years of Mr. Madison's administration, was \$293,340 03, making an average of \$58,668 a year.

The amount of this fund expended in the eight years of Mr. Monroe's administration, was \$289,316 78, making an average of \$36,164 59.

The amount of this fund expended in the two years past of Mr. Adams's administration while no appropriation is asked for the present year, was \$54,875 70, making an average of \$27,437 85, for the two years; a sum less, annually, than was expended by Mr. Madison, by \$31,230 15; less, annually, than the sum expended by Mr. Monroe, by \$8,726 74.

Another view of this subject presents results equally triumphant in favor of this Administration, as does every view founded upon facts, and not conjecture and supposition.

Take the appropriations of 1823, 4, and 5, including all Ministers, Chargés, Agents of Claims, Secretaries, contingent expenses, intercourse with Barbary Powers, and relief of sick and distressed seamen, and the sums are:

For 1823,	\$198,455 17	For 1826,	\$266,500
1824,	243,500 00	1827,	296,000
1825,	282,000 00	1828,	deducting un-

\$743,955 17

expended balance, 62,000

\$548 500

Which is less, by \$195,455 17, than the same items of the three preceding years. I prefer such facts to any comment, and I present such facts as seem to me to need no comment. The gentleman's remark upon our "financial millennium," has something more of justice in it than he supposed, when it was made: for, if there has been any period in our Government which could in truth be so designated, this is that period. And what is his answer and his comment! An extract from the letter of Junius to the Editor of the Public Advertiser, describing the distresses, real or imaginary, of England; an extract interesting as a specimen of fine writing—doubly interesting as exhibit.



FEB. 6, 1828.]

*Retrenchment.*

[H. OF R.]

ng, by contrast, our own happy condition. But, says the gentleman, we hear complaints—our manufacturers complain of depression. And does he propose to relieve them? And is it this Administration or its friends that refuse to listen to their intreaties? The question needs no answer. Again, we are asked, why are there majorities in both branches of the Legislature opposed to the present Government? So far from being the result of discontent in the great body of the People, it comes from a fact directly the reverse. They were content and happy, and in their repose have suffered disappointed political zealots to obtain the power of misrepresenting them, from their own confidence in the wisdom and justice of the measures of the Government, that required not their efforts to protect or support them. A confidence from which, when a change of measures is threatened them, the People will arouse from their slumbers, and, like Sampson, burst the bonds with which political aspirants attempt to bind them. But why should there be discontent in any quarter? I answer, in the words of one who has well observed human nature: "Among all ranks and degrees of men, in all ages and in all countries, may be seen the rapid footsteps of a dark spirit of envy, treading closely, every where, upon the march of greatness, endeavoring to sully what is beautiful, and to bring down what is elevated."

Again, we are told we have lost our respect abroad. And when was the hour that the American name was a higher title of distinction than it now is, with every civilized nation? When the period that the American flag was a safer protection, with civilized or savage, in every corner of the globe? Was it in those halcyon days of Mr. Jefferson, so often referred to, when he could not spread a yard of canvass outside our harbors that was not subject to insult from the smallest canoe that rides upon the water? I refer not to that period in any disrespect to the distinguished individual who presided over us. Our country then had not developed its resources—had not acquired its character.

The gentleman further says, that the British West India colonial trade has been lost by the diplomatic blunders of the Administration. But what are the facts? During the administration of Mr. Monroe, this subject was under negotiation. Our Government then insisted that they should, in this trade, enjoy the same privileges as the British Colonies of North America. That was the question at the close of his term. So soon as that point could with decency be surrendered by his successor, it was given up. Then the British Government insisted on regulating the business by reciprocal acts of legislation, which, instead of being secured by treaty, would have left our commerce to the caprice or interest of the Parliament of Great Britain, or even the less formal annihilation, by a Decree in Council. This announcement was accompanied with the additional suggestion, that, if we should legislate for such a purpose, they would not even hold out an encouragement that they would meet us in such compromise. Congress refused to act in that crisis, and left the President no alternative but to execute former existing laws. But, sir, subsequent negotiation with another Power has secured to us that trade upon a better foundation than any act of Parliament would give it. Sweden has a treaty with Great Britain, securing reciprocal advantages of trade with her West India Possessions; and by a treaty with Sweden, which appears in the papers of this morning, we have secured a trade on the most advantageous terms, to the Island of St. Bartholomews. This gives us the indirect trade to the British Islands. Our trade to those Islands has never been but in articles of necessity to them. They must still have them, and pay themselves for the indirectness of the trade, while their ships are excluded from the trade to this country, giving us both the outward and home freight.

I shall refrain from following the gentleman's comments upon the power of the President's patronage, as specified in the appointments to office, and the disbursements of the public money. It has before been stated, and, I believe, truly, that there is but one officer in the Government over which the President has the absolute power of appointment—the Librarian to Congress. And the payment of salaries to Judges of Courts, under the laws of Congress, or upon contracts taken by friends or foes, upon the lowest bids, cannot be very powerful engines of influence.

I will, as briefly as may be, bestow a passing notice upon some of those more direct charges alleged against the President himself—among the highest of which, one is, that, previous to his selection as Minister to a foreign Court, he had illegally pocketed \$9,000 of the public money. This is the allegation in terms as made by the gentleman from Pennsylvania, [Mr. BUCHANAN] and in proof of which, he remarks, he must be allowed to offer the argument of a lawyer. I should not have so designated the argument. The facts out of which this charge has arisen are these: While Mr. Adams was Minister at St. Petersburg, in April, 1813, he received from Mr. Madison the appointment of Minister Extraordinary, to negotiate with Great Britain, under the proffered mediation of Russia, which resulted in the meeting at Ghent, and, at the same time, received \$9,000 outfit for that purpose, by virtue of the law of the United States, of May 1st, 1810, which authorizes the President of the United States to allow to a Minister Plenipotentiary, in going from the United States to any foreign country, an outfit which shall in no case exceed one year's full salary, &c. The gentleman contends that this description of the person who may receive, is intended to confine the grant to those only who actually sail at the time, or travel from the United States. There might be something more of plausibility in this, if the outfit were given to defray such charge; but it is given for extra charges at the court where, and not at the place whence, the Minister goes; and, in legal contemplation, surely every Minister appointed by the United States is a Minister going from this country to the Foreign Court.

Congress, after the mission, made an appropriation of but \$4,500, to supply in the fund the amount paid to Mr. Adams by the President's order, and the Comptroller charged Mr. Adams with \$4,500 to be refunded. Upon this Mr. Adams wrote to Mr. Monroe, on the 23d August, 1814, of which letter I give the following extract:

"I should certainly prefer to sacrifice both the right and property, rather than it should be made the occasion of controversy between the Executive and the Legislature: neither is it my disposition to insist upon any thing in the form of compensation for public service, which the Legislature, on a full consideration of the circumstances, should think unreasonable. But, if the Legislature considered the necessary increase of my expenditures, by the extraordinary mission under the Russian mediation, sufficiently compensated by the allowance of half an outfit, they will certainly perceive that the new mission, which has brought upon me the extraordinary expense of a journey 2,000 miles distant from my residence in Russia, and the extraordinary charges incident to my situation here, without relieving me, to state the fact as it is and must be, from a dollar of my necessary expenses at St. Petersburg, has given me a fair claim to an outfit equal to either of my colleagues. I state the fact, with a perfect conviction of my ability to prove it, that the extraordinary expenses for which an outfit is allowed, taking the two extraordinary missions together, have necessarily and unavoidably fallen more heavily upon me than upon either of them. Besides the whole outfit allowed them, they are now receiving, as members of this mission, a salary the same as that allowed me, while I am subjected to all the same expenses

H. OF R.]

Retrenchment.

[Feb. 6, 1828.]

that they are here, and am still burthened with those of a residence in Russia."

Mr. Adams did not return to the United States until 1817. In his letter to Mr. Monroe, of May 23, 1822, he observes—

"That, during eight years of absence from the United States, upon six joint or separate missions, I regularly transmitted to the Department of State my account, made up to the end of every quarter of the year, all by duplicates: That all these accounts were duly received at the Department, and that the account in which I charged for the outfit on the mediation mission, and gave credit as received from Captain Lloyd Jones, was made up to the 30th September, 1813, and forwarded immediately.

It is admitted that every precedent, in every similar case, justifies the construction which President Madison gave to the law in this case. The same was held not only theoretically, but practically, by that distinguished jurist, Mr. Pinckney, who actually received the same in his mission to Naples and St. Petersburg. On the 5th June, the Attorney General, Mr. Wirt, answers an inquiry of the President in the following terms.

"After a careful consideration of the case of Mr. Adams, which you have submitted for my opinion, I think him clearly entitled to the whole outfit which was allowed and paid to him by the President, out of the fund placed by law at his disposal for this purpose. I think Mr. Adams's view of the subject unanswerable. The question of outfit is given to the President exclusively, and without limit, save only he is not to exceed a whole year's salary. In the present case, he kept within this limit, and his decision was final and irrevocable. The refusal of Congress to sanction the allowance, is wholly immaterial to this question. Their sanction was not necessary to consummate either the power of the President, or the right of Mr. Adams. They were both perfect without it. They stood upon existing laws, acting on an existing fund, thereafter to be called into being by a vote of Congress. Had the latter been the case, my opinion would have been different. Were an allowance of outfit nothing more than an estimate prepared by the President, to be laid before Congress, with the view of leading to an appropriation out of which it was to be paid, then Congress would have the control of the subject, and their refusal to appropriate would over-rule the President. But the fund for foreign intercourse is, I understand, an annual fund, out of which the expenses of that intercourse are paid; and it was from this fund, thus placed at the disposal of the President, that the outfit allowed to Mr. Adams was drawn and paid; and, consequently, that no appropriation was necessary to give the President's decision effect. The allowance having been thus regularly made and paid, I consider the subject as placed beyond the reach of recall, either by the President or Congress. It would be extremely unjust and cruel were it otherwise. An allowance is regularly made to a foreign Minister, on the express ground of its being necessary to the additional expenses which he must encounter in his new mission. He accepts the mission, and encounters the expense on the faith of the allowance made and paid to him by the President; and when the business is all over, and the expenses have been incurred and paid, he is told that he must refund one half of the advance! I am persuaded that no court of justice would tolerate this, and I will barely suggest, in conclusion, that, if you think otherwise, it is practicable to make the experiment, by ordering a suit against Mr. Adams for the alleged balance in his hands, to which, I dare say, he would make no objection; but you will not understand me as advising this course: for I am thoroughly persuaded that the suit would fail."

And the following is from Mr. Monroe's letter to Mr. Adams:

"Mr. Irvine's appointment to Spain involved the same question. It was wished to reserve the point for more deliberate consideration than could be bestowed on it when the letter of March 15th was written to you. I have now the satisfaction to inform you that the subject has been maturely weighed, and that the result has been in favor of the outfit, on the principle that those restrictive terms, if applicable to Ministers already in Europe, are no further so, than to confine the allowance to them, within the same limit."

This, then, is a case of money paid for public services rendered, and expenses incurred, upon a construction of law by the proper officer appointed to execute it, sanctioned by every President of the United States, who had ever acted upon it, by the same allowance made to every other Minister under like circumstances, approved by a former distinguished Attorney General, and officially confirmed by the present eminent officer in the highest law department of the Government. I leave such authority to be balanced, if he shall so contend, by the opinion of the gentleman who so broadly made the accusation.

The next in chronologic order, is the charge, that the President was elected by corruption, and has come to his office by a violation of the Constitution. The repetition of this language has become almost mechanical; and, if any one repeats it, believing in its truth, he is not to be reasoned with upon evidence. If the proofs before the world do not convince him of the innocence of the parties accused, then would he not be convinced "though one were to arise from the dead." To whom has the nation been directed for the proof of the allegation? Who has been emphatically designated by the accuser as the witness? The gentleman from Pennsylvania, [Mr. BUCHANAN.] And what has he here said in his place to this House, and to the world? "Of the charge of corruption in the election, I will not speak, (said he)—if there was any, I know it not." Yes, "hear him!" "hear him?" well might we exclaim. The witness, called upon to prove the fact, says, "I know it not!" But what is substituted for proof? The allegation that suspicion exists—and that suspicion is worse than proof of guilt—yes, more dangerous to the community—more demanding our indignation, that they should be suspected, than that they should be guilty, and convicted of the crime! For what country—for what age—for what institutions, is such doctrine fitted? And has it come to this, that we hear it unblushingly advanced on this floor?

Let desperadoes aim at the life; aye, higher—at the character of those most pure and elevated in society; let them go to the work of prostration and destruction by most unfounded falsehoods; let the pretended proofs of guilt establish, beyond controversy, the innocence of the accused; and then let this doctrine of suspicion come in to consummate the deed of destruction, and bring upon the head of the offending the punishment due to wickedness and crime. And will the gentleman—who has so much reason to be proud of being a lawyer—will he carry this doctrine with him to the courts of law? Should, not suspicion merely, but color of proof, *ex parte* testimony, procure an indictment against an honest and an innocent man, should we hear him exclaim—let him be innocent, let him be honest, but execute him, for he has been suspected? Least, of all, should I have expected such a doctrine, in this case, from that gentleman.

[Mr. BUCHANAN rose, to disclaim having intended to advance such opinion.]

Some gentleman had urged it, and given his reason that, if guilt were clear and distinct, the moral sense of the community would prevent evil consequence; but suspicion might be more dangerous in leaving a bad precedent. I have, said Mr. B. perhaps imputed to the gentleman opinions expressed by others; but, whoever should have expressed them, I should have expected him

FEB. 6, 1828.]

Retrenchment.

{H. OF R.

to come forth, at once, to defend the President and Secretary of State, from the consequences of such suspicion, or charge of suspicion. What, and who was the cause, unintentionally, innocently, the cause, that such a suspicion ever existed? [Mr. B. here read a part of a letter, which stated a conversation, &c. with a distinguished member of Congress, in December, 1824. A part of another letter, stating who that member of Congress was; and was proceeding to read an extract from Mr. BUCHANAN's address to the public in reply to the same, when the Speaker suggested, that it would not be in order to refer to opinions or writings, out of the House, of the members of the House.]

Mr. B. observed, he was not desirous to do so. My only purpose, said he, was to show that a conversation, held on by that gentleman, of which the parties accused had no part and no knowledge, had been the origin of all the suspicion, and all the crimination upon this subject, and that he, of all others, is most called upon to shield them from an injury, of which he had most unintentionally been the occasion.

But the President is to be condemned for asking him, and the Secretary for consenting, to go from this House to an Executive office; "descending," as the gentleman terms it, from that Chair to the Department of State. Is the gentleman aware how desolating a condemnation he thus pronounces? Has he not, at least in later times, joined in the praises of Jefferson's purity and integrity, and shall we now revoke the eulogies over his grave with which the country is yet resounding? Was he, too, corrupt? Are they all corrupt—that roll of patriots and sages, who voted for him in this House, and who took appointment at his hands, immediately on his inauguration? Oh no! The names of Lincoln, Gallatin, Claiborne, and those who voted and were promoted with them, are answers to ten thousand speculations of suspicion. The record may be found in Pub. Doc. 9th vol. 1st session 19th Congress, No. 164. The reiteration of such charges, and the countenancing such suspicions, are more to be regretted for the injury they do our country, than the individuals accused. They go deep into the foundations of our institutions. When the excitement of party shall have passed, the most zealous persecutors will relent. If there be one now living, who joined in the clamor against Jefferson, and he too shared the common lot, he has already lived to do penance, and would, were it possible, now wash out the stain with tears of contrition.

I will not dwell upon the charge of misconduct of the President in the appointment of his cabinet. It cannot be intended to apply to that portion of it which he took at the hands of his predecessor. The Secretary of State, the gentleman from South Carolina, [Mr. HAMPTON] has been pleased to say, was a distinguished declaimer in this House. While the country yet remembers, with pleasure and pride, the power with which that distinguished statesman sustained here the interests and character of the nation, to such remark there need be no other reply than is furnished by the gentleman from Pennsylvania, [Mr. BUCHANAN] who says, he had long looked with hope for his elevation to the highest office in this country—I will add, the highest office in the world. The gentleman's epithets, applied to the report of the Secretary of the Treasury, characterizing it as "the multiplication table set to music," may possess more of truth than even he had supposed. Should the recommendations of that distinguished officer be pursued by us, we may yet see his principles prove to be the multiplication table of the weak and resources of the country, set to the music of industry, happiness, and prosperity, of the People. I complain not that the Chairman of the Committee on Military Affairs has thought fit, before this House, to style the head of the War Department, "the banling of Belona." The country do not now, for the first time, hear

of that distinguished citizen. Distinguished in his native State; in the Senate of the United States; and in the present office—in promptness, accuracy, and talent, not less distinguished than his predecessor.

But again we are told, that the President has assumed powers over the Constitution, and holden a right to disregard the will of his constituents. The gentleman from North Carolina, [Mr. CASSON] says he will "convict him of ignorance, or of—" what his delicacy did not permit him to name. This term convict, is technical, and to what, and to whom it is to be applied, I presume not to assert. It is, perhaps, a stronger term than the gentleman intended to apply to his difference of construction of language. For proof, resort is had to an expression in the Message of the President, to which no other reply need be made, than that, in a recent able public paper—"the phrase has been torn from its context, and misinterpreted."—"If these had been the taunts and railings of anonymous newspaper-scribblers, they would have been deemed unworthy of public notice; but when such charges are seriously made and reiterated, by men holding high stations in the Government, and exercising some influence over public opinion, they cannot be too strongly condemned."

What is the practical illustration of his disregard of "the will of his constituents?" When a member of the Senate of the United States, and his judgment required him to approve the measures of Government, against the opinion of his constituents, he returned to their hands the power they had committed to him, that they might exercise it agreeably to their own views. If the same deference were now paid to "the will of constituents," where would be the present boasted majorities? They might perhaps be greater—possibly they might not.

In every specification of abuse of power, and of extravagant expenditure by the President, "the Panama Mission" has been rung through all its changes. And what is this, which the gentleman from Pennsylvania, [Mr. INGRAM] styles "a splendid pageant?" The Government of South America, struggling to free themselves from the chains of oppression, propose to consult together upon subjects connected with the mutual welfare and the cause of free principles, and free institutions generally—they respectfully solicit us to be present, to advise and aid with our experience and example. The President proposes to accept, and submits the question to his constitutional advisers, to appoint, or not, Ministers to attend. I never entertained high expectations of the results of that meeting, but one reason assigned by the President would have been sufficient to have induced me to vote for the appropriation. If it were to decline to act with them, I would have done it by sending a Minister for the purpose. In a commercial point of view, the importance of our presence there is sufficiently indicated by the zeal of other powers, unasked to intrude themselves, where we were invited. But, had the President refused, what would have been—what would not have been the clamor against him? The enemy of the Republics of the South; the friend of the Holy Alliance, would have been held up for the execration of this and future ages. The language of a distinguished politician of the day, would have been verified—"had you taken the other side, we would forever have prostrated you."

Another accusation against the Executive is, that of a disposition to continue the existing abuses in the Government. And of this character has been named the Military Academy. In a Government like ours, resting upon the diffusion of knowledge, I will not presume to defend the establishment of institutions for education. No! I will wait till the time comes, if here it ever shall come, when some great reformer, who would "new vamp the Commonwealth," shall, in the language of Jack Cade, bring the charge distinctly against our rulers, that they have

H. or R.]

Retrenchment.

[FEB. 6, 1828.]

"traitorously corrupted the youth of the realm, by erecting a grammar school." Whether the distinguished patriot who founded it, or Congress, by whose annual appropriations it is sustained, can then defend themselves, must be left hereafter to be determined.

The charge of abuse of appointments at this institution rests not, if it ever existed, where, perhaps, the person making it intended to strike. So far as the present head of the War Department is concerned, his predecessor had taken sufficient precaution to guard against such misuse of power, by anticipating the appointments for the year next succeeding his retirement from that office, as appears by Documents vol. 4, 1st Sess. 19th Cong. No. 5. Since that period the appointments have generally been made from different Congressional Districts, upon the recommendation of the Members.

The catalogue of crimes alleged against the Executive seems not to have been completed till they are accused of doing even legal acts with illegal motives. Yes, says the gentleman from Pennsylvania, [Mr. INGRAM] if he were to try them, he would try them upon the motive—his pardon—"the *quo animo*." What and where is his tribunal? Will he bring to us the Inquisition, with its terrors and its tortures? We are not yet prepared for it.

The grave manner in which the statements were made, and the high source whence they come, are the apology, and I feel one is necessary, for a passing comment upon the allegation that the present Administration "is supported by Federalists"—"is opposed by the old Republicans of New England." Such remarks were made in this House—of course were intended for this House. But does the gentleman from Kentucky [Mr. WICKLIFFE] admit, that his cause is contaminated by the able support of his powerful friend, [Mr. BUCHANAN] who, in his recent address to the House, confessed the fact of federalism? Will he exclude from his communion his many other distinguished coadjutors, liable to the same objection? And does he recollect that the only vote ever yet given to his favourite candidate, North of the Hudson, was given by him [Mr. BAYLIS] whose first political love is now even greater than that to the object of his more recent affection?

In the political party to which the gentleman alludes, there have been political desperadoes, Hotspurs, ultras, whose mad course required the restraints of the good sense of the community. They opposed the Government. What is now done? On this floor we hear it demanded that the President shall resign. But this Nation does not proscribe, by party names merely, whole classes of People—among whom, in her utmost extremity, the country found her Bayards, Dexters, and Grays.

The gentleman from Virginia, [Mr. RANDOLPH] in his remark that the old Republicans of New England are opposed to the Administration, may perhaps be deceived by the authority upon which he trusts. It is probably the authority of that individual whom he has pronounced "a blackguard"—whom the gentleman from Pennsylvania [Mr. BUCHANAN] designated as a "foul libeller." What other epithets the gentleman from Virginia may think he shall deserve, he can best judge, when he shall learn that the same person is exhibiting in public, a real or pretended letter of approbation and compliment, received, or pretended to be received, from the gentleman himself.

If there be now, in this country, a distinction of party, upon principle, it is in the advocates and opponents of the policy of Washington. His theory has been tested by practice—the excitements of the moment are passed—the age has approved, and experience sanctioned it. If there be now, in this Union, an individual (and I hope there is none) who, at this day, shall say that his example ought to be "the guide of his successors," then, from that individual and that party, I would stand aloof. Yes,

even the name of Washington ought to abate the fierceness of that rancor which is pouring afresh its calumnies upon him, now no more, but for whom the country might never have known her Washington. In that eventful crisis, when the nation were looking in every direction for a leader of their forces, it was John Adams who, upon the impulse of his own powerful and discerning mind, rose in his place in Congress, and said, "Sir, I nominate George Washington, of Virginia, commander-in-chief." But, sir, they have passed beyond the reach of censure or of praise. History will do justice to them and their accusers. My purpose has been to notice some of the more prominent charges made in this discussion against the present Executive, and I hope I have fulfilled my intention—so far, at least, as to have confined myself to matter of vindication, and to have abstained entirely from recrimination or accusation of others. Our own character, as well as that of the House and the country, seem to me to demand such course.

As I observed, on rising, my original intention was to have moved an amendment to the resolutions, calculated to prevent our attention from being diverted from the real evil—if any exist in the Government—our mode of legislation here. Let us clear our own vision, by first removing such "beams" as obstruct it, before we go in search of "motes." Let us reform the vices at our door, before we get up crusades to India, or the islands of the Pacific, to correct matters of opinion. A moment's attention must convince us that the power of good or evil is with the House.

The resolutions, as first proposed, indicated an attack upon the Clerks and Auditors. After the unnumbered transmutations to which they have been subjected, they have come round again to the Auditors and Clerks. This surely is a safe, if not a gallant war. The gentleman from Pennsylvania [Mr. INGRAM] says, if we include ourselves in this inquiry, all reform will, of course, be defeated. I beg the gentleman not to confess for me: I do not so estimate the principle and patriotism of the House. I do not think that all our zeal ought to be, or will be, exhausted in a clamor against Auditors and Clerks, for whose appointment, compensation, and duties, we have provided. They are men—have the feelings of men—and while discharging, with faithfulness and ability, the duties of their stations, deserve not such epithets as it is too fashionable here to bestow upon them.

They, too, have a right to hold us up to the public. And suppose they were assembled and sitting in judgment upon our course, might they not propose questions which if we would not, they could easily answer? Suppose they should say to Congress, you charge us with working in our offices but six hours a day: what are your usual hours of meeting and adjournment? and what proportion of your time, while in pretended session, is devoted to the business of the House? Do we not discharge all the duties the public require of us? And do you as much? Who fixes our compensation? Who gives us additional perquisites? To what purposes do you apply the stationery of Government; and, with a contemptible article of cutlery, so important in some sections of the country, do you not consent to pocket the abuse?

This they pass, as too small game. But might they not ask us, What is your mode of legislation? And can you not improve that, so as to secure a more prompt and faithful discharge of the business of the Nation? While claimants stand knocking at your door—while the legislation upon the great interests of the country is untouched, what are you doing? Are you not converting this Hall into a mere "Court House yard"—"a crossroad"—"a stump"—from which to address electioneering harangues to your constituents? Such imputation we would indignantly deny, with as much confidence as we could.

There is a remedy, to avoid even the color of such

ED. 6, 1828.]

Retrenchment.

[H. OF R.]

harge. Let us overturn these tables—which, for the appropriate duties of legislation, have no more right here than the tables of the money-changers in Temples of Religion. Let us drive from the House that Post Office, which, in the language of a distinguished editor, gives his Hall “the appearance of a folding-room to an immense newspaper establishment.” All the present accommodations may be had by distributing the documents in our lodgings, where they may be examined, instead of in this place, where they are not.

But a greater reform than any contemplated by these resolutions, or which can result from them, may be effected in our mode of appropriations. At a former session of Congress, I submitted resolutions, which will be found on page 118, of the Journal, proposing, generally, a reference of the estimates to the committees upon the different subjects, whose reports, if approved by the House, should be submitted to the Committee of Ways and Means, with the estimates. The session closed before the subject could be acted upon; but I rejoice to find the principle adopted, in part, by a resolution of that committee, recently reported. Projects for reform, however, which promise any good result, in any shape, and from any quarter, shall have my support.

Mr. SMYTH, of Virginia said: The gentleman who as just taken his seat deprecates inquiry, and seems to consider it an injury to subject the Administration to an inquiry into their conduct. Sir, no Administration could complain of inquiry. The conduct of Alexander Hamilton and Andrew Jackson underwent rigid inquiries in this House; and no other man or set of men should claim to be exempt from inquiry. This is the grand request of the nation, and none are above its examination.

The gentleman said the Constitution contains ample security against abuses by the Executive. It provides that no money shall be drawn from the Treasury but by appropriations made by law. But if, by the power to appoint members of Congress to office, an undue influence is obtained over this body, and large sums of money shall be appropriated by law, and expended lavishly, without particular specification of the objects for which it has been expended, there will be no security against abuses in the expenditure of public money. The gentleman has said, that the President is a man of most unostentatious manners, and we are warned not to prostrate those to whom the nation is indebted for all the elevation it has to boast. It seems, then, that we are to consider the President as one of those to whom the nation is indebted for all the elevation it has to boast. That claim I will examine.

It is contended that inquiry is unnecessary, as the Administration have the confidence of the People. Sir, I deny that the People have ever given their confidence to the President. They have preferred another, who is entitled to their confidence. The President was not elected by the People; nor by Electors chosen by them to give their votes. He was chosen by the Representatives of the People, exercising their own discretion.

[Here Mr. WHIPPLE rose to order. He considered that it was not in order, in a debate on this subject, to go into the history of the Presidential election. The SPEAKER decided that the gentleman from Virginia was in order. Mr. WHIPPLE appealed to the House; but subsequently withdrew his appeal.]

Sir, the Representatives of the People expressed their own opinions, and did not express the opinions of the People. By a statement which I hold in my hand, made by another, but which I suppose to be correct, it appears that of the votes of the People, General Jackson received 153,634; Mr. Adams, 105,205; and Mr. Crawford, 47,665—so that General Jackson received more votes of the People than Mr. Adams and Mr. Crawford united—of the

Electors chosen by the People, Jackson had 84, and Adams 48; while, of the Electors chosen by State Legislatures, Adams had 36, and Jackson 15—the whole number of Electors for Jackson being 99, and for Adams 84. In five States General Jackson received 30 Electoral votes, while only 7 were given against him; yet, those five States, by their Representatives on this floor, voted against him. The Electors are chosen to express the vote of the People, to do which they are pledged. The Representatives consider themselves at liberty to exercise their own judgment. Had the Representatives of the People given the same vote which the Electors of those five States gave, in obedience to the will of the people, General Jackson would have been elected President. He would then have had twelve States; and there can be no doubt that another of the States which voted for Mr. Crawford, would ultimately have voted for him. Sir, the People did not elect Mr. Adams, although he is President by the forms of the Constitution.

[Mr. WHIPPLE again rose, and asked the SPEAKER, if the gentleman [Mr. S.] was in order. The SPEAKER replied, that the gentleman from Virginia was in order; that a wide range had been allowed in the debate, and it was not for him to foresee what application the gentleman from Virginia would make of his remarks.]

Let us examine the public life of Mr. Adams, and see if he is so eminently entitled to the confidence of the nation, that it is wrong to make an inquiry into his Administration. Passing over the writings of Mr. Adams, bearing the signature of Publius, in answer to Paine's Rights of Man, which first brought Mr. Adams into notice; let us accompany him into the Senate of the United States. There we find that he voted against taking possession of Louisiana, and every measure proposed concerning that Territory—even against making roads through the Indian country to New Orleans. We next find him one of a Committee of three members, who brought in a bill to suspend the writ of *habeas corpus*; (a measure of which a good deal has been said;) a measure which would have endangered your liberty, and mine, and that of every man in the country, from Maine to Georgia; and for what cause? Because a despicable riot or rout had occurred on the Mississippi, which the constables were sufficient to have put down. Yes, Mr. Adams concurred in an attempt to suspend the writ of *habeas corpus*; not in a beleaguered town; not in the case of an individual who excited mutiny; but to suspend it as to the whole Nation. These are some of the services which it seems have made Mr. Adams the choice of the Representatives of that quarter of the Union!

Let us now examine the services rendered by Mr. Adams as a Foreign Minister. He went to Portugal; what did he do there? Nothing. To Prussia; what did he do there? Nothing. To Russia; what there? Nothing. To Ghent; there we must give him credit for one fifth part of the negotiation. But other Ministers say that Mr. Adams proposed to cede the free navigation of the Mississippi to the enemy. Sir, the Mississippi rises and runs its course in the territory of the United States; and our Ministers might, with as much propriety, have ceded to the British the free navigation of the Potomac. Consider what would have been the consequences had the free navigation of the Mississippi been ceded to Great Britain. You could not then have stopped their ships at New Orleans, or any other port, or place. Your country would have been inundated with goods from the Mississippi, which had paid no duties; and thus our revenue laws would be defrauded. The Indians would have been supplied with goods, and their trade engrossed. It is much to be regretted that we have not yet been favored with the developments, promised to be given at some propitious time, of the proceedings of the open day and secret night of the negotiators at Ghent. This proposition

II. OF R.]

Retrenchment.

[FEB. 6, 1828.]

does not manifest eminent wisdom on the part of Mr. Adams.

The next treaty negotiated by Mr. Adams, which I shall notice, is the treaty with Spain. In that treaty, Mr. Adams relinquished to the Spanish Crown the extensive Province of Texas, although Don Onís, the Spanish Minister, in a book published by him, has admitted that the country thus surrendered belonged to the United States. I will next come to the treaty made by the eminent negotiator, with France. That treaty contains the following provisions: The manufactures and produce of France, imported in French vessels, pay in the United States \$3 75 additional duty by the ton of merchandise, more than if imported in American vessels, while the manufactures and produce of the United States, imported into France in American vessels, pay there a similar additional duty; but in fixing what shall be the ton of merchandise, a bale of French silk, of the content of 50 cubic feet, which will weigh 1,100 lbs. and be worth 4,400 dollars, is a ton; while a bale of cotton, weighing 804 lbs. and worth 80 dollars, is a ton, and pays an equal extra duty with such a bale of silk; so a bale of French broad cloth weighing 930 lbs. and worth 3,600 dollars, will pay no more of this extra duty than such a bale of cotton. I will add, that these estimates of weight and value of the French productions were made by a Collector of the Revenue.

Passing from the conduct of Mr. Adams, as a negotiator of treaties, we find him in the Presidential chair, by the election of the Representatives in Congress. I will say nothing of the doctrines contained in his inaugural Address, and Message, which have already been commented on by others. I will ask if any thing is more likely to prove dangerous to the rights and liberties of the People, than making the press venal? Considering the importance of the press, its influence in forming public opinion, it may be exceedingly dangerous to virtue. Why has not the press been left perfectly free and uninfluenced? Has there not been an effort made by the Administration to bring the press under influence? Have the judgments of those intelligent men who direct the press been left unbiassed?—

[Here Mr. WHIPPLE interposed, and called Mr. SMYTH to order, and wished to know if it was in order to discuss the liberty of the press on the question before the House.]

The CHAIR decided that the gentleman from Virginia was not out of order. The application and bearing of the remarks to the question under consideration, he presumed the gentleman intended to show.

Mr. SMYTH said, in an under tone, but so as to be heard over a considerable part of the House, "He cannot possibly be sober;" some other member, near Mr. SMYTH, said, "He certainly must be drunk."

Mr. WHIPPLE again rose; when,

Mr. SMYTH called him to order.

The CHAIR required both members to take their seats.

Mr. CLARK, of Kentucky, then said, I call the gentleman from Virginia to order: he has openly offered to a member of this House a gross personal insult.

The CHAIR inquired of the gentleman from Kentucky to what he alluded, and the manner in which the gentleman from Virginia had insulted any member of the House?

Mr. CLARK replied, by his saying that the gentleman from New Hampshire is not sober.

The SPEAKER said, that if such a remark had been made by the gentleman from Virginia, whilst upon the floor, and addressing the House, it was not only a violation of order, but a high indignity offered to the House itself. The Chair certainly heard no such remark, or he should have enforced its authority.

Mr. CARSON, of North Carolina rose, and said the

gentleman had made the remark, not for the House, but only to the gentlemen sitting near him.

Mr. CLARK: Then the gentleman admits the fact, and I call him to order.

The SPEAKER again repeated, that if such a remark had been made, it was a violation of order and highly indecorous. If the Chair had heard it, he should have promptly interposed, and not only have called the member to order, but would not have permitted him to proceed, without the assent of the House. But no such remark had reached the ear of the SPEAKER. He could not, therefore, pronounce the gentleman from Virginia out of order, for remarks not made on the floor, or intended for the House.

Mr. CLARK asked if the gentleman was to proceed?—he had openly accused a member of the House with intoxication—and he wished to know what course was to be pursued, towards a member so violating the decorum of the House.

The SPEAKER replied, that, if the gentleman from Kentucky wished to proceed with the question of order, (for disorderly words spoken) he must reduce the words, said to have been uttered by the gentleman from Virginia, to writing!

Mr. CLARK replied, I will do so; and if they are denied, I wish to understand what will be the course of proceeding.

The CHAIR suggested to the gentleman from Kentucky, that he might reduce the words to writing, and reserve any further proceeding upon the subject until the gentleman from Virginia had concluded his speech.

Mr. CLARK declined doing so, and said, he was induced to act as he now did, because, although he had stated the fact to the Chair, the SPEAKER had signified that he did not know that the gentleman from Virginia had used any such language, thereby impeaching his veracity in the assertion.

The SPEAKER rose and addressed the House. He disclaimed any intention to impeach the veracity of the gentleman from Kentucky, or wound his feelings. The remark which he had made did not justify such an interpretation. His respect for the character of that gentleman and the House, forbade it. He had stated to the House, as a justification of his own conduct in not interposing, that he had heard no such remark from the gentleman from Virginia. If he had, he should instantly have called to order; and hold the member responsible. He regretted, extremely, the unpleasant character which the debate had assumed, and had used every effort in his power to prevent it, and to preserve the order and dignity of the House. He hoped all excitement would cease, and desired that the gentleman from Virginia might proceed.

Mr. COULTER said, the gentleman from Virginia had been repeatedly interrupted while speaking—he hoped this would not be suffered to take place again, unless in a proper and parliamentary manner.

Mr. SMYTH said, that he had made no such remark, as addressed to the House, or in any part of his speech—it was spoken aside, and in consequence of the suggestion to the same effect, of several gentlemen near him. He had had no purpose of violating the order of the House, and if he had done so, he prayed the House to pardon him.]

Mr. SMYTH then resumed. An order has been laid before us, given by the Secretary of the Treasury to the Collector at Philadelphia, directing him to purchase the stationery necessary for his office from a certain able editor of a newspaper. Why was not the Collector, in a city like Philadelphia, allowed to purchase the stationery necessary for his office from whom he pleased? This order proves the desire of the Administration to bring the press under its influence. Another able editor was selected as a bearer of despatches. Why, of all the men in this nation, was an editor of a newspaper, who ought always to



EB. 6, 1828.]

*Retrenchment.*

[H. or R.]

e found at his desk, selected as the bearer of despatches to Buenos Ayres? He did not carry the despatches, but e is allowed to retain the money. He sent them, it is id, by the captain of a ship, who might as well have re-  
 ceived them at first. I admit that although he did not take the voyage to Buenos Ayres, he has the same right o retain the compensation that Mr. Adams has to retain e 1,500 dollars which he received for a journey, which e never performed, from Ghent to St. Petersburg. It is otorious that the printing of the laws has been taken from veral editors of papers, and transferred to others. This ews that the administration are unwilling to leave the res free. Let the People support such papers as they lease. But let not the money of the people be given y the Heads of Departments to such editors of newspa- ers as will consent to support the Administration, right r wrong.

An able gentleman from Pennsylvania, [Mr. SHERMAN] onsiders the patronage in the hands of the Administra- on as rather an injury than a benefit to them. The dministration do not seem to think so; they are willing o increase this patronage. The laws entrust to the Post- aster General the power to appoint the deputy Post- asters. During a former Administration, when the of- ce at Albany was vacant, the President refused to inter- e in making the appointment. When the office at ashville was vacant, during the present Administration, nderstand that the President made the selection of a eputy Postmaster, and not the Postmaster General. Sir, ere is manifestly a disposition, on the part of the Ad- inistration, to increase the number of its appointments id thus to extend its influence. I will say nothing of e Panama mission which has been noticed by other entlemen. I speak of appointments of officers of theavy. And here I may be permitted to say, that, if there e any members of this House more friendly to the Navy an I am, they are very few. Many more appointments an the service required have recently been made of eutenants and Midshipmen, and these appointments are ill going on. It seems, by the Register furnished us, at, when it was made out, there were 143 Midshipmen ho had not received their warrants; 59 appointments ear date during the last year; yet, by the estimate of e Secretary of the Navy, there are now unemployed, nd returned as "waiting orders," 13 Captains, 7 Master ommandants, 111 Lieutenants, 12 Surgeons, 11 Surgeons' lates, 8 Purasers, 85 Midshipmen, 2 Carpenters, and 1 ailmaker; and on furlough, 3 Lieutenants, 2 Surgeons' lates, and 1 Midshipman. Those "waiting orders" and oing nothing, are in the receipt of their full pay and oluments, amounting to \$165,097 50 cents; those on irlough receive \$1,832 75 cents—in all, \$166,930 25 ents, which sum is paid to officers of the Navy, annually, ho are rendering no services. I ask, sir, when there e 85 Midshipmen, and 111 Lieutenants unemployed, hat can be the object of making so many new appoint- ents, unless it be to extend the influence of the Admin- istration by patronage?

Let us now consider some of the political opinions hich have been expressed by Mr. Adams. In a letter ritten by him to Levit Harris, in 1814, what did he, hom the Government had fostered and cherished more an any other man in the United States, say of the Go- ernment? He said at that trying time, that the Go- ernment was weak. Is this true? Sir, I recollect to ave seen many years since in print, an assertion made y a distinguished member of Congress [Mr. Sedgewick] o this effect; he said that the Government has power, y the Constitution, to take every man in the nation by a militia law, and make him a soldier; and to take every cent of money in the nation, by laws imposing taxes. his claim of power appeared to me to be enormous; ut, on reflection, I found that I could not deny that the

Government did possess this power. Can this Govern- ment, possessing such powers, be said to be weak? As this Government possesses these powers, and also rests on the affections of the People, what other Government is so strong? Perhaps Mr. Adams meant, that, although the Government possesses all these powers, it is not suffi- ciently stable, because here is no hereditary power. Per- haps he entertains opinions, expressed by another distin- guished individual, who said that, "And if I should undertake to say that there never was a good Government in the world, that did not consist of the three simple species of monarchy, aristocracy, and democracy, I think I may make it good." Again: "I shall show that a nobility or gentry, in a popular Government, not over- balancing it, is the very life and soul of it." And again: "From this example as from all others, it appears, that there can be no Government of laws without a balance, and that there can be no balance without three orders, and that even three orders can never balance each other, unless each in its department is independent and absolute." Is this the kind of strength which Mr. Adams de- sires that the Government should possess? When the Government already possesses unlimited power to get men and money, would he add the stability of hereditary power?

Mr. Adams also said that the Government is penurious. What reason had he to say the Government was penu- rious? I find, in one line of the documents, that Mr. Adams received from the Government, as a Foreign Minis- ter, \$119,000; and this is not near the whole of the amount which he received. When Mr. Adams considered as penurious the Government which made such allow- ances as are found here, [exhibiting a volume of the docu- ments] what can the gentleman consider as liberal and just? He considers these immense sum, as only proving that the Government is penurious. Is not this sufficient to teach the People to be on their guard, and to hold him to a strict accountability?

I will not add any thing to what has been said by the gentleman from Pennsylvania, [Mr. BUCHANAN] as to the receipt and retention of \$4,500 for an outfit, more than was allowed by law, and of \$1,500 received for a journey never performed. In a Court of Law he would, by the verdict of a Jury, have been compelled to refund the money. The sending of the money by Mr. Monroe did not give Mr. Adams a right to it, unless the law allowed it to him. It was a mistake; and the money should have been refunded. When such were the habits of extortion of Mr. Adams, when in an inferior station, it is the more necessary, when he has come to the Government, that he should be held to a strict accountability. Considering that the President was not elected by the People, neither a negative nor even a good Administration should recon- cile them to the manner in which he came into power.

Frequent allusions have been made, in this debate, to the distinguished man opposed to Mr. Adams. An ad- dress from a Convention held in Richmond has been in- troduced, and partly read, on this floor, which contains several assertions, which I am pleased to have an oppor- tunity to contradict. In this address, it is said of General Jackson, that he filled, successively, for very short periods, sundry enumerated offices. The gentleman from Pennsylvania [Mr. SHERMAN] drew a comparison between the services, in civil Government, of General Washington and General Jackson, the object of which seemed to be, to shew, that General Washington, before he came to the Presidential Chair, had great experience in civil Government, and, thereby, was qualified to dis- charge the duties of President, leaving it to be inferred, that General Jackson had not that experience, and, therefore, was not qualified to discharge those duties. Sir, General Washington had been a member of the House of Burgesses; a member of the Congress of

H. or R.]

Retrenchment.

[Feb. 6, 1828.]

1775, one month; a member of the Federal Convention, four months. In these situations, I presume that he never made a motion or delivered an argument. It was not by experience in either, or all of these situations, that General Washington became qualified to preside over the United States. General Jackson has been a member of the State Convention of Tennessee; a member of the General Assembly; a member of the House of Representatives, and of the Senate of the United States; Attorney General of Tennessee, and Judge of the Supreme Court for six years, (no very short period;) afterwards member of the Senate of the United States, a second time. So that, as to experience in civil government, that of General Jackson is as ten to one greater than that of General Washington, before he became President of the U. States. Far be it from me, sir, to attempt to elevate Gen. Jackson above Gen. Washington; but, it was not experience in civil government that qualified him to preside over the United States. It was in commanding, during seven years, the Armies of the United States, that he acquired experience, and showed his fitness to govern.

It has been said that General Jackson abandoned the civil situation in which he had been placed; that he quitted Congress in 1798. General Jackson was in the Senate, in a small minority, where his efforts were useless. At the same time, by the same cause, James Madison was driven from the House of Representatives, and went into the State Legislature. Charles J. Fox retired from Parliament, when he found his efforts hopeless.

The document I have mentioned, (Address of the Adams Convention at Richmond) charges General Jackson with "the arrest, trial, and execution, of six militiamen, who were guilty of no other offence than the assertion, of their lawful right to return home, after their legal term of service had expired." This clause contains falsehoods. It is not true that General Jackson arrested these militiamen; nor is it true, that their only offence was desiring to go home, after their term of service had expired. Their term of service had not expired. In a letter from Governor Blount, to the Secretary of War, written in the Autumn of 1814, is this clause: "This is mentioned, with a view of giving to you all the information possessed here, of troops in service from this State, (as you have lately come into the War Department,) and, in addition to the above mentioned, there is in service from this State, 1,000 men, at the posts in the Creek country. They were called out for six months, and have nearly three months yet to serve. But, independent of these, there is now 2,500 militia of this State in service, under a requisition from the War Department of the 4th July." The six men did not belong to this last body, for they were mustered into service in June, for six months.

[Mr. BURGESS here inquired from what document the gentleman had read?]

Mr. SMYTH said, that the paper from which he had been reading, was copied from one of the documents before the military committee, which had been transmitted from the War Department.

Mr. WHIPPLE inquired of the Speaker whether it was in order for a member to read in the House, from documents which were before a committee, and on which that committee were to report to the House?

The SPEAKER decided it to be out of order.

Mr. SMYTH said he stood corrected.]

Sir, it is not because that Gen. Jackson is a military man, that he is objectionable in the eyes of some men. He was taken up by the People, and it is on the People he rests, and not on the aristocracy of the country. He is the democratic candidate. I speak not with reference to former parties. I mean that he is the candidate of the People.

I will now come to the consideration of expenditures and retrenchment. John A. King received 4,500 dollars besides his salary, for staying 8 or 9 weeks in his lodgings at London; and this contrary to the usage of the Government, which is to allow an outfit to those who are commissioned as *Chargé des Affaires*; but, Mr. King, as I understand, and as has been stated in another body, never was commissioned *Chargé des Affaires* by the President. As to the billiard table, purchased as a part of the furniture of the President's house, if precedent shall be considered a justification, I think the President may be justified. A former President had among the furniture of his house, a carriage and horses; then, why should not the present President be allowed, as a part of his household furniture, chessmen and a billiard table?

As to the proposed reduction of the pay of members of Congress; if it is proposed to reduce the compensation of members of Congress, Heads of Departments, and other officers of the Government, to the rate of compensation first given to each, I have no objection to the measure. If it is proposed to reduce the compensation of members of Congress, without a reduction, as suggested, of the salaries of Heads of Departments and the higher classes of officers, I protest against it. It is dangerous to degrade, in their compensation the immediate Representatives of the People. The compensation of a member of Congress for a session of four months, will be 1,000 dollars, besides his travelling charges; that is, about the amount of salary allowed to clerks of the lowest grades in the public offices. Money has influence; and, if members of Congress are paid too low a compensation, such trifling offices in the gift of the Executive, will be sought after by members of this House, and the influence of the President will thus be increased to the danger of the independence of this body. Even at the present rate of compensation, members of Congress have been found to accept the offices of Collector, Receiver, Register, Deputy Postmaster, Indian Agent, &c.

The best rule for reform will be, not to starve any useful service. Where the office is not necessary, put it down, and let the officers retained work. As to the Military Academy, I would not touch the institution; but, I would provide that the sons of the wealthy should pay tuition fees, and their own expenses. The sons of officers who died in service, and poor, might be educated at the public expense by resolution of Congress; not regarding it as a charity but as a distinction. It certainly never was considered as a reflection on the sons of General Mercer, that the Assembly of Virginia ordered that they should be educated at the public expense. Such a resolution would be an honour, equal to conferring a medal or a sword. I would not allow the Secretary of War to select for education at this institution, the sons of wealthy and influential men, and thus extend Executive patronage.

Our foreign missions I deem unnecessarily extended. Why have we a Minister of the highest grade in Spain, a subject kingdom, occupied by the troops of a foreign power? What treaty do we desire to obtain? Why do we continue a Minister at Mexico? Why not leave our affairs there to the care of a *Chargé*? In many countries, we have no Minister of any grade, and yet our commerce goes on well without them. I deem it expedient for this House to limit the extent of our diplomatic intercourse, and not trust altogether to Executive discretion, particularly as the President has pronounced the Government penurious. Sir, the less we have of this diplomatic intercourse with foreign courts, the better. It is an intercourse which does not tend to confirm good principles. It introduces and cherishes duplicity, fraud, craft, and dissimulation. I have been told, by one well skilled in the diplomacy of European Courts, that dishonorable practices, such as opening of letters, are common. The so-

FEB. 6, 1828.]

*Retrenchment.*

[H. or R.]

reign Ministers among us, and the Heads of Departments, by their splendid entertainments, diffuse a taste for pomp and show, and thence extravagance spreads throughout the land.

Sir, there are other subjects, on which I intended to have addressed the House, but it is late, and I will close my remarks.

Mr. WRIGHT, of Ohio, obtained the floor, and was about to address the Chair, when

Mr. McHATTON made a point of order—the gentleman from Ohio had made at least two speeches on this question already—he certainly ought not to claim the floor exclusively to himself.

The CHAIR decided that the gentleman from Ohio was in order, as he had not yet spoken on the amendment.

Mr. WRIGHT was about to proceed, when

Mr. CARTER moved an adjournment.

Mr. STOWER demanded the Yeas and Nays, on the question of adjournment, and they were ordered by the House.

Mr. CARTER having withdrawn his motion for adjournment, it was immediately renewed by Mr. TAYLOR, of New York, and the Yeas and Nays were again demanded on it by Mr. INGHAM. They were taken accordingly; and the motion to adjourn was decided in the negative. Yeas 52, Nays 106.

Mr. WRIGHT, of Ohio, said, he was glad the House had refused to adjourn. He had yielded the floor for the motion, on the request of gentlemen near him, not because he wished to avoid proceeding with his remarks now, but because he was aware members must be fatigued at this late hour, and of his inability by any effort he could make to compensate for the delay; it was not, however, his wish the House should adjourn. He would proceed to notice some of the remarks which had fallen from several gentlemen, who had preceded him; but, in doing so, he could not follow the example of others, and promise to be brief. He had, he said, many things to say, perhaps not high matters, but many things; and he did not intend to take his seat, until he had noticed the points on his memorandum, though to do so might occasion a considerable consumption of time. He would endeavor, to the extent of his powers, to do justice to the subjects he noticed, and to the parties whose characters were involved in the controversy that had been carried on during this debate. He used the word controversy, as more appropriate to describe this discussion, than would be the subject under consideration, or the resolutions. He hoped, while he proceeded, to observe a due respect for the House, and not lose sight of the controversy. He did not, certainly, intend to run into an examination of the public and private characters and opinions of the two candidates before the People for the Presidency, to the extent the example of gentlemen on the other side would warrant; but, as the example had been set, he should advert to those topics, and reply to the attack on the merits and services of Mr. Adams, and notice briefly, by way of fair offset, some of the merits and services of Gen. Jackson, in which he might recall to the querulous minds of gentlemen, some things which have been forgotten. He should speak plain, but it was not his purpose to say any thing personally offensive to any one. He knew of no individual, or the friends of the Administration, who had impugned the character of Gen. Jackson; but if gentlemen on the other side chose to commence a tilting match against the reputation of the President, the Heads of Departments, and the friends and supporters of the Administration, on the question now before the House, he hoped to be excused, if, in endeavoring to repel attacks that he considered unfounded and unjustifiable, which had been urged as objections to the re-election of Mr. Adams, he should allude to some traits in the character of his only opponent, which, if they failed to disqualify that indi-

vidual to take his place, certainly deprived him of claim to exclusive consideration before the American People. The gentleman from Virginia, [Mr. SMITH] who had just taken his seat, he said, had undertaken to enquire into the opinions and services of Mr. Adams, public and private, to show him unworthy the confidence of the People; he, Mr. W. thought the contrast of some of these with the opinions and services of General Jackson would not result much to the advantage of the General.

Mr. Speaker, said Mr. W., the gentleman from Virginia has adverted to the writings of a patriot of the Revolution, now no more, to prove the monarchical tendency of the present Administration! How do the writings of other men, in former times, fix the charge upon the President and his cabinet, of entertaining aristocratical sentiments, or feelings favorable to monarchy? He has adverted, also, to the writings of Publicola, and to the letter of Mr. Adams to Levi Harris, which has been so frequently introduced and commented upon by gentlemen who had preceded him. Sir, would the gentleman harrow up the ashes of the dead, to injure the character of the present Administration? Will he invade the repose of the grave, and involve the disturbed manes of Revolutionary worthies and patriots, to aid in the destruction of the present Administration? The letter to Harris, from the manner of its introduction, and the emphatic tone in which the extract from it was read, seemed to be relied on, as conclusively showing the aristocratical and even monarchical opinions of Mr. Adams, and his utter contempt of Republican government. I have known the gentleman from Virginia for several years, and have attentively observed his Congressional course; but have never witnessed in him any thing so unfair as his quotation from that letter, and the use made of it. I am unwilling to believe the gentleman intended it. Sir, the quotation made, the text from which the gentleman deduces his conclusions, has been unwarrantably torn from its context, to fit it to party purposes; the meaning of the writer is wholly perverted! If the gentleman had read the remainder of the paragraph from which he quoted, he would have found infused into the whole a patriotism as warm, fervent, pure, as ever filled a patriot bosom!—He would have found, moreover, an undoubting conviction of the justice of our cause, and as firm a reliance upon the continued regard of that superintending Providence, which had hitherto protected our country amidst trials and difficulties of much greater magnitude, and guided its destinies, through war and peace, to unexampled prosperity as ever man felt! He might have found the opinion hazarded, that, notwithstanding the appalling dangers which threatened our country, the virtue and valor of the American People would overcome them all—and, thank God, what he predicted, has since been verified! The virtue and valor of this People has overcome all those dangers. I do not say, sir, that the gentleman from Virginia intended to mangle this letter; but I may say, it has been torn and mangled to answer party purposes, and garbled and false extracts spread throughout the whole country as true. This may be all right among overheated partisans—I complain not of it; but I may be permitted to say, that the cause which requires such efforts to sustain it—the cause which cannot be sustained by the employment of other and fairer means, ought not to be sustained at all. The People of the United States are too virtuous and intelligent to support a cause resting on a foundation like this. I do not mistake the People, sir: let them be informed of this unfair course, and they will neither approve nor support the party that resorts to it. The gentleman from Virginia has adverted to the writings of one, now no more, upon the checks and balances of Government, to prove—what? That the present Administration are obnoxious to the charge of being desirous of introducing into our Govern-

H. OF R.]

*Retrenchment.*

[FEB. 6, 1828.]

aristocratical—nay, monarchical principles, destructive of the republic!

[Mr. SMYTH explained. He had said, that one party—the Jackson party—rested on the People, not on the aristocracy of the country, for support.]

Mr. WRIGHT resumed. Well, sir, if there are but two parties, and one rests on the People, not on the aristocracy, the other must rest on the aristocracy: from this there is no escape. But, why did the gentleman quote writings and doctrines of another person, to prove the present Chief Magistrate and his Cabinet aristocratic and monarchical? Is not the charge I suppose fairly inferrible from the gentleman's remarks? Why else talk significantly about the three orders of kings, nobles, and commons? Without the meaning I attribute to the language, it has no pertinence to the controversy. Will truth warrant the gentleman in asserting—is he himself satisfied, that the cause of General Jackson alone rests on the People? Does not the Administration rest also on the People, and receive a full proportion of their confidence and support? Let gentlemen reflect on this matter, and inquire in what portions of this country aristocratical tendencies and institutions are found, and in what portions General Jackson's main strength lies. We do not fear the scrutiny. I would not do General Jackson injustice; but I will repel this undeserved attack on the Administration and its friends. There is no evidence on which to rest it. Sir, who are the individuals composing the Administration thus charged with enforcing aristocratical principles—nay, principles tending to the establishment of a monarchy? Has the head of the Administration ever uttered or written a syllable warranting such a charge? Has any one of the heads of Departments done either? If so where can it be found? Aristocratic and monarchical indeed! Will gentlemen look at the President; reflect upon the primitive simplicity of his manners, his unexampled plainness, his habitual and untiring personal attention to the business duties of his station, and then talk of his aristocracy and kingly pomp? Sir, where is there a gentleman around me, equally plain, equally republican in his habits and manners, equally devoted to his duties? He has nothing aristocratic about him. He is the least of a courtier I have seen in public life. Sir, is the plain, unostentatious individual at the head of the Department of State, an aristocrat or monarchist? Do his long continued services in the democratic party of this country, in various stations; services, beneficial as well to the great interests of the country as to the cause of liberty and free government, give authority to denounce him as an aristocrat or a monarchist? The charge is at war with the whole course of his life, and a censure upon the vast number of republican people who have given him their confidence. How is it, sir, as to the high-minded honorable Virginian, who is at the head of the Department of War? Is he an aristocrat and a monarchist? Where have these principles been made manifest in his political or private conduct? He was reared in the democratic school of the Ancient Dominion. Does the gentleman from Virginia denounce that school as aristocratic or monarchical? He had the confidence of that republican commonwealth, and of Jefferson and Madison. Is that evidence of his aristocratic or monarchical principles? He received the highest honors of his State, was made its Governor, and sent here to the Senate, by the republican party. Is the evidence of his aristocratic or monarchical principles found here? Sir, I should be loth to advance such a charge against a faithful and long-tried public servant, and I am, indeed, surprised that it is advanced by a citizen of Virginia. How is this charge sustained against the individual who presides, certainly without discredit to himself or the country, over the affairs of the Navy Department? Is he, too, a monarchist, an aristocrat? I call upon gentlemen not to forbear the

use of their senses, but to reflect before they promulgate to the American People and the world, that this officer holds such obnoxious doctrines. How as to the other citizen of Virginia—the virtuous, classical, and eloquent Attorney General—is he, too, an aristocrat? Are his principles monarchical? Examining the history of his life, private and public, I am unable to find such principles or practices, as those imputed; but, on the contrary, correct republican principles, and a faithful discharge of his official duties. Where can the gentleman from Virginia find evidence that this member of the cabinet is a monarchist or an aristocrat? Sir, I am unable to find a tittle of proof of these dangerous principles, in either of the officers alluded to, and I have noticed all the members of the cabinet, except one—the head of the Treasury Department. Where will the gentleman point to evidence of any thought, or word, or deed, of his, monarchical or aristocratic? If the gentleman from Virginia seeks to know the origin of this individual, and he will direct his eye to that print, (pointing to the Declaration of Independence,) he will find the name of his father affixed to the instrument which declared this nation free and independent. He will find there, also, the name of his maternal grandfather. Will he not be satisfied from this, that the blood is purely republican? Need I go farther? Has the son deviated from the footsteps, and disregarded the instructions of the parent? Will the gentleman direct my attention to any act of his life, public or private, that evidences his monarchical or aristocratic predilections? Will he give us some facts upon which to rest? He will not only find this individual without a drop of monarchical or aristocratical blood in his veins, but he will be unable, after the severest scrutiny into his life, to find one act tending to the establishment of monarchy or aristocracy. Sir, the lives and public services of these republican patriots, have added to the prosperity of this country; and have shed a lustre upon its history and the principles of our Government, entitling them to the confidence and respect, and even the gratitude, of the People; and the charge of their entertaining aristocratic or monarchical principles has no foundation in truth; it is in direct hostility to the whole tenor of their lives. Sir, the services of these distinguished sons of the republic will be remembered, and their characters and virtues will be cherished with lively interest by the American People, long after this controversy is forgotten, affording proof of merit, to posterity, that will outweigh the writings of ten thousand Publicolas—they rest, with confidence, upon the doctrines of the Revolution and of the Constitution. I will say, moreover, (even if I give occasion to a gentleman from New York, near me, to write another vituperative letter to a New York editor,) that, if this Administration is to be pulled down, it must be by the influence of some other charges than those brought forward by the gentleman from Virginia. I will not inquire into their pertinence to the subject. The resolution is for inquiry into the propriety of retrenching extravagant and profligate expenditures. The individual opinions of those who administer the Government, upon the abstract question of the best structure of Government, has doubtless a direct bearing on the question.

The gentleman from Virginia has reverted to a document used by others in this discussion, and accuses the President of having received \$1,500, for a journey never performed, and charges, that he wrongfully obtained and retains this money. He asserts, that, if suit were brought for it, any jury would be compelled to give a verdict for the amount, and that the law would enforce a recovery back, on the ground of its being paid by mistake. This matter has been fully explained by gentlemen who have preceded me, and every objectionable feature in the transaction removed, yet, it is again repeated. I will not weary your patience with repeating the explanation; nei-

[M. 6, 1828.]

*Retrenchment.*

[H. or R.]

er the House nor the country has forgotten it. Sir, the gentleman is an eminent lawyer. I am a lawyer, too, but with no great pretensions to eminence; yet I will venture the opinion, that the legal principle is not in accordance with the gentleman's assertion. My recollection of a legal principle, in such cases, is this: that, where money has been deliberately paid, or paid upon the decision of a tribunal authorized by law to decide the question, the payment is binding upon the parties and all the world, and conclusive of the rights in controversy. If I am correct, an appeal to a court of law, in the case instanced by the gentleman, would result in a verdict in favor of Mr. Adams. This was certainly no case of money paid by mistake—it was deliberately paid, and sanctioned by former Administrations, upon full consideration, and according to the usage of the Government. Mr. Adams invited a suit against him, and would have waived his right to obtain a judicial decision on the principle, but the constituted authorities were satisfied with it.

The gentleman has read from a document, which he says has been introduced here and read. I am not certainly advised what paper he read from, but I understand it to be an address from a convention of citizens in Virginia, opposed to the election of Gen. Jackson. The extract read by the gentleman, contains observations on the subject of the six militiamen, executed at Mobile, by order of the Commanding General; and I understand the gentleman as saying, that, in relation to this matter, the paper contains an absolute falsehood! Sir, this is a lie, if not a bold charge. I ask, what member has introduced and read that paper here? Has it been printed by order of the House? What remarks have been made upon its contents, calling forth the species of attack the gentleman has made upon it? I have heard no comment upon that paper, except from one person, on the same day with the gentleman from Virginia, who named its author, and spoke of its circulation by members of Congress. This document, sir, originated in the Commonwealth of Virginia; it has been published by a numerous convention of her sons; its author, though, personally, unknown to me, is reputed to sustain the character of a gentleman, of strict honour, of high and commanding talents and acquirements, and of unquestionable integrity. He obnoxious to the charge of uttering an absolute falsehood? Have the members of that convention uttered absolute falsehoods? The gentleman who makes the accusation, represents a part of the same Commonwealth, of which the author and publishers of the document, are citizens. It cannot be expected of me to defend against this charge, or do more than leave the parties concerned, to settle the matter amongst themselves. The gentleman made allusion to the documents now before the Military Committee, heretofore ordered to be printed by this House, but, as he was pronounced out of order in that House, I will not reply to it.

The gentleman from Virginia had undertaken to show that the claims of General Jackson to the presidency were superior to those of General Washington ten times told! Sir, I hope never to feel myself under the necessity, in the Hall, of Representatives of the American People, of defending the character of him who was, truly and emphatically, "first in war, first in peace, and first in the hearts of his countrymen." Is it, indeed, true, that General Jackson's qualifications for the Presidency are superior to those of Washington, ten times told? Is an American citizen found, to proclaim to the world that they are even equal?

[Mr. SMYTH desired to explain. He did not say so; but had only said the civil experience of General Jackson was longer and greater than that of General Washington.]

Mr. WRIGHT. I am happy to receive the explanation

of the gentleman, and to have his statement in a less exceptionable shape than I before understood it. But, sir, is it true that the civil qualifications of General Jackson, resulting from experience or otherwise, are superior to those of Washington, ten times told, or at all? It is not the first time that attempts have been made, I will not say to disparage the well-earned fame of Washington, but to elevate the character of General Jackson, by boldly putting forth a comparison of his merits with those of Washington. It has been done here and elsewhere. General Jackson is set forth as the second Washington, equal, and, as now said, superior to the first. All admit the public and private course of Washington was such as to excite the admiration of the world, and to be worthy of imitation. The friends of General Jackson now endeavour to secure his elevation by comparing him with Washington, and to inculcate the belief that the Administration of that great and good man will be the guide of that of Gen. Jackson—the example that he will follow and imitate. Sir, let me inquire, for a moment, whether the recorded opinions and conduct of General Jackson are not directly adverse to the claims of his friends in that behalf, and are not entirely destructive of all hope of his following the footsteps of Washington: nay, further, if they do not furnish irrefutable evidence that he condemns the policy of Washington, condemns his Administration—regarding both as furnishing nothing to be approved, nothing worthy of being followed? Sir, I hope I shall be deemed in order while I advert to the Journal of this House, of the 14th of December, 1796, which I hold in my hand. I find the House of Representatives, on that day engaged in considering an Address to General Washington, then President, approving, on the part of the nation—of the language of whose hearts the Representatives, in that particular, thought themselves the faithful interpreters—the course of his wise, firm, and patriotic Administration; expressing the gratitude and admiration of his countymen for the resplendent virtues and talents which had essentially contributed to our success in the Revolutionary struggle, and in the establishment, on a firm basis, of our free Constitution, affording examples rare and instructive to mankind; their regret that he was about to retire; their wish that he might long enjoy that liberty which was so dear to him, and to which his name will ever be dear, and that his own virtues and the nation's prayers, might obtain the happiest sunshine for the decline of his days, and the choicest of future blessings; that, for the country's sake, for the sake of Republican Liberty, his example might be the guide of his successors, and thus, after being the ornament and safeguard of the age, become the patrimony of their descendants. I will not detain you, sir, to read these proceedings at length. Gentlemen can find them in the Journal of the Second Session of the Fourth Congress, p. 34. I will only read the names of those members who voted against adopting this Address, and I request the particular attention of the House and the nation to some of them [Mr. W. then read as follows: "Those who voted in the negative, are, Thomas Blount, Isaac Coles, WILLIAM B. GILES, Christopher Greenup, James Holland, ANDREW JACKSON, EDWARD LIVINGSTON, Matthew Locke, William Lyman, Samuel McClay, Nathaniel Macon, and Abraham Venable."] The gentleman from Virginia, I suppose, finds here evidence of the civil qualifications of General Jackson. Is this an item of his evidence of the superiority of General Jackson's qualifications for the Presidency over those of General Washington? Sir, the course of the gentleman's remarks required of me the production of this record, important in its character. It is a document which calls loudly upon the gentleman to pause and reflect: it is one the American People will read with the deepest interest, and seriously ponder upon! It furnishes irrefutable evidence that General Jackson himself disapproved and condemned the example of the

H. or R.]

Retrenchment.

[FEB. 6, 1828.]

great Washington, and was unwilling to establish it as the guide of his successors! Sir, after this, what will this nation think? What will the civilized world say of the claim put forth by the gentleman from Virginia, that he who was emphatically the only one of his class; that he whose course has excited the admiration of all nations; that he, the sound of whose name excites the just pride and warms the heart, not only of every American, but of every lover of liberty throughout the world; that he whose reputation is his country's glory; had less qualifications for civil rule—say, ten times told, less qualifications—than General Jackson!

The gentleman from Virginia said, that General Washington, while in the House of Burgesses, or in the Convention that formed the Constitution, was never known to have delivered an argument, or made a motion, on any subject connected with the duties of his station, or showing any qualification for civil rule; that it was his capacity for military command alone that fitted him for presiding over the country.

[Mr. SMYTH said, he did not intend to say that military qualifications were necessary, but that his experience in commanding the army qualified him for President.]

Mr. WRIGHT. I cannot agree with the gentleman, that General Washington's military experience was the source of his qualifications for the civil ruler. He was regarded every where as the first of the age. He showed his fitness for civil rule in the whole course of his life. His temperance, firmness, severe thought, his close observation on men and things, his love of order, evinced a capacity independent of military experience. The gentleman can find abundant evidence of the extraordinary qualifications of General Washington for civil rule, in the correspondence he kept up with the Congress during the whole time of the Revolutionary war, not only in reference to the Army under his command, but in reference to the situation of the People, and the country; showing an extensive research and intimate knowledge of mankind, and the secret springs of human action—a familiar acquaintance with the wants of the American People. This correspondence is filled with suggestions of his own mind, in relation to the trying exigencies of those times, fraught with wisdom, and with speculation on future events, which have stood the test of time, and, in fact, have now become a part of our history. Washington gave evidence of eminent capacity for a civil ruler in his state papers and public acts, which I should not suppose any one could forget. But, Sir, why pursue this inquiry? Who can believe it is necessary to adduce to an assembly of American citizens, evidence of the capacity of Washington? That evidence is found every where in the country—it has grown up with us—surrounds us—every one feels it—it is in our national existence. Again, we are told, what has also been repeatedly urged by others, here and elsewhere, that General Jackson is the second Washington! We have seen that he was opposed to the first Washington—that he condemned his measures, and felt no regret at his retirement. I would not resort to levity on such an occasion; but I will refer gentlemen to a resolution adopted not long since by an assembly of the People in one of the Northern States, as the best answer to the assertion: "that there is not now any second Washington, and it is not propable there will be very soon." If gentlemen will urge the claims of General Jackson, on the ground of his resemblance to Washington, let them undertake to run a parallel between them, founded either on their private or public acts, and they will at once find themselves at fault. If reference is had to the period of our Revolutionary struggle, where will an instance be found of Washington's disregard of the laws of the land, of his disregard of the orders, or refusal to obey, the civil authority? When did Washington issue a general order, that the officers under him should receive no

orders from the Government, except they were transmitted through him, and were subjected to his will? When and where did Washington find it necessary to declare martial law, and suspend the writ of *habeas corpus*? When did Washington shew a disregard for the States, the sovereignties of this Union? The time when Washington commanded was certainly as trying as any during the late war. As extensive as may have been the disaffection to the cause of the country during the late war, as urgent as was the necessity of repressing it, no one will say there was less disaffection, or less urgent necessity for the employment of military means to keep it in subjection, during the war of the Revolution; yet, when did Washington think it expedient to use to the Governor of a State language like that used by General Jackson to Gov. Rabun, of Georgia: "when I am in the field, you have no authority to issue a military order!" I will not say this language indicates the possession of a monarchical feeling; but does it not show a controlling disposition to claim exclusive military prerogative, to exert none but military power—an extraordinary impatience under the control of the law, and the agents of the law? When did Washington find it expedient to disperse, at the point of the bayonet, the Legislature of a State? Yet, is it not an historical fact, that General Jackson, in that manner, dispersed the Legislature of Louisiana?

[Mr. LIVINGSTON asked leave to explain, as to that alleged historical fact. Mr. W. yielded the floor—Mr. LIVINGSTON was proceeding in his explanation, when

Mr. WHIPPLE called him to order—and was himself called to order.

The SPEAKER said, as the gentleman from Ohio had yielded the floor to the gentleman from Louisiana, he was proceeding in order.

Mr. LIVINGSTON. My object is to set the gentleman from Ohio right as to the fact, and I am surprised that any one should object to it. The gentleman had stated that it was an historical fact, that General Jackson had dispersed the Louisiana Legislature at the point of the bayonet. I must inform the gentleman that no such historical fact exists. The dispersion was by order of the Governor, not by General Jackson, and was occasioned by a mistake in transmitting and executing an order from General Jackson to the Governor. This was explained to the satisfaction of the Legislature, and resolutions were adopted exonerating General Jackson from the slightest blame. The mistake was made by the bearer of the message.]

Mr. WRIGHT resumed. I am obliged by the information of the gentleman. Having no opportunity since the gentleman from Virginia took his seat, to refer to documents, I speak altogether from memory, and shall not be surprised if I do occasionally fall into error. I would not accuse General Jackson, or any other man, wrongfully. I confess I am not, even now, able fully to understand this matter. I well recollect to have seen, not many months since, a letter published, as issued by General Jackson, in which he severely animadverted on the neglect or refusal of the presiding officer of the Senate of Louisiana, to prorogue that body, although he had no legal power to prorogue it; and, if my memory is accurate, accusing him of plotting treason against the liberties of the country.\* Sir, I will dismiss this subject. It has

\* Since Mr. W.'s remarks were made in the House, he has been informed that the Legislature of Louisiana was turned out of doors at the point of the bayonet, and dispersed, on the 28th December, 1814, in pursuance of an order delivered by one of General Jackson's aids to Governor Claiborne, in the following words: "Tell Governor Claiborne it is my order that he disperse the Legislature, and blow them up in the air." Governor Claiborne, being under the command of General Jackson, obeyed him so far as to disperse the Legislature, but he did not "blow them up in the air." Subsequently this conduct of General Jackson was investigated in the Legislature, when he declared that he had given the order upon information that they were about capitulating with the enemy, and had annexed a qualification to the



FEB. 6, 1828.]

Retrenchment.

[H. OF R.]

never been my wish to introduce it, but if gentlemen will obtrude it upon the House, they must expect to be met, and promptly, too.

The gentleman from Virginia denies that the Administration has, or is entitled to, the confidence of the People. He asserts that the President was elected contrary to the will of the People, and in violation of the spirit of the Constitution; and that the Administration is neither negative in its character nor good. What follows? The inevitable consequence is, that he asserts it to be bad. He holds it undeserving the confidence of the People.

[Mr. SMYTH said his observation was, that neither a negative nor a bad Administration ought to satisfy the People.]

Mr. WRIGHT resumed. If the remark of the gentleman had any meaning, was it not made with intent to convey the idea that this Administration, having acquired power contrary to the Constitution, and the will of the People, was undeserving their confidence, because it was neither a negative nor a good Administration, but a bad one? How was the Constitution disregarded in the election of Mr. Adams? How was he the President of the members of this House, and not of the People? The People do not vote for President; they vote for agents, called electors, who vote for President under the provisions of the Constitution. In case these Electors fail to give a majority of votes for any one candidate, and in that case only, does the election devolve upon the agents of the States in that respect—the members of this House. The present President was elected in strict conformity with the provisions of the Constitution—provisions of an instrument which the People will continue to look to as the safeguard of their rights, notwithstanding the imputations cast upon it by the gentleman. By the operation of similar provisions, Mr. Jefferson was elected President. Was he not the President of the People, and entitled to their confidence? The gentleman will not deny it. Why, then, is not Mr. Adams the President of the People, and entitled to confidence? Does the change of men change the principle? But, sir, if Mr. Adams, constitutionally elected President, is, in the opinion of the gentleman, unworthy of confidence, on account of the manner of his election, let him take the alternative, and maintain, if he will, that no President is entitled to confidence unless he is elected contrary to the provisions of the Constitution. The gentleman, in my apprehension, has placed himself in this dilemma, and I am content he shall rest on either horn of it. If the constitutional mode of choosing a President does not meet his approbation, let him submit patiently, till the People alter it, and then hurl his denunciations upon those who violate it. Does the gentleman rely on the plurality of votes with which Gen. Jackson entered this House, as establishing his right to the Presidency? Sir, whatever the gentleman may think, I thank God that no man in this country has a right to the first office in the nation, either hereditary or divine, except he who has been constitutionally elected to that office. The gentleman may regret that it is so; but I rejoice at it. The gentleman has adduced a table, which he says was prepared by another person, with great care, and in which he confides, to prove that General Jackson was the choice of a majority of the People, and ought to have been President. Sir, I repeat, no one had a majority of votes, and, therefore, the choice has devolved on this House. I will presently show, that, if it was a sin to

vote for Mr. Adams, who came before the House without a plurality of electoral votes, the gentleman himself has run deeper into it than I have. But, first, I will advert to the tables so triumphantly introduced. Without disparaging, in the slightest degree, the merits of the maker of the gentleman's table, I have a document in my hand, equally entitled to credit, that shows directly the reverse of his conclusions to be true. It is drawn up and published by a primary assembly of the very People interested in the question, in Washington county, Pennsylvania, and signed by the names of a number of gentlemen, who I personally know to be of the first respectability, headed by the highly distinguished President of their Court, Judge Baird. The table shows, in the aggregate, that Jackson got 99 electoral votes, Adams 84, Crawford 41, and Clay 37; but that, of the People's votes, given for Electors, Adams got 166,112, Jackson 153,733, Crawford 60,845, and Clay 52,667.\* I recommend this table to the gentleman; but I will read the remarks of the address following the table:

"In some of the States, it will be observed, the electors were chosen by the Legislatures. The popular vote, therefore, is computed from an ascertained ratio of the actual votes, with the number of voters in the other States; they are distributed according to the proportion of electoral votes for each of the candidates. Thus, in Vermont, where Adams had all the votes in the Electoral College, we have given him the whole number of popular votes. In New York, they are divided according to the Electoral votes each received; and in South Carolina, where Jackson received all the Electoral votes, he is allowed all the popular votes. The result thus stated, shows, that, although Mr. Adams received 166,112 votes of the People, he had but 84 votes in the Electoral Colleges; while General Jackson, with only 153,733 popular votes, received the votes of 99 Electors. If the Electoral votes had been in accordance with the votes of the People, Mr. Adams would have had more than Jackson. Our opponents complain that Maryland and Illinois, in Congress, voted for Mr. Adams. Let us examine, from the data furnished, whether this was not exactly as the People wished. In Maryland, as the table shows, Mr. Adams had 14,632, and General Jackson

* STATES.	No. electoral votes, to whom given.				No. popular votes, to whom given.				Total popular votes.	No. of voters in each State.
	Adams.	Jackson.	Crawford.	Clay.	Adams.	Jackson.	Crawford.	Clay.		
Maine	9	-	-	-	6870	-	2380	-	9250	82595
N. Hampshire	8	-	-	-	8000	-	-	-	8000	69501
Massachusetts	15	-	-	-	30487	-	6116	-	37103	153500
Rhode Island	4	-	-	-	2145	-	200	-	2345	22869
Connecticut	8	-	-	-	7569	-	1978	-	9547	79561
Vermont	7	-	-	-	8000	-	-	-	8000	68221
New York	26	1	5	4	39000	1500	7500	6000	54000	382244
New Jersey	8	-	-	-	9215	10288	-	-	19503	73550
Pennsylvania	28	-	-	-	5405	35893	4136	1701	47185	290088
Delaware	1	-	-	-	1500	-	3000	-	4500	16105
Maryland	7	1	-	-	14632	14523	4364	693	34214	77541
Virginia	-	24	-	-	3048	2290	7542	1644	14324	168154
North Carolina	15	-	-	-	7000	15415	13621	-	35036	110992
South Carolina	11	-	-	-	-	7500	-	-	7500	65895
Georgia	-	9	-	-	-	-	6500	-	6500	82432
Ohio	-	-	16	-	12280	18489	-	19255	50024	155673
Kentucky	-	-	14	-	6386	-	-	16943	23329	115025
Tennessee	-	-	-	216	20197	-	312	-	20725	84689
Louisiana	2	3	-	-	2000	3000	-	-	5000	26910
Mississippi	-	3	-	-	1694	3254	119	-	5067	13016
Indiana	-	5	-	-	3093	7343	-	5315	15751	38836
Alabama	-	5	-	-	2417	6442	1686	67	10907	27392
Illinois	1	2	-	-	1541	1272	847	1047	4707	15933
Missouri†	-	-	3	-	-	-	-	-	-	17369
24 States.	84	99	41	37	166112	153733	60845	52667	433337	2208134

† No returns of popular votes.—Notes by Mr. W.

order, which the Aid had neglected to give; but being satisfied that he had acted too hastily, he wrote to the Legislature on the subject, the 6th July, 1818, requesting an investigation, that he might punish his officers if they had misinformed him, and do justice to the Legislature, if they were innocent. The investigation took place, and it was found that there was no ground for suspicions entertained of the Legislature and that the order was founded on idle report.—See Proceedings before the Louisiana Legislature.—Also, Historical Memoir of the War in Louisiana.—Note by Mr. W.

H. of R.]

Retrenchment.

[FEB. 6, 1828.]

14,523 popular votes. Now, upon pure Democratic principles, Mr. Adams ought to have got all the Electoral votes of that State; and if the Electors had been chosen, as in Pennsylvania, by a General Ticket, he would have had them. But, in the division of Districts, it happened that General Jackson, with a less number of popular votes, obtained seven Electoral votes. If Mr. Adams had obtained them, the result would have been 92 each. In Illinois, also, Mr. Adams had 1,541, and General Jackson only 1,272 votes of the People. Upon the same principle, Adams, therefore, ought to have had the Electoral votes of that State; yet Jackson got two and he only one. If we take these two from the General and add them to Mr. Adams, it would then stand thus: Adams 94, Jackson 90.

"There is another fact that appears from this table, that ought not to be overlooked. In the Southern States, where General Jackson received his majorities, the slave population is represented in the proportion of five to three whites. Electors were chosen accordingly. Five slaves, therefore, has as much political power as three free whites, in the Eastern and Middle States. It is evident, therefore, that Mr. Adams had, in truth, a very large plurality of the free voters of the United States."

This statement is followed by another table, illustrating the position advanced, which I will not detain you to read, but will content myself with reading the comments of the address upon it.

"From the above table it will appear that, from the slave-holding States, Jackson received forty-four and Adams but four Electoral votes. The Senatorial Representation is not taken into account, as it would not affect the calculation either way. It will also appear, that, of pure slave votes, Jackson received nearly eleven, and Adams one only. Now, take the result as we have shown it would have been, if Maryland and Illinois had gone entirely for Adams, according to the popular vote, viz: ninety-four for Adams and ninety for Jackson. Extinguish the slave vote altogether, which would subtract, in whole numbers, ten from Jackson and one from Adams, it would then stand, Adams 93, and Jackson 80 only. Thus, in every point of view, it is clear, if the voice of the greater number is to be an indication, that Adams was the choice of the free People of the United States; and the main argument of our opponents falls to the ground."

Sir, said Mr. WRIGHT, I read these extracts with no design of questioning the right of the People of the slave-holding States to that portion of political power the Constitution distributes to them. I would draw no invidious comparisons. I read as a conclusive refutation of the position taken by the gentleman from Virginia. I did not understand him, I could not understand him, as claiming to include among those People, whose will, expressed by their votes, was to be regarded in the choice of President, any other than the free People of the United States. If I have erred in this, the gentleman can correct me. Away, then, with the allegation, that Mr. Adams was chosen President, contrary to the Constitution, or against the will of a majority of the People. Of the will of the free People, Mr. Adams had a majority of their votes in his favor. If those who voted for Mr. Adams in this House are to be put down as traitors to the interest of the People, as so regardless of the obligations of the Constitution, because another had a greater number of Electoral votes, what shall be said of those who voted for Mr. Crawford, having a far less number of votes? The gentleman from Virginia, and myself, were both here, at the Presidential election—he voted for Mr. Crawford who had forty-one votes, I voted for Mr. Adams, who had eighty-four votes; am I a traitor to the People and the Constitution, and is he faithful to both?

[Mr. SMYTH said, he referred to those who did not vote according to the opinions of their States. He voted for

Mr. Crawford, because Virginia was in favor of Mr. Crawford.]

Mr. WRIGHT. The explanation of the gentleman does not affect my argument. Those who voted for Mr. Adams are accused of violating the spirit of the Constitution and thwarting the will of the People to an extent, that the example is so dangerous to their liberties, as to make it meritorious to pull down—not those who voted—but the Chief Magistrate for whom they voted, and the Cabinet he had drawn around him, without reference to their acts. The gentleman says, the Representatives of five States voted against the will of their constituents. Where is the proof? I represent a portion of the People of one of the five States referred to. The charge has been reiterated, time and again, that the vote of those States was due to General Jackson, as of right.

[Mr. SMYTH said, he did not intend to include Ohio.] Mr. WRIGHT. I am glad to hear it. I so understood the gentleman. But, whether he intended to include that State or not, the charge has been made and reiterated, and my colleagues and myself, who voted for Mr. Adams, have been held up as odious; the execration of the People has been invoked upon us; our names have been strung up in the newspapers in black lists, and served up as a standing dish, from the Presidential election, until the next Congressional election. We submitted our conduct to the proper tribunal, the People, our constituents; and, notwithstanding the most unprecedented efforts of the party in Opposition, in the State and out, all who were candidates except one, was re-elected—and that one was defeated on other grounds than his vote; and he is now succeeded by a friend of the Administration here. Our conduct has received the sanction of the People. If I have not again mistaken the gentleman, one of the five States alluded to was Maryland. I have already shewn that the vote of that State in Congress had been given in accordance with the expressed will of a majority of the People of that State. I do not know what other States are alluded to.

[Mr. SMYTH said, he alluded to Maryland, North Carolina, Louisiana, Illinois, and Missouri.]

Mr. WRIGHT. The remarks I have just made as to Maryland, apply equally to Illinois. In Louisiana the People have re-elected those members who voted for Mr. Adams. In Missouri they have elected a friend of the Administration; and I am not aware of any member from North Carolina who has lost his election on account of his vote for Mr. Crawford. If the People, therefore, whose will is alleged to have been betrayed, are admitted to know their own will, their testimony is in evidence against the gentleman, and he has wholly failed to establish his position. The gentleman tells us, that, if the votes of these five States had been given as the People wished, General Jackson would have been the President. True, he was not able, with those States, to make out but twelve votes for General Jackson, and it required thirteen votes to elect; but he assures us there can be no doubt but some other State would have fallen in, and secured his election! This is certainly a convenient method of proving the assertion—there can be no doubt some other State would have fallen in! Is it not as free from doubt, that some other State would have fallen into Mr. Adams's scale, as into that of General Jackson? Would not Virginia, at that time, have preferred Adams next after Crawford? Will the gentleman dispute it? Would not North Carolina and Georgia have preferred Mr. Adams to General Jackson? I inquire as to the then state of opinion and feeling in those States. Who, that was here, and conversant with what was passing, will dispute it? I think it clear, that, if General Jackson had received the votes of the five States named, still he could not have been elected President. All the declamation we hear upon that subject is worse than idle. It is calculated, in its natural

FEB. 6, 1838.]

Retrenchment.

[H. OF R.]

tendency, to deceive the People. I will not say gentlemen so intend, but such is the natural consequence of the course pursued. The facts on which the gentleman from Virginia has grounded his *proclamation* against the President and his cabinet, in existing contrary to the will of the People, and of being consequently unworthy of confidence, have failed him. He may himself essay to cross the line in pursuit of his enemy, or cast a paper shot across it into the enemy's territory; but he must find the fortune of war against him; he will be unable to stimulate his men to follow his example, and be compelled to desist. The gentleman again says Mr. Adams is not entitled to confidence, because he was not taken up by the People—General Jackson was the candidate of the People. I had thought General Jackson had been nominated by the Legislature of Tennessee. I believe Mr. Adams had also been nominated by a State Legislature. Both had been nominated by Legislative bodies, and both also by the People, in their primary assemblies. Both, then, were candidates of States, and both were alike candidates of the People—both had been voted for by States, and also by the People. But why, sir, are such arguments urged here? They are not well suited to the place or occasion.

The gentleman insists that Mr. Adams is undeserving the confidence of the People, because he voted against the acquisition of Louisiana. We are told by the gentleman we shall not inquire into any abuses in the Government that may have occurred before the year 1824. Yet gentlemen constantly rely on transactions of Mr. Adams and the Administration long anterior to that period. The fairness of this course is with themselves to settle. But, sir, the cession of Louisiana was obtained before Mr. Adams took his seat in the Senate. He did not vote against the acquisition. At a subsequent period, on the question of extending the laws of the Union over the Territory, without the original limits of the United States, he voted in the negative. On that question he had doubts of the constitutional power of Congress—doubts, which, I have heretofore stated, he entertained in common with Mr. Jefferson and Mr. Madison.

[Mr. SMYTH. I said he voted against taking possession of Louisiana.

Mr. WRIGHT. How against taking possession, by a vote of the Senate? My memory does not enable me to solve the inquiry; and I think it will puzzle the gentleman to find such a vote.

Mr. SMYTH asked to explain, and refer to the vote. He referred to the Journal of the Senate of 26th October, 1803, in which Mr. Adams voted in a minority of six against the bill to authorize the President to take possession of Louisiana.]

Mr. WRIGHT. I was in error, as to that point, and the gentleman has, by his correction, afforded me an opportunity to acknowledge and correct it. I spoke on this subject altogether from memory, having had no opportunity to refer to documents. But, sir, I am now advised that this vote was given upon the doubts I have suggested, and upon objections to the form of the bill. I repeat, that Mr. Adams was not unfriendly to the acquisition of Louisiana; and after Congress had put a construction upon the Constitution, in reference to the doubts which had been first suggested by Mr. Jefferson in a circular letter on the subject, and after that construction had been acquiesced in by the People of the States and the new Territory, Mr. Adams voted with the friends of Mr. Jefferson. He certainly did not, as the gentleman asserts, vote against every measure concerning that Territory. I will refer the gentleman to the same Journal from which he has read, where he will find that Mr. Adams voted in the affirmative on the passage of the bill creating stock to carry into execution the treaty of session, and providing for the payment of the purchase

money, on the 3d November, 1803. I am informed, Sir, that Mr. Adams was one of the warmest advocates for the acquisition of Louisiana, and that he not only supported this bill, but made an able and eloquent speech in the Senate in favor of it.\*

The gentleman is for hunting Mr. Adams down, because, he says, at Ghent, he proposed and attempted to surrender the right to navigate the Mississippi river to the enemy. Sir, I reside upon one of the main tributaries of that mighty river, and, in common with my constituents, feel immediately and deeply interested in that question. Any attempt to take from the Western People their right to the navigation of that river, would be promptly met and firmly repelled; yet, jealous as they are of their rights, and ready as they always have been to protect and defend them, the transactions at Ghent have not been viewed by them as obnoxious to censure, on the ground assumed by the gentleman from Virginia. Whatever right or claim the British have to the navigation of that river, will be found recognized in the treaties and laws of the country, long before the mission to Ghent was ever thought of. The right was claimed before we established our independence. It was expressly recognized in the treaty of peace of 1782, and was in force at

\* Mr. Adams first took his seat in the Senate the day after the Louisiana Treaty was ratified.

The 26th Oct. 1803, he voted against the bill to take possession of Louisiana, because he thought the 2d section unconstitutional. It is in these words: "And be it further enacted, That, until the expiration of the present session of Congress, unless provision for the temporary government of the said territories be sooner made by Congress, all the military, civil, and judicial powers, exercised by the officers of the existing government of the same, shall be vested in such person and persons, and shall be exercised in such manner, as the President of the United States shall direct, for maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion." The reader is asked to reflect on the extent and consequences of the power herein conferred on the President, and then open the Constitution, and point out the section which authorizes Congress to confer upon the President such tremendous power. It can only be found in construction. What would be said if Congress were now to propose to confer such power on President Adams?—the powers of the King of Spain or France, or of a Viceroy?

The other acts of the same session, extending the laws of the United States over the people of Louisiana, were opposed by Mr. Adams, because they assumed to exercise powers which had not been granted to Congress itself; of powers reserved by the People of the United States to themselves; and of powers inherent, by natural right, in the people of Louisiana. The union of the two people required the express and formal consent of both. He thought the United States had no constitutional right to force their laws upon the people of Louisiana, who had no voice in making them, without their consent. He thought the sense of the people, both of the United States and of Louisiana, should be taken—of the first, by an amendment of the Constitution, which he proposed to raise a committee to bring in; and of the last, by taking the votes of the people of Louisiana. He had no doubt of the consent of both, and he thought such a course "would serve as a landmark of correct principles for future times, as a memorial of homage to the fundamental principles of civil society, to the primitive sovereignty of the People, and the unalienable rights of man." Congress determined otherwise, and so put a construction on the Constitution, which, being acquiesced in by the People of the United States and of Louisiana, was also acquiesced in by Mr. Adams, and he ever after acted on that construction.

Mr. Adams was in favor of the acquisition of Louisiana, and of annexing it to the Union, though he differed with the majority as to the means to be employed in effecting the desired object. On the 3d Nov. 1803, he voted for the bill creating stock to complete the purchase, supposing the treaty-making power fully adequate to effect the acquisition, although he entertained doubts of the authority, in the manner proposed, to govern the people acquired, without their consent. On this occasion he made a speech, which is reported in the National Intelligencer, of the 26th Nov. 1803, in which he says: "I am extremely solicitous that every title of the engagements on our part, in these Conventions, should be performed with the most scrupulous good faith." "Such is the public favor attending the transaction which commenced by the negotiation of this treaty, and which I hope will terminate in our full, undisturbed, and undisputed possession of the ceded territory, that I firmly believe, if an amendment to the Constitution, simply sufficient for the accomplishment of every thing we have contracted, shall be proposed, as I think it ought, it will be adopted by every State in the Union." "I trust they [our stipulations] will be performed, and I will cheerfully lend my hand to every act necessary for the purpose; for I consider the object as of the highest importance to us; and the gentleman from Kentucky, (Mr. Breckenridge) himself, who has displayed, with so much eloquence, the immense importance to this Union, of the possession of the ceded territory, cannot carry his ideas on that subject further than I do."—See National Intelligencer, 1803-4, the Journal of the Senate, and Mr. Adams's letter in reply to Hon. Alexander Smyth, published in 1833.—Note by Mr. W.

H. or R.]

Retrenchment.

[FEB. 6, 1828.]

the commencement of the late war.\* The American commission at Ghent assumed the ground, under the instructions of the Government, with Mr. Madison at its head, that the occurrence of war had not abrogated the rights of our country under that treaty—which was a treaty of Independence, an acknowledgement of our right to enter into the family of nations. The *status ante bellum*—the state of things before the war—is well known to have been the basis of that negotiation. The proposition to which the gentleman probably alludes, was one submitted on that basis, and made to countervail one submitted by the British commission. It had its effect. But, sir, that proposition, good or bad, is not chargeable to Mr. Adams—he neither drew nor submitted it. It was drawn by Mr. Gallatin. The treaty was finally concluded without any provision on that subject; and this important right, which the gentleman gratuitously supposes Mr. Adams treacherously proposed to surrender to the enemy, remains secured to the British by the provisions of the treaty of Independence, and as they have enjoyed it ever since! Yet what single individual living on that river, or navigating its waters, has been conscious of its existence, or that he has been deprived of any right?—The gentleman evinced his strong desire to know all the secret negotiations, in the right season, and in the day time, in reference to that subject. He has been in pursuit of this information, I believe, some years, and, if he has fallen short of its attainment, I know not who can aid him; but I will hazard the assertion, that neither Mr. Adams, nor any member of his cabinet, have any knowledge on the subject they wish to conceal. The clamor raised in relation to this matter, is not raised by the People, but by politicians, who wish to obtain and wield the power and patronage of the Government.

The gentleman from Virginia has made many other accusations against Mr. Adams. I will not occupy the time necessary to follow him through the whole list, as many of them are of a character requiring no refutation before an intelligent People. One of these charges is, that Mr. Adams was one of three who proposed a bill in the Senate for suspending the writ of *habeas corpus*. I will not canvass the merits of that proposition. The gentleman did not show how the proposing this bill disqualified Mr. Adams for the Presidency; that he has left for conjecture. It seems to me, that, if the submitting to the deliberation of Congress, a proposition to suspend the writ of *habeas corpus*, be an unpardonable sin in Mr. Adams, and calling for his abandonment and disgrace; if this proposition, which was never carried into effect, is calculated to ruin his hopes; that the claims of Gen. Jackson, the gentleman's own candidate, cannot be promoted by being placed in contrast. He, contrary to law, or certainly without its express aid, actually suspended that writ, I believe, in more instances than one, and employed military coercion to control the judicial functionaries, who had, or were about to grant its privileges; and moreover used towards one judge, at least, violent denunciatory words, and words of gross personal abuse.

The gentleman from Virginia had referred to the Military Academy at West Point. All was wrong there too. It is alleged to be an aristocratic institution, and to have been diverted from its original object. None but the sons of the rich and powerful, in his view, were educated there; its benefits were withheld from the poor. In accordance with Mr. Adams's political opinions, this institution was conducted to establish a privileged order. The gentleman feelingly deprecates the prevalence of aristocratic opinions and privileged orders, as dangerous to liberty. It has been repeatedly shown, during this debate,

that the gentleman's opinions of this school are unfounded. Its benefits have not been limited to the rich; but have been, as they should be under our Government, extended alike to the poor and the rich. The science acquired there pervades all ranks and classes in society, and, being diffused throughout the country, forms the capital upon which it can safely draw in time of need. All contribute to its support, and all participate in its benefits. Appointments to that institution are made from every part of the country, upon the basis of the Representation from each State in Congress. The gentleman suggested a remedy for this evil; one that excited my special wonder, although in keeping with the modern claims for military predominance. His indignation was roused to its highest pitch, against the aristocracy of the country, and its privileged orders in the Military Academy, and he proposed that it be open only to the sons of officers of the army! Is this pure Republicanism, in the opinion of the gentleman? We will have no aristocracy—no privileged order—but none shall enjoy the privileges of the Military Academy—none shall hereafter be eligible to receive commissions in the army, but the sons of officers—the sons of military officers are to constitute an order with an hereditary right to public education and military command! Is this the Opposition Republican remedy for the privileged orders of the present Military Academy? Is the maxim of the Constitution, which subjects the military to the civil power to be reversed, and the post of honor and danger alone to be opened to the sons of military officers?

[Mr. SMYTH stated, he had said the sons of deceased military officers.]

Mr. WRIGHT. That does not, in any way, affect my argument. The principle is the same, whether the officer be dead or alive. None but the sons of officers are to be admitted into the Academy. The Declaration of Independence asserts that all men are free and equal; but now, the sons of soldiers, the bone and muscle of your armies, who fight your battles, and without whom officers would be useless, are to be excluded—they are not to be privileged—they are not to be entitled to any portion of the gentleman's regard, or to the protection of the country. The sons of farmers, of mechanics, of statesmen, who have wasted their lives in the public service, of soldiers who have fought its battles—all these are to stand aside, to make way for this new, and exclusively privileged order—the sons of Officers in the Army! Sir, I will not deprive the gentleman of any portion of the merit arising from the possession of such Republicanism—he may enjoy the whole of it—and I think I do not mistake the temper of the American People, in saying they will be warned by the promulgation of such alarming doctrines, and awakened to increased exertions to arrest their progress, and preserve our institutions against their influence. I intend the gentleman no disrespect, but I think the remedy he proposes for the Military Academy, if resorted to, would impel us with astonishing rapidity into a military despotism—a calamity which I pray God to avert from my country. Sir, I will now leave the gentleman from Virginia, and proceed with the subjects I intended to remark upon before he addressed the House.

The gentleman from Tennessee, on the opposite side of the House, [Mr. BELL] delighted me and the House, with the effort he made in this discussion—an effort evidencing in him, the possession of extraordinary intellectual faculties, and powers of eloquence rarely to be met with, accompanied with good feelings, highly commendable on all occasions, and the more commendable in those engaged in political warfare. But I think, sir, some of the remarks he was pleased to make, in relation to myself, were not in keeping with the general tenor of his observations. I do not allude to the compliment he paid me, though I confess I thought it rather a left-handed

\* "Art. 8. The navigation of the river Mississippi, from its source to the ocean, shall forever remain free and open to the subjects of Great Britain and the citizens of the United States."—See Treaty of Peace, 30th Nov. 1782.—Note by Mr. W.

Feb. 6, 1828.]

Retrenchment.

[H. or H.]

ne. He said I invoked, with more art than he had ever before witnessed, abuse upon the Administration, and had striven to provoke from its opponents charges of corruption. I am sure, sir, if the gentleman had listened to what I said, he would have spared these remarks. I invoked no abuse of the Administration; I sought not to provoke any one opposed to it, to charge it with corruption and profligacy. I never believed it obnoxious to such a charge: but I did invoke, and I do now invoke, full and free examination and inquiry into the acts of its members, into their abuses of power. I courted, and I now court, an investigation of facts connected with their conduct, which I thought and still think will exonerate them from the abuse that had been heaped upon them; and I urged gentlemen, who persisted in pouring out abuse upon those officers, to abandon general charges, and resort to something specific that could be met. I do not suppose the gentleman misinterpreted me purposely; I have for him a feeling of a different character. The gentleman said, moreover, that, until this invocation to abuse on the Administration, no one had made any attack on the individuals composing it. The gentleman could not have attended to the course of the debate; to the remarks of the gentleman from Kentucky, who introduced the proposition [Mr. CHILTON]; to those made by the two gentlemen from Virginia [Mr. RANDOLPH and Mr. FLOYD]; to those of the two gentlemen from Pennsylvania Messrs. INGHAM and BUCHANAN; to those of the gentleman from Tennessee, [Mr. MITCHELL]; to those of the gentleman from Kentucky [Mr. DANIEL]; and those of the gentleman from North Carolina [Mr. CARSON]—all of which preceded mine. A reference to the course of the debate, sir, I think, satisfy the gentleman, that I am not obnoxious to the charge thrown upon me. I have never provoked a discussion of this kind, although it has fallen to my lot to engage in several in defending the cause I support. The gentleman said, also, as I understood him, that I had introduced the Tariff into this debate, and he expressed a wish, with peculiar emphasis, that no friend of his country would endeavor to connect that subject with the Presidential election. If the gentleman intended the House should understand that my remarks on that subject evidenced hostility to the institutions of the country, or a desire to connect the Tariff with the Presidential question, I repel the imputation. I did not introduce that subject into debate—it was introduced by a gentleman from Virginia [Mr. FLOYD] near the gentleman from Tennessee, and I only alluded to it in reply. I would avoid making the connexion deprecated by the gentleman, and should he hereafter see any attempt to connect those subjects, I hope he will unite with me in preventing its execution. The gentleman went still one step farther, and, assuming that the friends of the Administration were game run down, he entreated his friends to forbearance, and wound his horn to call off the hounds. The gentleman had better wait a little—he is too fast. Is he quite sure the game is run down? I think it is far from that—it is not, and will not be, run down. He can set his pack in motion again, as soon as he pleases; but I beg him to spare us his pity, at least until we ask it. When we cry *craven*, then let him call off his hounds, and be magnanimous—not before. The gentleman, with much force, invoked both sides to forbear personal irritating remarks and allusions, yet perhaps, in the next sentence, he employs the potent party catch words, “safe precedents,” of most significant meaning in these times—showing in himself how much easier it is to give good advice than to follow it.

The gentleman from Kentucky, [Mr. WICKLIFFE] brought into the debate rather more than his usual zeal. He wove together, with great skill and adroitness, Auden's scalp, National roads, Indian tours, London, Tacubaya, and Guatemala cards, Hartford Convention, Leece

coats, the Jackson party, and Sons of Royalty, making a substantial opposition web, of entirely new materials, which I will not attempt to unravel. The efforts shewed him friendly to domestic manufactures, and experienced in the fabrication of a new article, without the aid of a protecting duty—the raw material for which he could speak into existence at pleasure. There are but two of the many allusions made by the gentleman to which I intend to make any reply: the imputation upon the Secretary of State in relation to the distribution of the laws, and those upon the Secretary of War, for the manner of disbursing the appropriation to improve the Ohio and Mississippi rivers. The gentleman cannot be ignorant that a law of the United States, passed many years ago, directed the Secretary of State, within a given period after the close of each session of Congress, to have their acts printed and distributed to each State and Territory of the Union. The distribution was formerly made through the Post Office Department, free of expense to Government; but, I think early in the session before the last, the Postmaster General informed the Secretary the laws could no longer be distributed in that way, because their great bulk delayed and injured the regular mail.\* The law required the Secretary to distribute the acts of Congress; that duty he was bound to perform; a resort to the usual channel of distribution was declared by the officer having control over it injurious to the public interest—what was the Secretary to do? Estimates of the expense of a different mode were communicated to Congress, and appropriations made, and he did just what his duty required of him. No complaint is made by the gentleman that the Secretary has not faithfully performed his duty, or that he has employed unfaithful agents; yet he is blamed for performing that duty. Would the gentleman have the distribution again made through the medium of the Post Office? He should require the Postmaster General to perform that duty. It would be much more appropriately assigned to that Department, than to the Department of State, and I will warrant the duty is one of which the Secretary of State would gladly be relieved.

The gentleman from Kentucky has also alluded to the appropriations made to improve the navigation of the Ohio and Mississippi, and unhesitatingly charges the Administration with profligacy, in employing two agents in expending the money. Sir, Congress, in May, 1824, appropriated \$75,000 for removing the snags, planters, and sawyers, in the Ohio and Mississippi rivers, and to make an experiment to improve the navigation of the Ohio over one or two of the sand bars below the falls. Last Winter, a law was passed, appropriating 30,000 dollars to improve the navigation of the Ohio river alone, and in other re-

\* It is understood that the first practice under the law requiring a distribution of the acts of Congress, was the same as now practised, which was followed by a distribution through the Post Office Department, that was practised for several years. In the Winter of 1824-5, and in the Spring of 1826, the Postmaster General informed the Secretary of State of the difficulties attending that mode of distribution, and suggested a change; in consequence of which, estimates were reported to the House, and appropriations made for the increased expenses of distribution. The following extract of a letter from Mr. McLean will put this matter in its true light:

“I informed the Secretary of State that the mail had increased so much, in bulk and weight, and for several months would be so much crowded with the documents which had been ordered to be published, that, to distribute the laws through it, as had been the practice some years past, would be extremely inconvenient, and injurious to the public; and I suggested the propriety of his adopting some other plan to distribute them. On the Southern and Western routes, the mail, at that time, weighed often from two to three thousand pounds, and I was apprehensive that, if the laws were added to the documents which would be in the course of distribution during the Summer, that the transportation of it would not only be retarded on some of the most important routes, but that letters would be liable to injury by its great weight and consequent friction.

“The Secretary afterwards informed me, that, in consequence of my suggestion, he should forward in the mail only a few copies, to the United States' officers in each State, and should make arrangement to distribute the balance of them through his own Department.

“JOHN McLEAN,

“20th March, 1827.”—Note by Mr. W.

H. or R.]

Retrenchment.

[Feb. 6, 1828.]

spects than the removal of the snags, &c. The one law had an object entirely different from, and having no connexion with, the other. The objects of the laws differing, and the theatre for expenditures being variant, it is obvious that two sets of agents were required. The Administration were bound to appoint two, and they did so. Does blame attach to them? Were the appointments bad ones?

[Mr. WICKLIFFE explained. He said, that, under the appropriation for clearing out the Ohio and Mississippi, the Administration appointed a Superintendent and Assistant, at six dollars per day, and under the last appropriation, which he said was connected with the improvement of the Ohio, at the Grand Chain, &c. the power had been exercised to appoint a new Superintendent, whom he did not know. He understood he had made large preparations last Spring for a splendid trip, but little or nothing had been done.]

Mr. WRIGHT. Under the act of May, 1824, appropriating the 75,000 dollars, the former Secretary of War offered that expenditure on a contract, and submitted the execution of the contract to the supervision of a Captain Babcock, of the corps of Engineers, I believe.—They had not proceeded far, before it was found the contractor and engineer were running counter to the contract and the interest of the Government, and the provisions of the law—the work was stopped—the captain of Engineers was arrested, and brought before a Court Martial for trial. After considerable delay, the Executive appointed Captain Shreve, who I believe now holds the appointment.

[Mr. WICKLIFFE said the appointment had been once given to a gentleman in Kentucky, now dead.]

Mr. WRIGHT. I thank the gentleman; I had forgotten that appointment. The duties of the superintendent were specific, but mostly connected with the Mississippi River. The appropriation of last Winter was solely for the Ohio river, and looked to its general improvement, along its whole line from Pittsburg to the Mississippi. It was not limited to operations below the falls, where all the operations under the former appropriations, except the removal of snags, &c. were confined, and to experiments upon the sand bars. The law devolved the duty upon the Executive of expending this money. How was it to be expended? Will the gentleman from Kentucky say, it was expected the Secretary of War should leave his official duties here, and superintend the expenditure of this money? The power to appoint an agent, he says, was inferred—he did not say usurped, though his remarks looked that way. Sir, what was the Secretary to do? He could not attend to discharge this duty in person. Was he to neglect it? No one will pretend so. What then was he to do? The only alternative was, to select the proper agent to execute the law. The gentleman seems to think the duty should have been conferred on Captain Shreve. Why, I am unable to see. I presume he had no right to the appointment. Nay, such an appointment would have been manifestly improper. Had he received the second appointment, he could not have performed its duties without neglecting those of his first appointment. It was not advisable to postpone the execution of the second law, until the first was completely executed. I will not question Captain Shreve's competence to discharge the duties incident to the execution of either law, but he had not power to perform, at the same time, the duties of both, which might require his personal attendance, in places one thousand miles distant from each other. The Secretary of War appointed as agent a Mr. Courtney, of Alleghany County, Pennsylvania, not an obscure, unknown man, as the gentleman sneeringly supposed, but a respectable citizen, one who had been united several years since by the Government of Pennsylvania in a commission of office, to expend an appropriation made

by that State to improve the navigation of the same river. He was, therefore, not without experience, although the gentleman had never heard of him. The confidence reposed in him by the Commonwealth of Pennsylvania, in reference to similar service, I think was entitled to as much respect by the Secretary of War, as the unknown circumstance, now alleged, that the gentleman from Kentucky had never heard of him. Without charging this officer with any dereliction of duty, his selection is urged against the Administration, as evidence of usurpation, of profligacy, and extravagance? This is really one of the curiosities of the times, for the discovery of which the gentleman from Kentucky should have credit. It would be a waste of time to say more on this point. I had intended to notice the remarks of the gentleman in relation to the extravagant expenditures of the Administration in holding Indian treaties, and for the journeys of the clerk connected with Indian affairs. Sir, I have not a very high opinion of the individual alluded to. I may be prejudiced against him, but I do not think very highly of him. It is not my purpose to defend him, but barely to say, that I am informed the gentleman from Kentucky has fallen into gross error as to the amount expended either in holding the treaties, or performing the journeys alluded to.

The gentleman from Pennsylvania, [Mr. INGRAM] in the remarks he made, yesterday, said, with an emphasis and manner that distinguish him, that one member of the cabinet had said, about the time of the election for President, in reference to the want of popularity in the individual selected, "give us the patronage, and we will make ourselves popular." Where is the evidence to sustain this accusation? There is none. I do not believe a word of it. The gentleman, himself, pretends to no proof, except that found in the party publications of the day. The gentleman says, further, that the Administration got the power, and the individuals composing it then entered into a Holy Alliance against virtue and intelligence; got money to control the press—to reward venal writers for traducing innocent females! The gentleman exhibited, on this occasion, an over zeal, little creditable to his cause or this place. If the members of the Administration have entered into a Holy Alliance of this character, the People should know it. I demand the proof. Who were the parties to this Holy Alliance? When and where was it formed? Where is the field of its operations? When accusations of this enormity are urged in this place against those entrusted with the Administration of our Government: those enjoying the confidence of the People; the ornaments of the age we live in—the cause of the country, the character of our public men, the permanence of our institutions, the friends of freedom throughout the world, all unite in the call for proof; and I tell the gentleman, the call is not answered by reference to the party newspaper libels of the day. Something more is necessary to sustain such a charge. Stronger evidence is required. We are charged with introducing personalities into this debate; but, I believe, without foundation, in any one instance. Do gentlemen suppose it evidences a decorous regard for order and decency, to rise here, and fulminate anathemas against the officers of Government, for entering into a holy alliance against virtue and intelligence, for corrupting the press, and hiring venal wretches to traduce female character? Are we to sit quiet under such imputations? Are we to rest satisfied under the assurance that they are based on common newspaper libels? I have heard of combinations, or, if the gentleman prefers, a holy alliance of fragments of adverse political parties, against the virtue and intelligence of the People, to induce them to pull down the present Administration, and transfer the power and patronage of the Government from them to the Allies; I have heard of attempts to "improve the condition of the Press;" of subscriptions of large sums of mo-



FEB. 6, 1828.]

Retrenchment.

[H. OF R.]

ney to control its action; and we all heard with horror my friend from Massachusetts [Mr. EVERETT] read an extract from a pamphlet published by—I will not say a “venal wretch”—traducing the character of the wife of our Chief Magistrate; but, thank God, neither have connexion with any member of the Administration. If the gentleman would crown his benevolent efforts with an immediate and abundant harvest, his prospects of success would, doubtless, improve, if he pursued his inquiries among the combined force, opposed to the Administration.

Sir, just as the question was about to be taken, yesterday, the gentleman from Pennsylvania threw himself before the House, and tauntingly accused the friends of the Administration with “backing out,” and seeking a “cloak” to cover us, and to cover the iniquities and enormities of the Administration, because we wished the inquiry to be carried back to 1791, to a period embracing former Administrations. Not one half hour before, the gentleman from Virginia, [Mr. RIVES] in an eloquent appeal to the House, endeavored to show that the Administration was unworthy of confidence, because it had not pursued the example of the Administrations of Washington, Jefferson, Madison, and Monroe. These charges of extravagance and profligacy, can only be made out by comparison. One gentleman contrasts the course of this Administration with that of former ones, and another gentleman, on the same side, when we seek, in order to ascertain if the contrast is well founded, to inquire what the former ones did, charges us with seeking for a cloak to cover our enormities! Admirable consistency this! The Administration is to be pulled down for deviating from these worthy examples, and yet, when we ask to be informed in what particular the Administration has deviated, the door is to be abruptly shut, not a ray of light is to be shed upon the inquiry. Sir, gentlemen may pursue their own course; but such injustice is too palpable to escape the reprobation of an intelligent community. It will require a broad cloak to shield those who refuse so plain an act of justice from the indignation of the People.

The gentleman, I believe, adverted to the appointment, by the present Administration, of members of Congress, to office—I am sure the gentleman from Virginia [Mr. SMITH] did—and relied upon the instances that have taken place, to fix upon the Administration the charge of corruption. Some gentlemen have referred to the Administration of Mr. Jefferson, as the only perfect model for imitation. I admire its purity. He was chosen by this House, as was Mr. Adams. I will not rely on my memory, in reference to the course Mr. Jefferson adopted towards members that voted for him, and exerted themselves to ensure his election; but I will read some extracts from a debate in this House, in 1802, on the repeal of the Judiciary, connected with this subject. They are from one whose opinions will now be received, as carrying with them great authority—from the remarks of one, then a member of this House, from the State of Delaware, now no more, whose talents, integrity, virtue, and eloquence, none will question—I mean the late James A. Bayard. In debate, on the 20th February, 1802, he said:

“The case, sir, to which I refer, carries me once more to the scene of the Presidential election. I should not have introduced it into this debate, had it not been called up by the honorable gentleman from Virginia. In that scene, I had my part; it was a part not barren of incident, and which has left an impression which cannot easily depart from my recollection. I know who were rendered important characters, either from the possession of personal means, or from the accident of political situation. And now, sir, let me ask the honorable member what his reflections and belief will be, when he ob-

serves that every man, on whose vote the event of the election hung, has since been distinguished by Presidential favor? I fear, sir, I shall violate the decorum of Parliamentary proceeding, in mentioning names; but I hope the example which has been set me, will be admitted as an excuse. Mr. Charles Pinckney, of South Carolina, was not a member of the House, but he was one of the most active, efficient, and successful promoters of the present Chief Magistrate. It was well ascertained that the votes of South Carolina were to turn the equal balance of the scales. The zeal and industry of Mr. Pinckney had no bounds. The doubtful politics of South Carolina were decided, and her votes cast into the scale of Mr. Jefferson. Mr. Pinckney has since been appointed Minister Plenipotentiary to the Court of Madrid; an appointment as high and honorable as any within the gift of the Executive. I will not deny that this preferment is the reward of talents and services, although, sir, I have never yet heard of the talents or services of Mr. Charles Pinckney. In the House of Representatives, I know what was the value of the vote of Mr. Claiborne, of Tennessee. The vote of a State was in his hands. Mr. Claiborne has since been raised to the high dignity of Governor of the Mississippi Territory. I know how great, and how greatly felt, was the importance of the vote of Mr. Linn, of New Jersey. The delegation of the State consists of five members. Two of the delegation were decidedly for Mr. Jefferson; two were decidedly for Mr. Burr. Mr. Linn was considered as inclining to one side, but still doubtful. Both parties looked up to him for the vote of New Jersey. He gave it to Mr. Jefferson, and Mr. Linn has since had the profitable office of Supervisor of his District conferred upon him.” Again, he says, “I shall add to the catalogue but the name of one more gentleman, Mr. Edward Livingston, of New York. I knew well, full well I knew, the consequence of this gentleman. His means were not united to his own vote; nay, I always considered more than the vote of New York, within his power. Mr. Livingston has been made Attorney for the District of New York; the road of preferment has been opened to him, and his brother has been raised to the distinguished place of Minister Plenipotentiary to the French Republic. This catalogue might be swelled to a much greater magnitude; but, I fear, Mr. Chairman, were I to proceed farther, it might be supposed that I myself harbored the uncharitable suspicions of the Chief Magistrate, and of the purity of the gentlemen whom he thought proper to promote, which it is my design alone to banish from the mind of the honorable gentleman from Virginia.” Again, he says—“The present Executive, leaving scarcely any exception, has appointed to office, or has by accident indirectly gratified, every man who had any distinguished means in the competition for the Presidential office, of deciding the election in his favor. Yet, sir, all this furnishes too feeble a presumption to warrant me to express a suspicion of the integrity of a great officer, or of the probability of honorable men, in the discharge of the high functions which they had derived from the confidence of their country.”

Sir, I will not detain you while I read further. I commend the example of him from [whose remarks I have read to gentlemen, as worthy to be followed. But, if the Administration of Mr. Jefferson is put forth as the only example worthy of imitation—and I admit its worth—let gentlemen apply the remarks I have read to the charges now made against the present Chief Magistrate. If the appointment of Mr. Pinckney, Minister abroad; the appointment of Mr. Claiborne, Governor; of Mr. Linn, Supervisor; of Mr. Livingston, who wielded more than his own vote, to the office of District Attorney; and sending his brother Minister to France; be no evidence of corruption in Mr. Jefferson, or of themselves, I ask,

H. or R.]

Retrenchment.

[FEB. 6, 1828.]

with what face it can be claimed, that any appointment of the present President, from members of Congress, is evidence of corruption in him or them? The same rule should be applied to both. Mr. Jefferson appointed many more members of Congress to office than the present President has. I do believe, sir, that men of pure patriotism, of a more sincere love of country, are not to be found, than the members of the Administration, and those gentlemen on this floor, [excluding myself from the number] who engaged in electing him. Shall it then be said, that charges of corruption, founded on the circumstances attending the election of Mr. Jefferson, stronger than any connected with the election of Mr. Adams, are to be scouted as unfounded and malignant, while in the case of Mr. Adams, they are to be received as conclusive proof?

The gentleman from Pennsylvania [Mr. BUCHANAN] has told you he had no knowledge or belief in the charge of bargain and intrigue, as connected with the Presidential election.

[Mr. BUCHANAN explained. He thought he had been sufficiently explicit in what he said, and in the explanations he had given, and particularly to the gentleman from New Hampshire, a short time since, not to be misunderstood. He had said that, as to all knowledge of any thing improper, or any bargain, in the last Presidential Election, he disclaimed it; he knew nothing about it. He would not impute corruption, but had argued the question on the danger of the precedent alone.]

Mr. WRIGHT. I thank the gentleman; my desire is to understand him. It is now admitted that, so far as his knowledge extends, he knows nothing of any corrupt bargain, or any other thing impeaching, in any degree, the purity of the transaction. How, then, stands the case? The President of the United States is charged with having procured his office by means of a corrupt bargain, signed, sealed, and executed on this floor. The gentleman rises and disclaims all knowledge of any bargain. Yet, having no knowledge of corruption, or improper conduct, (and if he has none, I pray you who has?) he says the President and his Administration are unworthy of confidence. If he has no knowledge of the truth of the charge—if, with him, the charge is without a shadow of evidence—is he willing to set himself before the country as drawing inferences of guilt from facts, the existence of which he denies—of which he disclaims all knowledge or belief? Sir, such a course is, in my opinion, unjust, and I feel impelled by a strong sense of duty to meet and repel both the argument and the inference. I understood him to say, moreover, that the situation of the President and Secretary was worse than it would have been if there had been proof of a corrupt bargain.

[Mr. BUCHANAN explained. He had said that, admitting, for the sake of the argument, the transaction was pure, yet it was more dangerous than if it was proved to be corrupt, because under such a precedent, corruption would steal into the country. He knew he was correct, from the notes of the Reporter.]

Mr. WRIGHT. Sir, I understand the Administration is alleged to be unworthy of confidence, and should be hunted down; that it was corrupt, and had outraged the moral sense of the community. What do we now hear? Admit that the transaction, to which all have referred as the origin of the charge, is pure, free from the taint of corruption, yet its tendency is to introduce corruption! Is it, indeed, true, that the pursuit of pure, honest, upright, constitutional means to obtain office in this country, is more dangerous in its tendency and influence than the employment of foul, dishonorable, corrupt means, to attain the end? Sir, I can neither admit nor believe it. The country will not credit it. I have heard the gentleman, in one of his happiest moods, support the proposition that

the Constitution ought not to be amended in the provisions relating to the election of President. I have felt the force of his argument. What do I now hear? It is more dangerous to the liberties of the People to enter the Presidential Chair by the use of honest, constitutional means, than by open resort to bargain, intrigue, and corruption. This seems to me to be the alternative in which the gentleman has placed himself, and from which I see no escape. Sir, I had originally intended to say more to the gentleman from Pennsylvania, and to have examined his hypercriticism upon the act of 1810, and the construction put upon it in relation to outfits; but my friend from New Hampshire [Mr. BARTLETT] has anticipated me, and done much better justice to the subject than I could. I will, therefore, leave the gentleman, after a single additional remark. Reverting to the former merits of the Secretary of State, the gentleman is pleased to think his sins are not unpardonable. When the Administration of which he is a member shall be pulled down and destroyed, and the great danger of the precedent is removed, then the gentleman is willing he should return to this House, to fight by his side, and, after due probation, and time for repentance, that he should be promoted to some more elevated station. As a friend of that distinguished individual, I acknowledge the kindness of the gentleman. Gratifying as it would be to him to fight by the side of the gentleman from Pennsylvania in this House, it is probable no future event will afford the opportunity. But to my understanding, sir, there are unerring indications that, as sure as he lives, the time will come, and that, too, at no very remote period, when the calumniators of that great and good man, who has been pursued with a degree of malignity without parallel, will be silenced; when his exalted merits and important services will be properly appreciated by his fellow citizens, and rewarded by his elevation to the first office in their gift. And when that time shall arrive, I shall expect to find the gentleman, convinced of his purity, supporting the best interest of the country, in perfect harmony with the principles of his Administration.

The gentleman from Virginia, [Mr. RIVERS] whose eloquence yesterday riveted the attention of the House, with a force and perspicuity peculiarly his own, endeavored to prove the Administration profligate and extravagant, by comparison of the expenditures, &c. of other Administrations with those of this. I shall not, after the attention bestowed upon him by the gentleman from New Hampshire, undertake to follow him in detail, nor indeed could I do so, without time to examine the documents to which he referred. There are a few points, which, I believe, were not noticed by the gentleman from New Hampshire, to which alone I will ask your attention. The gentleman urged, among other reasons, why frequent inquiry was necessary in the expenditures of the Administration, that our revenue resulted from indirect taxation—that, if it sprung from direct taxation, the call of the tax gatherer would enable the People to see, and feel, and to connect their contributions with the expenditures. The gentleman did not say, nor do I know such to be his opinion, that we ought to resort to a system of direct taxation, instead of our present method. If such is his opinion, I oppose to it that of Mr. Jefferson, and that of the Republican party in former times. I remember well, Sir, the time, when party spirit in this country ran so high, that even ladies wore different cockades as badges of party attachment; and to have seen them meet at the Church door, and violently pluck the badges from one another's bosoms. Then I heard it was a Federal doctrine that our revenue should be raised by direct taxation, and not by duties on imports; but that doctrine was abandoned when Mr. Jefferson came into power—the direct tax laws were repealed, and they have never been resorted to since, except in time of war. Surely the

FEB. 6, 1828.]

Retrenchment.

[H. OF R.]

gentleman would not have them restored. The gentleman, advertng to the course of the Administration, amongst matters urged to prove it unworthy of confidence, said, that, when men had crept into office by corrupt means, they would find money enough to reward all who had assisted in their elevation, and to quiet all disappointed candidates for office. What is intended to be inferred from this? Does he mean that the President has found money to distribute as rewards to those who assisted to elect him—money enough to quiet disappointed candidates? Does he really believe it? Does any man rise here, on this floor, and say such is the fact? No, sir, not one: and as to disappointed candidates, we have numerous living witnesses about us to prove that they have not been quieted. The gentleman has animadverted, with more asperity than he usually employs, upon what he terms lawless constructions of the Constitution and laws, adopted by the Administration to extend its power and patronage. What are lawless constructions? Who has the lawful right to construe the Constitution and laws in reference to the discharge of the Executive functions of this Government, but the President, with his Cabinet? They may err in construing the Constitution or laws, but their construction is not lawless. These lawless constructions—these usurpations of the Executive—have been carried to such lengths, as to call for the interference of the People to arrest their progress, as an act of self-preservation. The gentleman gives, as an instance of this lawless construction and usurpation, which he thinks was never before urged, the appointing foreign Ministers on original missions, in the recess of the Senate. Sir, I have thought, for many years, the exercise of this power by the Executive was not strictly warranted by the Constitution; but it has been maintained by many of the ablest men in the country, and, because I do not agree in their construction, it gives me no right to denounce their construction as lawless. The gentleman must know that this power was exercised by Washington and Jefferson, and, I believe, by every Executive since the organization of the Government. The Russian Mediation Mission, which terminated in the Treaty of Ghent, was originated by Mr. Madison in the recess of the Senate, and, unless my memory is faithless, one of the Commissioners, (Mr. Gallatin) whose nomination was afterwards submitted to the Senate, and rejected by that body, was nevertheless, continued in the Commission, and paid. If the construction of Mr. Adams is lawless, and he a usurper, then was the construction of Washington, Jefferson, Madison, lawless, and they, too, were usurpers.\*

\* President Adams has been accused of usurpation, and lawless assumption of authority, not because he has appointed any foreign minister in the recess of the Senate, on a new or original mission, but because, in his message to Congress, in December, 1823, relating to the invitation to meet the South American States in a Congress, to be held at Panama, he said, "the invitation has been accepted, and Ministers on the part of the United States will be commissioned to attend at these deliberations, and to take part in them, so far as may be compatible with that neutrality from which it is neither our intention, nor the desire of the other American States, that we should depart."

President Washington communicated to the Senate, in February, 1791, the difficulties that had existed between the Kingdom of Portugal and the United States, and in his message, he says: "On consideration of all the circumstances, I have determined to accede to the desire of the Court of Lisbon." And he concludes, "I have, therefore, nominated David Humphreys Minister resident from the United States to her Most Faithful Majesty the Queen of Portugal." Let any impartial man contrast the language of the two Presidents.

President Washington, in 1789, in the recess of the Senate, originated a Diplomatic Mission to Great Britain, and commissioned Governor Morris. In 1791, he originated a mission to Morocco, and appointed Thomas Barclay, Consul, to negotiate, in the recess of the Senate.

President Jefferson, during the first recess of the Senate, after his inauguration, appointed twenty-four Consuls and Commercial Agents, to different parts of the world, six of whom were original appointments, to places where such officers from the United States had not been sent before. In May, 1801, Mr. Jefferson, in the recess of the Senate,

I now come, sir, to the gentleman from Virginia, [Mr. RANDOLPH.] I regret that I have not been able to get the floor, when the gentleman was in his seat, that I might have paid my respects when he was present. I come to him now last in order, considering him the commanding general of the Opposition force, and occupying the position of a commander, in the rear of his troops, controlling their movements; issuing his orders; directing one subaltern where and how to move his forces; admonishing another to due and proper caution, and to follow his leader; nodding approbation to a third, and prompting him to extraordinary exertion; examples of which, the gentleman has given us in this debate. Since the failure of the motion to lay this resolution on the table, the gentleman has become a warm and zealous friend of retrenchment and economy, a bitter enemy of profligacy and extravagance. I am glad of this. I will not attempt to answer his late arguments on the subject; but, I hope I shall not be deemed out of order, if I make him answer himself. His mind, I believe, has undergone an almost total revolution in a few years. In the debate on the Compensation Bill in this House, in 1816, the gentleman is reported to have said, amongst a great many other things—"the present system might do for maintaining soldiers, or day-laborers, but not for men of our time of life, and of our State." Here the gentleman exhibits a commendable State pride, and a proper regard for State rights, (the fashionable doctrine of the day) and of our dignity. Again, he says, "the salaries of the officers of Government were notoriously scanty, and though he would rather see the salary a disgrace to the man, than the man a disgrace to the office, he would give the public servants such salaries as would enable them to live without imputation of dishonor: for, he asked, what man can live here on \$5,000 a year? He may breathe on it, but who can keep a family, rent a house, furnish it, keep an equipage, give and receive entertainments, on that annual amount? A five penny bit would be just as adequate to that purpose." Again, having proposed an amendment, as he said, "merely as a *quidus* to tender consciences," he thought \$1500 an insufficient compensation, and said "there was no profession, scarcely, by which a man could not earn \$1500 in six months, and do it much more pleasantly, too, than by coming here." Again, "his only objection to the bill was, that it had not made the compensation \$2,500, instead of \$1500—then a man might come here with something like the prospects of home." As to the compensation of the Speaker, and President of the Senate, he said, "he should have liked the bill better, if it had given \$5,000 to each. The Speaker, he thought, ought to be enabled to take a House, and reside here as a great officer should do." These quotations may be sufficient to show the love of economy and retrenchment, and the perfect consistency of the present leader of the opposition party. I

instituted the office of Secretary of Legation, and commissioned Thomas Sumpter, Jr. Secretary of the Legation to France; and in August, in the same year, he in like manner commissioned John Graham to the same office at Madrid.

President Madison, in 1813, commissioned Messrs. Adams, Gallatin, and Bayard, to treat with Great Britain, under the Russian mediation. It is a singular fact, in relation to this mission, that the anti-war party in the Senate, in 1814, led by Mr. Gore, of Massachusetts, attacked President Madison for exercising this power, and he was sustained by the entire Republican party.

The treaty with Spain, in which Florida was ceded to the United States provided for instituting a commission to ascertain the claims of our citizens against Spain, to "be appointed by the President, by and with the advice and consent of the Senate." President Monroe commissioned, among others, Messrs. Tazewell and White, now of the Senate, to fill this new office, in the recess of the Senate, and of course without its consent and advice, and they entered upon the duties of their office.

It would swell the limits of a note too much to enlarge upon the exercise of this power. Further information can be found in the 10th volume of White's State Papers, and a list of appointments up to 1814, in Senate Documents State Papers, 2d Session, 13th Congress, No. 17.—*Note by Mr. W.*

H. or R.]

Retrenchment.

[FEB. 6, 1828.]

will make one other quotation, sir, to show his regard for the will of the People, which is now so much harped upon. In the same debate, in reply to a gentleman from South Carolina, he said, "the gentleman had advised us to go home and consult our constituents. Consult them for what! For four pence half penny. Instead of receiving instructions from his constituents on this subject, he would instruct them." The gentleman from Pennsylvania, [Mr. BUCHANAN] said, if these things are done in the green tree, what may we not expect in the dry? If these remarks are to be considered as having fallen from the gentleman from Virginia, [Mr. RANDOLPH] in the green tree, we need not feel any surprise, at what falls from him now in the dry.

The gentleman said the other day, in the notice he condescended to take of my friend and colleague, [Mr. VANCE] he did not regret the vote he gave against the admission of Ohio into the Union—if it were to do over again, he would do the same thing—he never would vote for the admission of another *new* State. Sir, I represent a portion of one of these new States, and, for myself and my constituents, I claim, and will exercise equal rights and privileges with the gentleman from Virginia, or with any other gentleman from any one of the *old thirteen States*. We came into the Union upon a footing of perfect equality, and we intend to maintain a perfect equality of rights. I should be gratified to know, if the People of the *new* States are to consider this declaration of the leader of the party as a declaration of hostility by the party against them. Be it so, if they will. I have heard the gentleman, on a former occasion, speak contemptuously of the People of Ohio and the Western country, and exert his greatest power to bring them into ridicule. He remarked upon their dress and manners—their hunting shirts, moccasins, their leggins, their scalping knives, and tomahawks, and rifles; their half savage ferocity. Sir, I like the blunt honesty of this representative from one of the *old thirteen*. If the gentleman feels his dignity lessened by sitting here with the Representatives of these half savage, hunting shirt, and moccasin men, he must try to bear with it the best way he can. We may improve our looks and mend our manners after a little longer intercourse with the gentleman, and other members from the *old thirteen States*. Whatever opinion he may have of the Representatives from the West, if he will visit the country, and see the People, witness their industry, observe their love of order and decency, and partake of their hospitality and abundance, his respect for them will increase; but they will not part with any portion of their political rights, nor consent to be placed here in any degrading relation. On another occasion, I have heard of the gentleman's speaking of the non-slave holding States, something like this—I quote from memory. "You of the North have divided, we of the South have united, and can always unite—we have divided and conquered you once, and we can do it again. When we conquer you once more, we will drive you to the wall; and when we get you there, we will nail you to the counter like base money." We shall see, perhaps, ere long, whether the People of the non-slave holding States will be again divided, driven to the wall, and nailed to the counter like base money, at the will of the gentleman. It remains to be seen whether threats of this kind are to be carried into execution and submitted to—if they are, the People of those States will richly deserve to be nailed down like base money; they will be undeserving the privileges of freemen.

The gentleman discourses upon matters and things in general, and is exceedingly happy in *being always in order*. When the resolutions were in their original shape, such discourse was according to their letter. I will not undertake to follow his course. In a few sentences, the other day, he brought together, in singular relation to

each other and the subject, Peter Porcupine, the Essex Junto, Polyphemus, Barnabas Bidwell, the Jackson Party, Purdy, and the horse Eclipse. Politics, like misery, brings one acquainted with strange companions. I have lately heard a great many jockey and gaming phrases introduced into debate, by gentlemen, but I little expected they would introduce jockey riders and race horses into our discussions. We have one instance recorded of an attempt to make a horse a Senator, and to clothe him in official robes; but I cannot suppose the gentleman, much as he admires Eclipse, would confer Senatorial dignity upon him, or bring him into this House. The gentleman says the expenses of this Government are not to be reduced but by the election of the Opposition candidate, and again reducing our expenditures to specific appropriations, avoiding contingent funds and constructive powers. On this subject, I will refer the gentleman to the accounts of General Jackson for holding Indian Treaties, while enjoying the full pay and emoluments of a Major General; his travelling expenses from Nashville to New York, and to his expenses of many dollars for wine and other luxuries to supply his table, while Governor of Florida, and receiving the pay and emoluments of his station. I do not complain of these allowances; they were doubtless made for good cause; but, if the accounts of Mr. Adams, and the allowances to him prove him unfit for the Presidency, these claims of General Jackson, and allowances to him, cannot go far to prove him better qualified. I think none will be able to find either usage, or legal provision, or specific appropriation, for these expenditures.

Considering the relation in which I stand to the gentleman from Virginia, I hope he will not consider me out of the rules of common courtesy, if, while I congratulate him and his friends on the remarkable ease with which he discharges his duty as leader, and his increased activity in the good cause, I offer him my condolence on the difficulties which so much afflicted him when he appeared among us yesterday. These difficulties which disturb him so much, are only those incident to his station as head of the political family: these little "family jars" will happen in the best regulated families: they should be expected, and the gentleman should not allow them to throw him into such violent agitation: he will soon become familiar with them. Surely, he who can keep young doctors from administering medicine, call in the political hounds from the chase, and whip stragglers within the lines, at his pleasure, should bear such trifling crosses. In the report objected to, the gentleman complains that he is made to say he offered himself a volunteer witness on the charge of corruption. If he was not a volunteer witness, pray what sort of witness was he? His attendance had not been coerced, by subpoena or otherwise. He took the stand and gave his evidence without compulsion. I certainly would not be guilty of testifying the general credit of the paper that the gentleman handled yesterday with gloves on, as if it were unsafe to touch it with tongs; yet I believe a large portion of the House understood him to say pretty much what he is reported to have said—else, what relation to the subject had his declaration that he knew something of a corrupt bargain between two of the high contracting parties? Why did he say it was just before the election, when Mr. Crawford obstinately refused to die, while it was uncertain how the vote of Louisiana had been given, and who would be the third candidate returned to the House? But, sir, as the witness desires the privilege of explaining away, or taking back what it was understood he said, I will not hold him to the statement. From what he now says, it appears he knows nothing relevant to the subject in dispute. I should have called the gentleman to order yesterday for his remarks, if he had not volunteered himself, and being then giving testimony to stultify the official organ of his party. On

FEB. 6, 1828.]

Retrenchment.

[H. OF R.]

that account I left it to others to interfere. I hope the gentleman will not despair: he has reason to be encouraged: his remarks of yesterday have already produced an important effect. He has drawn to himself the encouraging notice of the Editor upon whom he commented. In the paper of this morning, the Editor remarks upon the proceedings of yesterday, from which I will read a passage or two: "We say, we consider the manner, as well as the occasion, particularly unfortunate for Mr. Randolph. He knows, and so does every member of the Senate, that he is more indebted to this paper, than to any individual, for a disinterested vindication of that reputation upon which he places so high an estimate." Again, he says: "It was therefore, unfortunate for Mr. Randolph, that he should have impeached, in the manner in which he has chosen to do it, the only press which, at this place, has presented a barrier to the accumulated calumnies, that, but for us, would have crushed him to the earth. We have defended him when his favorite press, in his own State, has faltered." Sir, how could the gentleman feel justified in waging war upon a press that had so magnanimously sustained him, and but for which he would have been crushed to the earth? But, let the gentleman be encouraged; he will yet be sustained by the same press: his offence, thought great, will be forgiven—not revenged. Nay, the gentleman has cause for gratulation, in having met so magnanimous an antagonist. He has even excited his compassion, and drawn forth his pity. I will read: "We know the causes which operate upon a sensibility too easily excited at all times, and rendered, at this moment, more irritable by disease, have led to this attack. Were we to act under a similar impulse, we would leave Mr. R. to his fate; we would silence our press as to him; but we act from higher and nobler motives." Here is a magnanimity that is truly praiseworthy, which, I hope, will reassure the gentleman from Virginia he will not be left to his fate. The gentleman from Virginia, who has been in public life a fourth of a century, will not be crushed into the earth; will not be left to his fate. How generous! These Editors will sustain him for the cause they unite with him in supporting! I cannot take leave of the gentleman, without recommending to him amidst the difficulties that perplex him, the application of the legal maxim he called your attention to the other day, "*De minimis non curat lex*."

I have now done with this thing forever—I hope no one will mistake the matter to which I allude; I have done with this thing—not with the gentleman from Virginia—him I hope to meet often, in good health, and to unite with him in the work of reform.

Mr. HAMILTON rose and said: I hope that the wish of the member from Ohio will be gratified, and that he may be destined to meet my friend from Virginia, [Mr. RANDOLPH] on this floor. But, when he desires to signalize his valor by such a *rencontre*, I trust he will meet him face to face, and not assail him behind his back.

Mr. KREMER said, by this time, doubtless, the House is ready to inquire whether I have risen again, at this late hour, to discuss the merits of this resolution. No; I have not risen for that purpose. It would be paying but little respect to the understanding of the House were I to attempt to shed any additional light upon this subject. It has been fully discussed. And I had hoped the speaking mania had ceased. In this expectation I have been disappointed. I now feel it necessary to take notice of the gentleman from Ohio, [Mr. WRIGHT] because, although on certain occasions, and towards certain men, silence speaks a significant language, its meaning is not always understood, and any answer being an act of civility, I take notice of the gentleman, lest he might think himself neglected. I will not follow him through his very lengthy speech, which contained neither argument, reason, nor amusement.

The gentleman from Ohio has told us, that the People will decide this question. I have no doubt, sir, that the People, in 1828, will measure that justice to the younger, which they meted out to the elder Adams, in 1800. He tells us that there is no corruption here! Shall I enter into an argument to prove that two and two make four? Could that render this truth more clear? Shall I, by the force of argument, undertake to prove the existence of the sun? Yet, sir, that is not more clear than the corruption of this coalition. What! Have we not seen the Speaker of this House, who held an influence over five Western States, make the President of this Union? And have we not seen him receiving the price which it was "said and believed" would be paid for his abandonment of duty to his constituents? And yet, the gentleman says that he cannot believe; and that there is no proof! Does the gentleman expect that witnesses were called to witness the dark deed? No, witnesses are never called on such occasions! Deeds of darkness shun the day.

I have seen queer things in my time. The gentleman has read long extracts from newspapers, and favoured us with a huge pile of books. I do not know why that huge pile was brought here, unless it was expected that the House would receive a mass of books for argument. To this huge pile, I can only oppose a single extract from a newspaper. Yes, Mr. Speaker, I have seen many queer things—and I hold one now in my hand, which I will read. It is an extract from a letter written by a distinguished, although not an eminent lawyer, as he himself has said, a member of this House.

[Mr. KREMER then read the following extract of a letter written by Jno. C. Wright to Charles King, Speaker of the House of Representatives of the Ohio Legislature, and dated at Washington City, January 20th, 1827, as quoted by Mr. King in his letter to the editor of the United States' Telegraph, dated Chillicothe, May 17, 1827:]

"It has probably been determined that Old Hickory shall not be withdrawn. We, of Ohio, I believe had better stand aloof, and let them poll. We have little interest in the game. With Adams, we never can be affiliated—we are antipodes to him. Our Kentucky friends seem to be willing to have us with them, if we will fight their battles, and secure them all the sweetmeats, under the pretence of keeping old Kentucky in the shafts. In truth, the folks can't keep up without Ohio, and they do not feel disposed to give Ohio any thing."

Now, (proceeded Mr. KREMER) allow me to ask the gentleman from Ohio, how he accounts for the sudden conversion of this letter-writer? He has now become a zealous advocate for the coalition. I do not pretend to talk with the gentleman from Ohio, who has said that the gentleman from Virginia is our leader. This I deny. The People have no leaders. They have taken their own cause into their own hands, and will elect General Jackson, in defiance of the politicians. The gentleman from Ohio can inform us why it is that he is not now disposed to wait for old Kentuck—he, no doubt, can tell us all about the sweet-meats: for he is the carter who cracks the whip, and drives the Administration team.

Mr. DRAYTON then obtained the floor, but yielded it at the request of

Mr. WRIGHT, who said, to the remarks you have just heard, Mr. Speaker, which the gentleman from Pennsylvania has been put forth to make, at me, nor to the scandalous publication that has been furnished him from which he read, and in relation to which he questioned me with such evident satisfaction to himself, and those who put him in motion, I shall give no reply. But, Sir, I hold in my hand a paper purporting to be a certified copy from the records of the Court in the county of Northumberland, in the Commonwealth of Pennsylvania, of a bill of indictment against one Geo. Kremer, for perjury, and I ask if it would be in order to read that as a reply to the gentleman?

II. OF R.]

Retrenchment.

[FEB. 6, 1828.]

The CHAIR said it would certainly not be in order.

Mr. TUCKER, of South Carolina, moved the previous question; but was prevailed on by those around him to withdraw the motion for the present.

Mr. KREMER rose to reply to Mr. WRIGHT, beginning by saying, "I am the man named in that bill of indictment," but was called to order by the Chair.

Mr. WILLIAMS, of N. C., inquired if Mr. WHIFFLE, [who had been called to order by the Speaker] might not proceed; having taken his seat when required to do so by the Chair?

The SPEAKER said, that the gentleman from N. Hampshire had forfeited his right to the floor. The SPEAKER felt no wish to restrain, improperly, any member from addressing the House. For the last nine or ten hours he had been, although indisposed, in his chair, anxiously endeavoring to preserve the order and dignity of the House, and restrain any thing like disorder; but he found it impossible, without interposing the power of the Chair. He had, therefore, deemed it his duty, after repeated calls and violations of order, to direct the member from New Hampshire to take his seat, and should not permit him to proceed, without the assent of the House.

Mr. DORSEY now moved to insert the amendment he had offered yesterday, and which he had withdrawn to day, to enable Mr. BARTLETT to address the House on the main question, viz: to insert in the amendment proposed by Mr. HAMILTON, and agreed to by the House, after the words "secret service fund," these words: since the first day of July, 1790.

On this motion, the yeas and nays, were ordered by the House.

Mr. DRAYTON said, from the tenor of the resolutions moved by the gentleman from Kentucky, [Mr. CHILTON] and of the amendments to them, offered by the gentleman from South Carolina, [Mr. HAMILTON] it appears, that their objects are to enquire into the expenditures of this Administration, and to ascertain whether they cannot be diminished. To one of these expenditures, that relating to what has been termed "the secret service fund," the amendment of the gentleman from Maryland, [Mr. DORSEY] exclusively applies, and is amendatory of an amendment of the gentleman from South Carolina, upon the same subject. No other exception, then, could be urged against the amendment of the gentleman from Maryland, than that it was superfluous, being embraced within the scope of the amendment of the gentleman from South Carolina. Admitting this to be the case, it is not worth an argument, or rather the time which the argument would consume, to show that the amendment is superfluous; because its reception will not interfere with, or embarrass the proceedings of any committee, to which the pending resolutions may be referred. But, if the amendment of the gentleman from Maryland is calculated to render more full and perfect the information sought for by my colleague, then, of course, it ought to be adopted: that it is calculated to produce this effect, seems to me, to be manifest. The mere specification of the amount of moneys disbursed by the present Executive, out of the secret service fund, unconnected with the knowledge of what has been expended, out of the same fund, by his predecessors, would be useless. Without comparing together the amounts thus disbursed by the President and by his predecessors, and taking into consideration the times, and the situation of the country, in its internal and external relations, we can arrive at no conclusion approaching to satisfactory. These comparisons are impossible, unless the amendment of the gentleman from Maryland be acted upon, and therefore, it ought to be adopted. With all possible official lights, we shall still be at a loss to form an opinion, upon the propriety or impropriety of disbursements, regulated by Executive discretion, often exercised upon delicate transactions, which

both policy and good faith require to be kept secret. It has been suggested, that the committee without this amendment would make the investigation it calls for; but they might not. By the tenor of the resolution, relating to the secret service fund, they would not be, necessarily, lent to that extended investigation, as the language of the resolution limits the inquiry to the disbursements by the President in office. To guard against any omission, and to obtain the facts required, we, therefore, give to our Committee the instructions we think proper for its guidance. Committees are the organs of this House; and 'tis the right, and the duty of the House to give them such directions as it thinks best calculated to attain its objects, and not to leave to inference, what may be rendered definite and certain. 'Tis also desirable, whenever an inquiry is instituted into the conduct of a public officer, that every semblance of prejudice, or party spirit, should be evident. In moving his amendment, my friend and colleague was influenced by fair and honorable motives; but, if an amendment, the effect of which is to throw light upon the conduct of this President, by comparing it with that of other Presidents, under similar circumstances, should be rejected; then the inference might be drawn, that the resolution of my colleague was framed with the view of excluding necessary and important information, and a character be thus given to it at variance with what he intended. In conducting an inquiry into the conduct of a public officer, we ought not only to have all the evidence before us, which we think is calculated to enlighten our judgments, but which the friends of that officer, upon this floor, may deem necessary for his justification, unless what is required should be plainly indative. Whether the amendment of the gentleman from Maryland be important or unimportant, may admit of a difference of opinion: that it is not indative, will be conceded by every one. For these reasons, I am in favor of the amendment which has been proposed by the gentleman from Maryland.

Mr. KREMER again rose to explain, in reply to Mr. WRIGHT, but was called to order by Mr. DORSEY.

The SPEAKER rose, and addressed the House. He said that he understood the gentleman from Pennsylvania, as expressing a wish to explain. For his part, he felt bound to give him the floor. An allusion had been made by the gentleman from Ohio, to a paper, which was calculated to implicate deeply, the private character of the gentleman from Pennsylvania. Although the gentleman from Ohio had been stopped by the Chair from reading that paper; yet the allusion to it, under the circumstances, might, without explanation, have an injurious effect upon the character and feelings of the member from Pennsylvania. It was, therefore, due to the gentleman, to his constituents, and to the House, that he should have an opportunity of explaining. The Chair should not, therefore, pronounce the gentleman from Pennsylvania out of order, but would permit him to explain.

Mr. KREMER said, it is true that I was prosecuted for perjury; it is equally true, that I was triumphantly acquitted without the jury leaving their box. The prosecution originated in consequence of a suit which occasioned, in Pennsylvania, considerable excitement; (Snyder vs. Snyder, the late Governor of that State.) This suit had been brought to August term, 1805, when great political excitement existed. It was first tried in November, 1806. I was then examined as a witness. It was afterwards tried, but the year I do not distinctly recollect, but it was down for trial at November term, 1810. The importance of my testimony was well known to the plaintiffs, and they had no hope of success unless they could shake my credibility. For that purpose the prosecution was got up, on testimony which I had given a short time before, in another case, in which one of the same plaintiffs was a party. Every particle of testimony



FEB. 7, 1828.]

*Case of Marigny D'Auterive.*

[H. or R.]

which I had given; I substantially proved to be true—and so entirely satisfied was the Court, that they declared that they would not lend their sanction to such a proceeding; that if the defendant wished a verdict, it might be taken from the box. It was so taken. And so entirely satisfied of my innocence were the Court, the bar, and the people, that there was not one of the Judges or counsel concerned, who has not remained my warm friend through life.

Not long afterwards, I was elected by the people a member of the Legislature, and continued by them as long as I desired to remain. About the same time, I was elected a manager of the Northumberland Bridge Company, in sight of the town of Sunbury, where the trial was held, with Mr. Hall, one of the prosecuting attorneys, and several other political opponents, of the first standing in the county, who were always my personal friends.

Sometime afterwards, I was elected President of the Lewisburg Bridge Company, of which I had been a manager from its commencement, and acted as such as long as I was willing to serve. I have been three times elected to Congress. The last time, out of twelve thousand votes, I did not lose three hundred: and, in the town of Sunbury, the very seat of this transaction, out of three hundred, I did not lose ten votes. This, I think, is a sufficient reply, and must satisfy every candid and honorable man, that there was no foundation for the charge thus attempted to be made against me. Can the gentleman from Ohio produce as strong evidence of his good standing at home? I now appeal to the House to say, whether any man of honor, any man of feeling, would introduce so base a charge? No, sir, no gentleman would have done it. None other than the base pander of a corrupt coalition would have done it.

[Here Mr. KREMER was called to order by the SPEAKER, and resumed his seat.]

Mr. WRIGHT now obtained the floor, when

Mr. HAILE called him to order, and said, he hoped the member from Ohio would be put down.

The SPEAKER said Mr. WRIGHT was entitled to the floor, and would proceed.

Mr. WRIGHT said, Sir, I wish this subject to be understood. I neither read the indictment nor offered to read it. I thought the paper quite as pertinent to the subject under discussion as the paper furnished to the gentleman from Pennsylvania, and from which he read. What I did say on that subject, I will repeat: "Sir, I hold in my hand a paper, purporting to be a certified copy from the records of the Court in Northumberland County, in the Commonwealth of Pennsylvania, of a bill of indictment against one George Kremer, for perjury," and I asked if it would be in order to read that as a reply to the gentleman. While I am up, sir, if permitted, I will make a single remark, farther. The case explained by the gentleman, in which he was indicted for perjury and acquitted, does not appear to be the same one described in the paper I have. The parties to the suit, when the evidence was given in, are different from those named by him.

Mr. HAMILTON then made a statement in opposition to the amendment of Mr. DORSEY, to which he objected as including a period of war, the money paid to John Henry, &c. but suggested to Mr. D. to modify his amendment so as to go back to the close of the late war.

Mr. DORSEY refused to modify his amendment, and made a few explanatory remarks.

The question then being on Mr. DORSEY's amendment to Mr. HAMILTON's resolution,

Mr. J. S. BARBOUR said, he should vote against it; but wished to introduce another in its place, carrying back the inquiry to the 4th March, 1817.

Vox. IV—92

The question was then taken on Mr. DORSEY's amendment, by yeas and nays, and decided in the affirmative.

The question now recurring on the amendment of Mr. BLAKE, as amended by Mr. HAMILTON, and modified by Mr. DORSEY, [which latter amendment was virtually a substitute for the amendment of Mr. BLAKE,]

Mr. TAYLOR demanded the yeas and nays, and explained his reason. He had voted against Mr. HAMILTON's amendment before, because he preferred that of Mr. BLAKE; but he should now vote for it, because he desired the inquiry, and preferred the amendment to the original resolution.

The yeas and nays being taken, were yeas 173, nays 2.

The question was then put to agree to the resolutions of Mr. CHILTON, as amended, and was determined in the affirmative unanimously.

So the resolutions passed in the following form:

"Resolved, That a Select Committee be appointed, whose duty it shall be to inquire and report to this House, if any, and what, retrenchment can be made, with safety to the public interest, in the number of the officers of the Government of the United States, and in the amount of salaries which they may respectively receive; more especially, to report specifically on the following heads:

1st. What reductions of expense can be made in the State Department, in the number and salaries of the officers and clerks attached to this Department, in the expenses regulating the foreign intercourse, and in the printing and distribution of the public laws of the United States.

2d. What reductions in the Treasury Department, and whether an effective system of accountability, and for the collection of the public dues, is there established.

3d. What reductions of expense can be made in the Navy Department, in the clerks and officers now acting subordinately to the Secretary of the Navy.

4th. What reductions of expense can be made in the Department of War, in the Indian Department, and in the clerks and officers now acting subordinately to the Secretary of War.

5th. What reductions of expense can be made in the number of officers, and the amount of compensation which they may receive, in the Postmaster General's Department.

And that the Committee be further instructed to examine the several contingent funds of each of these Departments, and to report the amount and objects for which disbursements have been made, from these funds; and that they report the amounts, vouched and unvouched, which have been paid from the secret service fund, since the first day of July, 1790, or the fund regulating the contingencies of foreign intercourse, and of the fund for the expenses of the intercourse with the Barbary Powers.

And that they further report whether the compensation of members of Congress should be reduced; and whether the fixed salaries of the officers of this House and its contingent expenses, can, with propriety, be diminished.

And further that they inquire whether any modification of the sinking fund act can be made, with a view of producing a more speedy extinguishment of the public debt."

Mr. HAMILTON, Mr. INGHAM, Mr. SERGEANT, Mr. RIVES, Mr. EVERETT, Mr. WICKLIFFE, and Mr. WRIGHT, of New York, were appointed the Committee.

THURSDAY, FEBRUARY 7, 1828.

#### THE CASE OF MARIGNY D'AUTERIVE.

The engrossed bill for the relief of Marigny D'Auterive came up for its third reading; and the question being—shall the bill pass?

Mr. LIVINGSTON moved that that question be taken by yeas and nays, and they were ordered by the House.

Mr. MINER said, before the question should be taken,

H. OF R.]

Case of Marigny D'Auterive.

[FEB. 7, 1833.]

he wished to be heard. That the subject was important, was manifest from the deep interest it had excited. I had intended, said Mr. M. to have addressed you at an earlier stage of the discussion; but one gentleman rose after another, anxious to be heard, and I could not bring myself to believe that what I had to offer was of as much consequence as what they would advance, and I remained silent. One or two gentlemen touched pretty strongly the points which seemed to me material to the case: the gentleman who first spoke from New York, [Mr. CLARK] and my honorable friend near me, [Mr. MARTINDALE] but no one has placed the subject in exactly the light in which it presents itself to my mind, and I must ask leave to speak for myself.

What is the real question—the point upon which we are at issue? Is it the amount involved? The sum in dispute is less than two hundred and fifty dollars; less than the cost in time expended in reading the documents. That is not the question. Is it because the slave was impressed? I heard the ingenious constitutional argument of the gentleman from New York [Mr. STORRS] with lively pleasure. To the sound doctrines asserted by him and his colleague, [Mr. S. WOOD] I give my hearty assent. But if impressment was the material and governing point in the case, the objection would apply with equal force to paying for the horse and cart, which were forcibly taken as well as the negro; and to paying for the horse and cart no objection is made; not a voice heard. The bill would have passed *sub silentio* had not the amendment been proposed to pay for the slave. Sir, ingenious and eloquent as was the argument on the subject of impressment, the whole House, I think, felt with me that this was not the real question to be decided. Is it whether slaves are property? Have the legal rights of the master been questioned? Has not his absolute control, under the laws, to the custody and services of his slave, been admitted? But it is argued, that slaves are private property. Private property cannot be taken for public use without compensation being made. A slave has been taken; therefore, he must be paid for. Now, Mr. Speaker, if this embraces the real point at issue, all is as clear as a syllogism can make it. Perfect demonstration. And why is there, or should there be, any difficulty in the matter? I again confidently appeal to the House, and ask, if while we listened to the ingenious argument of the gentleman from Massachusetts, [Mr. EVERETT] it was not known and felt that it did go to the root of the matter?

If these had been the real questions, why all this excitement—this feverish excitement—and high-wrought anxiety? Why, if the case is so simple and plain, have such claims been rejected, from the foundation of the Government up to this day, though frequently presented and pressed upon Congress? Why has the Committee of Claims, a committee whose intelligence, whose adherence to just principles, and whose careful research and industry, have given them, in an eminent degree, the confidence of the House and the nation—why has that committee, steadily and perseveringly, reported against such claims? And, let me inquire further, why this protracted debate, and how is it to be accounted for, that the gentleman from Virginia [Mr. RANDOLPH] should have desired the gentleman from Louisiana [Mr. LIVINGSTON] to withdraw his amendment?

All goes to shew, Mr. Speaker, that the real merits of the question lie deeper—that these fair and plausible arguments do not touch the marrow of the matter. No, sir, the real question at issue is of vastly more importance—of deep and vital interest to this community. And what is that question? In my judgment, it is: In what relation do slaves stand to this Government, and what obligations and duties spring from that relation? In other words—Is this Government bound to consider

them merely as property?—or, is it to regard them as persons, from whom may be exacted duties which all persons owe to the Government? Sir, this is a most important matter, not to the South alone, but deeply interesting to the North and West; for, it involves the question of the relative duties, sacrifices and sufferings, of the South, North, and West, in times of war—in cases of extreme pressure—in periods of great suffering, which have come to all nations, and may come to us. This view of the subject I propose to discuss freely and fearlessly, but certainly fairly as possible. I would not willingly give pain or offence. We have not brought this subject here. We have not brought on this discussion, and are in no degree responsible for the excitement it has produced. The subject of slavery is always a delicate one, but it cannot be concealed that it is a great interest in this nation. It is impossible, in the nature of things, that such numbers should exist in any nation without being a matter of frequent and grave consideration to the statesman. We cannot shut our eyes to its magnitude and rapid increase. It is not an inert mass of matter, of no national concernment. It presents an aspect which the prescient eye of the statesman cannot fail to regard with interest, if not with anxiety. The political relation of that class to this National Government also renders it a fair subject of consideration. Delicate, therefore, as the subject may be, it cannot always be evaded. I hope to be pardoned for supposing that the views taken, and the peculiar turn given to the argument, arose from the unpleasantness of entering into the subject in the aspect I view it. In my judgment, the great interests of the Republic require that this, like every other subject which concerns the nation, should, within this Hall, be openly and freely discussed—considered in all its National lights and bearings—and that, too, without any cause of offence. It would be strange, indeed, if it were the fact, that there is a class so considerable, an interest so extensive, presenting a political aspect so national and imposing, which the Representatives of the People, in this Hall, sacred to free discussion, must not speak of. I do not think so. And while I express my sentiments without reserve, I pray gentlemen to recollect, if, in error, Mr. Jefferson has told us of "the safety with which error may be tolerated where reason is left free to combat it."

On what ground, then, is the claim of D'Auterive, for his injured slave, sustained? If I comprehend it perfectly, it is: 1. That slaves are to be considered by this Government merely as property; 2d. That, if taken into the public service, it must be merely as property, and not as persons; 3d. That they can be used only as taken as property, not as persons—that is, to labor, not to defend by arms; and, as a resulting consequence, 1st. That, in all future wars, all slaves used by the Government, in any emergency, if slain or injured, are to be a charge upon the public Treasury: 2d. That, in all future time, however pressing may be the exigencies and distress of the country, the slave population is wholly beyond the constitutional power of the Government, for defence. In the language of an honorable gentleman from Virginia, [Mr. P. P. BARBOUR] that "slaves can, in no case, be considered or treated as militia—as troops: that is out of the question. Such a proposition cannot even be received for discussion." To these propositions I am not prepared to accede.

It has been well remarked, on one side, that what the law has made property, is property. And it was admirably answered, on the other, Those are persons whom God hath made persons. The African has been made property by man. He was formed a person by his Maker. But the question we have to consider, is, How is he regarded by the Constitution? That is the chart to guide us. The Constitution is our manual and text-

FEB. 7, 1828.]

*Case of Marigny D'Aulverie.*

[H. or R.]

brook. What that considers them, so, most clearly, are we, the creatures of, and acting under its authority, bound to consider them. The Constitution was advertised to by the gentleman from New York, [Mr. CLARK.] I wish to bring out the passages which refer to the subject in somewhat bolder relief. They appear to me to have a strong influence upon the question. And permit me here to say, I cannot agree with another honorable member, that it is hypocritical to consider the expressions of the Constitution as having a direct bearing on the matter. I do not admit that the words there used, were used from mere delicacy, to avoid the word slave; but that they were well weighed, duly considered, and meant to have the precise signification which they purport to bear. In article 4, section 2, it is said: "No person, held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged," &c. Again: article 1, section 9, "The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited," &c. Slaves, in both cases, are referred to, and are styled persons. I beg leave again to refer you to article 1, section 2: "Representatives and direct taxes shall be apportioned among the several States which may be included in this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons." Those other persons, of course, are slaves. The Constitution, therefore, every where regards, and speaks of them, as persons. They impart large political powers, as persons. They give a powerful representation on this floor as persons. Sir, I deny that this representation is in consequence of direct taxes being apportioned in the manner provided, as has been urged by some gentlemen. Such a sentiment would seem to me to be disrespectful to the great and good men who framed this admirable system of Government. What, sir, sell the right of representation for money! Give to any portion of the Union an undue proportion of representative power, upon condition of its contributing a trifle more to the public Treasury! Sell the sovereign power of legislation over them, for considerations merely mercenary! Allow persons to make laws for them, in respect to life, liberty, and property, merely to escape an occasional direct tax! Are these the men who resisted the right of the British Parliament to make laws for them, because they were not fairly represented in Parliament, even to blood, putting life and sacred honor at stake on the contest? No, sir, I cannot do them such injustice. The apportionment of direct taxes was a consequence, not a cause; it followed, and did not go before; it followed fairly and justly the established principle of representation.

To establish the point that slaves are regarded by the Constitution as persons, and not merely as property, I will present another view. Suppose two States lay side by side; equal in territory; equal in numbers. Suppose one State poor and sterile—poor as Sparta with her black broth and iron money. Suppose the other rich as it is possible to conceive her—the mines of Potosi in her bosom—having all the wealth of "Ormus and of Ind;" and added thereto the gold coining mines of the richest manufactures of Great Britain. Sir, in political power these States would be equal; according to your fundamental law—exactly equal. Property is not represented in the Federal Government. The principle may prevail in some of the States. Here it is excluded—unknown. The poor and the rich State stand in an exact equality as it respects representation here. Advance a step further. Suppose to the State already abounding in wealth, you add more riches, in the proportion of five to

three—heaping Pelion upon Ossa, and all solid gold. Is her political power—is her representative number increased? Not the least. But add to the poor State, slave persons or property, in the proportion of five to three, what effect would such addition have on her representative power? It would be doubled. It is as persons, therefore, and not as property, that they are represented. 1st. Thus nature hath made them persons. 2d. The Constitution constantly speaks of them as persons. 3d. They impart large political power as persons. In the electoral colleges for the choice of President and Vice-President, they give more than twenty votes—about one-twelfth of the whole. On this floor, those persons give a representation, equal to that of the whole existing representation of nine States. Louisiana, Alabama, Mississippi, Missouri, Illinois, Indiana, Delaware, Rhode Island, Vermont, and two or three more. Sir, this is a political interest of great magnitude, of a national aspect, to which we cannot be indifferent if we would; and ought not if we could. It is the duty of the statesman to look it full in the face; to see its bearings; to trace its influence, and to be careful that, under the plea of the delicacy or excitement which may arise from speaking of it, unjust principles be not established, which may prove hereafter extensively injurious.

Then comes the solemn question: If they are so regarded, and if they impart so much power and influence as persons, why shall they not, in common with all others, perform the duties of persons, in times of extreme distress and pressing emergency? I pray you to bear in mind, Mr. Speaker, that we have not come here to ask the House to establish this position—we do not wish the House to affirm this proposition; but the question being brought here by those interested in slaves, and different principles being avowed, we are compelled either to submit to their construction—to permit the negative of the proposition to be established, what we deem a dangerous precedent set, or to contend against it. And how can we disprove the negative, but by arguing affirmatively? We do not wish to discuss the question at all. It is forced upon us. I was silent, until, wholly unexpectedly, the amendment and bill, on a second reading, being sustained by a majority, alarmed me. Should the bill now be negative or laid on the table, no principle is settled—no precedent is set which can possibly be injurious to the Southern interest. It may be taken that the bill was laid aside, not on principle, but from expediency—from want of due proof. No principle is involved in a negative decision.—Not so if the bill passes. In such case, especially after the arguments urged and the doctrines avowed, the principle would be fairly considered as solemnly established, that slaves are merely property—not to be regarded by us as persons bound to protect the soil, wholly beyond the powers of this government for defence; and, if any of them are injured or slain in battle, that they are a charge on the National Treasury.

To see this matter in its proper light, it is worth while to look into its magnitude. What is the slave population? Nearly two millions of souls; and must embrace not far from four hundred thousand able-bodied men. Our census, every ten years, tells us of its rapid increase. What will it be in half a century, if it continues to advance? Sir, the lad who sports in this area, and brings resolutions to your table, may live, lingering yet in your lobby, the old and faithful door keeper, recounting to those who come after us, anecdotes of the distinguished men now in my view—how this one spoke—how that delighted—and of those who may appear on this floor from time to time, as the stream bears us onwards—that lad may yet live, so rapid is their multiplication, to see this class increased to twelve millions, having among them two millions of able-bodied men. Protesting against the

H. or R.]

Case of *Marigny D'Auvergne*.

[Feb. 7, 1828.]

wish to establish, affirmatively, any right to the services of these for defence, we may yet be led to doubt the wisdom of admitting that they may not be so used. When their number and rapid increase are considered, it becomes a momentous question. If they are wholly exempt from the military power of this Government, the fact is most important, because it would follow that the burdens of war must fall, with seven fold force, on the North and West. In time of great pressure for men, not only must personal duties fall more heavily on the free States, involving the loss of life and health, but they must be subjected to vast and inevitable sacrifices of property, from the abandonment and neglect of business. As slaves increase, in the same proportion, if no part may be called upon for defence, must the free white citizens of the States, where they exist, be kept at home for the preservation of domestic peace. Their exemption, therefore, not only takes so many persons from the list, but actually occasions the absence of nearly as many more to guard them. Laws already exist in some, perhaps several, of the States, where slavery prevails, providing that only a certain portion of the militia shall leave the State at one time.

The burdens of defence are already, from existing causes, heavier on the free States than on those which have slaves. Your tables of enlistments, showing the proportion of soldiers who enter the public service from the different portions of the Union, would put this matter in a striking point of light. Look, too, at the militia of the States. In Ohio, if I am rightly instructed, one-fifth of the population are on the muster-roll; in Louisiana, one-fifteenth; in South Carolina, one-nineteenth. The tax, the heavy tax, of arms, uniforms, trainings, and ammunition, bears, in time of peace, with three-fold severity upon us now. What, then, must it be in time of war, even in ordinary contests? But admit the principle contended for by those who sustain this bill, and how exceedingly unfair and disproportioned would be the burdens of the North and South in time of great trial and severe pressure.

You will remember, Mr. Speaker, that the great and delicate point, that the slave population may be touched by the General Government in time of war, is admitted. Under the eminent domain, it is conceded that slaves may be taken as property. All that is delicate in the question—the right of the National Government to take this property, or touch those persons, being admitted, we may proceed to discuss how, and when, they may be taken, under another principle, with less reserve. I beg, then, to ask, what is the eminent domain of sovereignty; and would earnestly inquire whether writers on public law do not lay down the position as broadly and comprehensively, that all persons are subject to the power of Government as well as all property. Vattel, book 1, ch. 20—"The State could not subsist, or constantly administer the public affairs in the most advantageous manner, if it had not the power to dispose, occasionally, of all kinds of property, subject to its authority. It is even to be presumed, that, when the nation takes possession of a country, the property of certain things is given up to individuals only with this reserve. The right which belongs to the society, or to the sovereign, of disposing, in case of necessity, of and for the public safety, of all the wealth contained in the State, is called the eminent domain. It is evident that this right is, in certain cases, necessary to him who governs, and constantly, is part, of this empire of sovereign powers," &c. Now, Sir, let us turn to another page, and see what the same writer has said, in respect to the power of Government over persons. In treating of war, book 3, ch. 2—"Every citizen is bound to defend the State as far as he is capable. Society cannot otherwise be maintained; and this concurrence for the common defence is one of the principal objects of every

political association. Every man, capable of carrying arms, should take them up at the first order of him who has the power of making war." Not only "citizens" are here spoken of, but "every man capable of carrying arms." Again, in a succeeding section: "As every citizen or subject is bound to serve the State, the sovereign has a right to enlist whom he pleases." Again: "No person is naturally exempt from taking up arms in defence of the State, the obligation of every member of society being the same. Those alone are excepted who are incapable of handling arms, or supporting the fatigues of war. This is the reason why old men, children, and women, are exempted." Thus the rule is universally comprehensive. "Those alone are excepted who are incapable of handling arms." Such is the rule laid down by writers on public law. If those writers are authority, in respect to the right of the State to property, why not equal authority in respect to the right of the State to the service of persons? "No person is naturally exempt." It is manifest that those who penned the Constitution had this writer distinctly in view; and is it not obvious, that the expression persons, so repeatedly used to designate the slaves, was a word, not of chance, but of choice, perfectly understood in its relation to the "common defence?"

I take [said Mr. M.] the sound general principle to be, that all who live upon the soil are bound to defend the soil—that all who live under a Government are bound to defend the Government. As it relates to this description of persons, the position taken derives great weight from this consideration. The State Governments, before the Constitution was formed, unquestionably possessed the power to call those persons into service for defence. The State Governments held over them supreme control for purposes of war. But the States gave up to the General Government the executive power of making war. In this particular, no reservation was made—no class of persons exempted. It follows, as a clear and necessary consequence, that the United States have the same full and sovereign power which the States, respectively, possessed. And this argument appears to me unanswerable. Nor is this idea, that this class of persons may be called upon to defend the country, founded alone in theory. A case has been brought to our notice, by a gentleman from North Carolina, where the Continental Congress, during the Revolutionary war, called on some of the States to draw on this population for several thousand men. The right, therefore, has been exercised. In other countries, where slavery has existed, it has been frequently and commonly exercised. At the battle of Marathon the slaves were unchained from their work blocks, and placed in the ranks beside citizens. I dare say, you recollect, Sir, in the recent researches in Africa, it is stated, that Barca Gana, a Negro and a slave, commanded the forces of the Sheik of Bornou. In the celebrated historical Scottish Novels, giving a picture of the times and manners when Richard Cœur de Lion reigned,—Gurth and Wamba even wore collars with the name of their master, and yet went out to battle with him. The history of the Northern Nations of Europe is full of cases in point. We are not now considering a case of policy or expediency; but the naked question of abstract right, or constitutional power. If the right exists it might be highly expedient to exercise it at home, or on ordinary occasions. Wars, pressing, desolating wars, which have come to all nations, may come to us. Defensive war is often best carried on by offensive operations. Scipio did not defend Rome in the plains of Italy. He risked no second battle of Cannæ. Sir, he carried the war into Africa; defeated Hannibal, and saved Rome by victory before the gates of Carthage. Such may be our policy. Suppose hostilities should break out between this nation and Mexico or Colombia—which God in his mercy avert. I pray for perpetual peace between these Republics. Or

FEB. 7, 1828.]

Case of *Marigny D'Auterive*.

[H. OF R.]

admit that it should be necessary for us to carry on military operations in the West Indies. American blood has been shed there. You will remember, Sir, the attack on Havana, where many American lives were sacrificed. In either case, whether at Vera Cruz, in any portion of the Gulf of Mexico, or in the West Indies, where it might be necessary to send troops, it would, from the peculiar unhealthiness of the climate, be an awful waste of human life, if Northern soldiers were to be employed. This class of population, under such circumstances, might furnish men whose habits and constitutions would render them invaluable. The African race make excellent soldiers. Large numbers of them were with Perry, and aided to gain the brilliant victory on Lake Erie. A whole battalion, at New Orleans, was distinguished for its soldierly appearance. Docile, obedient, brave, and of great muscular powers, they are admirably adapted for military service. From these considerations I deduce these positions:

1. That slaves are not exempt by nature and fitness from military service.
2. That they are not exempt by the principles of public law.
3. That they are not exempt by usage.
4. That they are not exempt by positive constitutional provisions.

Mr. Speaker, another branch of the subject presents itself for consideration. I have said that the exemption contended for, both by the principle on which payment is demanded for this slave, and the arguments by which the demand is sustained, involve questions of the relative sacrifices and sufferings of the South, North, and West, in high and dread exigencies of pressing war. In this view it is just to inquire, what is the rule claimed to be applied to the whole free population of the country? What right or power has this General Government over the free population, including all the inhabitants of the North and West? What are the doctrines of Southern statesmen upon this subject? It is now a time of peace, and the ship sails smoothly on its mirror sea. No burthensome duty, no serious sacrifice, is now called for. But we cannot fail to recollect that we have had wars, and the principles that were then avowed. In 1814, Mr. Monroe, then acting Secretary of War, to fill the ranks of the army, brought forward his celebrated plan of classification or conscription. In that plan he proposes: "Let the free white population of the U. States, between eighteen and forty five years, be formed into classes, of 100 men each, and let each class furnish four men for the war, within thirty days after the classification, and replace them in the event of casualty." Again, "If any class fails to provide the men required of it, within the time specified, they shall be raised by draft on the whole class." In support of this plan, Mr. Monroe says: "Congress have a right, by the Constitution, to raise regular armies, and no restraint is imposed in the exercise of it, except in the provisions which are intended to guard, generally, against the abuse of power, with none of which does this plan interfere. It is proposed that it shall operate on all alike: that none shall be exempted from it, except the Chief Magistrate of the United States, and the Governors of the several States." "It would be absurd to suppose that Congress could not carry this plan into effect, otherwise than by accepting the voluntary services of individuals. It might happen that an army could not be raised in that mode, whence the power would have been granted in vain. The safety of the State might depend on such an army." Again, "The idea that the United States cannot raise a regular army in any other mode than by accepting the voluntary services of individuals, is believed to be repugnant to the uniform construction of all grants of power, and equally so to the first principles and leading objects of

the Federal compact. An unqualified grant of power gives the means necessary to carry it into effect. This is an universal maxim, which admits of no exception." True, the plan proposes only to take "the free male population." If others are exempted, it is evidently only from expediency, not on grounds of right. The principle asserted, includes all, in its broadest and most unlimited sense, admitting, "no exception." Such are the doctrines of a distinguished citizen of Virginia, who has since been elevated to the highest seat of honor and confidence in the nation. But let us advance, in this examination, a step further. In ten days after this letter was transmitted to Congress, the Committee on Military Affairs, of which Mr. Troup, recently Governor of Georgia, was chairman, reported a bill for filling the ranks of the regular army. The first section provides for the classification of the free white male population, as proposed by Mr. Monroe; the word "white" having been added by the Committee. The section provides, "That, within — days after the classification aforesaid, each class shall furnish, for the service of the United States, an able bodied recruit, between the years of eighteen and forty-five, to serve during the war; who shall be delivered to the assessor, or marshal, or his deputy, to be by him delivered to the officer of the United States, authorized by the Department of War, to receive him," &c. Peace came, and the bill, of course, was not finally acted on. But, I deem this letter of Mr. Monroe, and the bill reported by Mr. Troup, as of very great importance in the argument, as they go to show their sentiments of the extent of the war-making power of the General Government. The letter of Mr. Monroe proposes to include, in its classification, free male persons: the bill reported by Mr. Troup exempts the black population, on grounds of expediency, it is fairly to be presumed, as Mr. Monroe, on the same grounds, had exempted, in his plan, the slaves.

How, then, stands the claim of right, on the part of this Government, as asserted by eminent Southern statesmen, over the population of the North and West, under the war-making power? Is the right claimed that the father may be taken—that the widow's son may be taken—that the master and the apprentice may be taken—that the bridegroom, not permitted the exemption of the Jewish law, may be forced from the arms of his newly wedded bride—not enlisted—not taken by consent—but forced into the service—taken by conscription—for the year, and the year in advance—not by consent, but by force—placed under martial law—under officers not of their choice, but strangers to them—marched to the swamps of Florida, or to the Rocky mountains! Is such the claim over the whole inhabitants of the free States, and is it insisted that there exists a class of privileged persons, elsewhere, wholly exempt from this dread power? The points now discussed, are not points of expediency, but of naked, dread, sovereign power. Sir, I do not think gentlemen ought to press us to settle this great question. Sufficient for the day is the evil thereof. When the time comes that the matter must be settled, let it then be met by those whose imperious duty it may be. It does not seem to me that any such necessity now exists. Why should we be pressed to make concessions, directly or indirectly, that this exemption exists? It appears to me it would be unjust to the North and West, that such principle of exemption should be established. By letting this bill rest, nothing is lost on either side; no principle is settled. To urge this matter, and to press the principles on which this bill is supported, are calculated to sow the seeds of bitterness far and wide. If the North and West have given themselves up, without limit, to the General Government, for the purpose of war, is it indeed true that the South has reserved a part, a large portion, of her population, from that power? Is

H. or R.]

*Case of Marigny D'Auterive.*

[FEB. 7, 1828.]

the right to a man's slave more sacred than the right to himself? Is the claim of the Southern master over his slave of a more sacred nature than that of a father to his son, or master to his apprentice? I do not compare the slave to the son or apprentice; but I contend that the slave is entitled to no pre-eminence or exclusive privilege. What is the connexion of master and slave? How is it founded, that it should be of so superior a sacredness and character? The master and the apprentice are connected by relations founded in justice, mutual utility, and the general good. The master may have taken the lad when young, poor, ignorant. He may have fed him, clothed him—nursed him in sickness, instructed him at vast expense, to be useful. At the age of eighteen, when the mind begins to expand, and the form has gained the strength of manhood—just at the moment when the apprentice has become useful, and is able to repay the master for his care and expenditures in his behalf, you come in and take him into the public service. Is not the master's claim sacred to his services? Is it not consecrated by mutual agreement—common interest—the public good, and the sanction of law? Is not the master impoverished by the loss of his services, as much as the master of a slave, by his loss? Do you pay for the apprentice if he be slain in battle? Wherein is the right of the slaveholder, by moral or legal obligation, more just than that of the master of an apprentice? You claim the right to take, by force, into your service, the only son of the widow. In lonely sorrow she has raised him by daily toil, from an infant, cheered by the hope that, with filial piety, he would requite her kindness, and sustain her declining years. Neither tears nor prayers avail—she has no means of providing a substitute. He falls, or returns wasted and broken by disease, a burthen, instead of a blessing to her old age. Is it your doctrine that he may be forced into the army, and that there are, in another quarter, near half a million of able bodied men, withheld from your power—too sacred for the reach of your laws, wholly exempt from the duties of defence? Payment for a slave, killed in battle, can be claimed as property, only on the ground, that Government has no power over his person, as it claims to have over all other persons, for the common defence. If Government has such power, then the slave must, of course, follow the condition of all other persons, and is no more a charge to your Treasury, if slain, than other soldiers, the loss of many of whom, in a pecuniary point of view, would be infinitely more heavily felt.

If this doctrine of exemption be correct, then have you power to arrest the whole productive labor of the North and West: for there your authority, as set forth by Southern Statesmen, is absolute and unlimited; while a large portion of the productive industry of the South, is sacred from your touch. Will it be maintained, as a principle in your Constitution, that all the laborers of the free States, without any exception, in the high and dread exigencies of war, may be called from their employment: the loom still; the anvil silent; the plough rusting in the furrow; the fields barren and unproductive; while four-fifths of the laborers of the South are at their peaceful employment, undisturbed by the din of war; your Southern fields waving with rich harvests; wealth flowing in a thousand streams into the laps of their masters? These are solemn questions to us, deeply affecting our interests. Sir, I deprecate this discussion, and regret that it should have been forced upon us. But in behalf of the farmer, and manufacturer, and mechanics, whom I represent, I do protest against the establishment of the doctrines contended for. Varying the remark of a gentleman, who spoke a few days since, let me ask: Suppose it had been proposed, when the Constitution was formed, by those who held slaves, that they should be represented, but be wholly exempt from the duties of defending the soil, however great the emergency; think you, Sir, such a

clause could have been ratified? I presume there can be but one voice in reply.

What, then, Mr. Speaker, is the true principle which governs the case? I apprehend it to be this: That, for the safety of all, all owe personal services, in case of necessity. This is the supreme, pervading law of civil society. All contracts are made, and all relations in society exist, subordinate to this general, all pervading, supreme law. The master takes his apprentice, as he exists himself, subject to this silent, but ever existing principle. All persons exist subject to it. The master himself is not exempt, and holds his slave under the dominion of this supreme rule. Supreme, because it is necessary for the safety of the State. In the language of Mr. Monroe, "there is no exception." I am now speaking of naked power and absolute right. In practice there are many exceptions, claimed upon principles of the most impressive character, of the highest expediency. Women are excepted; those of advanced or tender age. Persons conscientiously scrupulous of bearing arms; ministers of the Gospel; judicial officers; persons whom it would be dangerous to arm. In the ordinary course of things, there is not much difficulty in practice. Mr. Speaker, I would be among the last to violate that manifest law of prudence which makes it inexpedient to look to slaves, on ordinary occasions, for soldiers. There is no feeling in my breast towards the South but that of kindness. I would neither injure their feelings nor encroach upon their rights. Pennsylvanians, under our gallant Wayne, have marched to the defence of the South, shed their blood freely, and would, if necessary, do so again. War always brings cases of individual hardship and private loss, which the Government cannot redress or assume. It is a rule of war, if an enemy get possession of your town, and, in retaking it, you destroy the house of a citizen, though your own act, the Government is not liable to make good the loss. In my judgment, the Committee of Claims acted with great wisdom in rejecting the claim for the negro, in the prudent terms of their report.

In conclusion, Sir, I cannot give my sanction to the principle which would take the farmer and mechanic of Pennsylvania to defend a Southern city from an invading enemy, risking poverty and death in your defence; and if one of your slaves in the battle shall be slain, that you may send the tax gatherer to such farmer and mechanic, if he should chance to survive, demanding of him aid in payment for such slave. I cannot admit the doctrine that all slaves who may fall in defending the homes of their masters are of right a charge upon the public treasury.

Mr. BARNARD succeeded, and spoke to the following effect; I must now ask the indulgence of the House while I explain, as briefly as I am able, the reasons that will govern me in my vote on the bill for the relief of D'Auterive. Perhaps I should have done this when the subject was in Committee of the whole, or before the House, on the amendment of the gentleman from Louisiana, [Mr. GURLEY.] Sir, I was about to do so immediately before the question was taken on that amendment, and should have done so, could I have summoned to my aid assurance enough to rise for discussion amid the loud and repeated calls of "question," which came from every part of the House. As it is, I cannot record my vote against the claims of D'Auterive, as I feel myself compelled to do, without accompanying that vote with my reasons for it. Gladly would I relieve myself from the labor of addressing the House, and the House from the trouble of hearing me; and I would do so, could I refer to the remarks of any gentleman who has, at any time, taken the floor against this claim, as comprehending and explaining, with sufficient accuracy, the view which I entertain of the subject. But I cannot. And I must now add another, [Mr. MEXX who had just taken his seat] to the number of those



Feb. 7, 1828.]

*Case of Marigny D'Auterive.*

[H. or R.]

who have addressed the House against this claim, with whose general view of the subject I cannot agree, though I do certainly agree with them all in many particulars.

It will be observed, that there are several items of claim embraced in this bill; in relation to all of which, with one single exception, I desire now to give no opinion whatever. The one item to which I allude, and to the insertion of which in the bill I must now vote against the whole claim, is the item of damages for injuries done to the person of the slave of D'Auterive.

I agree perfectly with the gentleman from Pennsylvania who has just addressed the House, [Mr. MIXER] that, in the discussion of this subject, several questions have been argued very much at length, which are nearly, if not wholly, impertinent and unnecessary. Such, in my opinion, is the question, whether the impressment of private property into the public service, by the commander of an army, in time of war, is legal or illegal? Such is also the question, whether the evidence before us shews that this slave went into service by impressment, or by contract with his master? And such, I agree with the same gentleman, is the question, whether slaves are or are not property?

Sure I am, that gentlemen will agree with me that, had the discussion of these questions been avoided, this House would have escaped an excitement which is always to be deprecated. But I am not sure, that, even with these questions untouched, I shall be able to lay my hand so gently upon the subject, as not to wake anew the vibrations of some tender chord—I hope it may not be an angry one. And, whatever opinion may be entertained of the correctness of the view which I am about to present to the House, I earnestly offer this single prayer to the candour and liberality of gentlemen who may not agree with me, that they will do me the justice to believe, that my sentiments on this subject are honest sentiments; that they have been formed after the most patient deliberation; and that I cherish them the more, because, though I may find myself deceived, I hold them to be such as ought not to offend the most fastidious holder of this species of property, called slaves.

Sir, a just claim presented to this House needs no precedent to support it; and if the claim be not meritorious, no precedent can sanction it. The better way to judge of this item of claim to which I have referred, as in all similar cases, is to strip it of every embellishment, and to look at it as it stands by itself, in a naked statement of the case. D'Auterive was the owner of a slave called Warwick. In time of war, the commander of an army made a requisition for assistance in throwing up defences, in the face of the enemy. Under this requisition, Warwick was put to service, and, while in that service, received two wounds from the enemy's guns—one in the eye, the other on the arm; by means of which, his value to his master was, and is, lessened two hundred dollars. This is a plain and simple statement of the case; and upon it arises this plain and simple question—shall the Government pay the master the damages which he has sustained, through the personal injury done to his slave?

I am not aware that any one can object to any want of fairness in making the statement, or putting the question. And, in order to disembarass the question of every thing which is not essential to its decision, so as to leave it, if possible, to be determined by one individual consideration, I propose to begin by making to gentlemen who advocate this claim certain important admissions, for the sake of the argument—some of which will accord with my real sentiments, and some of which will not; and I shall endeavour to accommodate these admissions to the views of such gentlemen, however various and unsettled those views may be among themselves.

In the first place then: I have not understood distinctly whether all who have advocated this claim, contend for the legality of impressment—I mean of property: for I shall speak of the impressment of men by and by. And while I am now talking of impressment, I beg to be understood as meaning the impressment of property—I say I do not understand that all the friends of this bill contend for the legality of impressment. To such as do, for the purpose of this argument, I admit its legality. To such as hold the contrary doctrine, as being necessary to the success of this claim, I admit its illegality. But I owe it to candor to say, that I make these admissions, inasmuch as, in my view, it is totally immaterial, because irrelevant, whether the impressment of property be legal or illegal.

Again: I believe that most of the advocates of this claim have contended that Warwick was *impressed* into the service. To such, I concede the fact that he was impressed. If, however, there are any who prefer to put this claim on the ground of *contract*, to such I concede the fact that the services of the slave were contracted for. And I confess, were I the advocate of this claim, I should prefer the latter ground.

Again: To the honorable gentleman from Massachusetts, [Mr. EVANS] and whom I am proud to call my friend, and from whom I am sorry to differ in opinion on this or any other subject—to him I concede that slaves, so far as the law makes them property at all, are a species of property within the meaning of the fifth article of the amendment of the Constitution; which declares "that private property shall not be taken for public use without just compensation."

Again: I admit, cheerfully, unreservedly admit—and in accordance with my real sentiments, as well as for the sake of the argument—that slaves are property. I admit it, both as an abstract proposition, and as a practical fact. I admit it, too, for the precise reason given by the honorable gentleman from Virginia, [Mr. RANDOLPH] who addressed the House in the early stage of the debate on this subject, "that that is property which the law makes property;" and of course I admit, not only that slaves are property but that they are precisely that kind and quality of property which the law constitutes them—and no other.

It will be observed, then, that, though I admit these important facts and principles, namely: that slaves are property, as constituted by law; that private property cannot be taken for public use, without just compensation; that this slave was impressed into the public service; and that the impressment of property is so far legal that it ought to be paid for; yet, with all these admissions, in my humble judgment, we have not advanced one step towards the affirmative of the question, whether the Government ought to pay the master for the damage he has sustained through the personal injury done to his slave.

Sir, I have had occasion to remark before, but on a very different subject, and I am not sure that the remark, even then, was original with me, that names are not things; and we often deceive ourselves when we imagine them to be so. *Property* is a word of familiar import; and whenever the word is pronounced in any man's hearing, he instantly, and unconsciously attaches to it a very common idea. The very book from which, in his infancy, he learned his alphabet, was his book—his property. The toys with which he amused his boyhood were his property; his watch in his pocket is his property; his house is his property; his horse is his property; and over all this, "his property," he has known and felt—aye felt—that his authority was absolute. Not only the use of it was his, but the thing itself—the very body of the property was his. If his mood were generous, he could give it away; if thrifty, he could sell it; if passionate, he could destroy it; break his toys in pieces, burn up his house, and blow out the brains of his horse. For, let me respectfully sug-

H. of R.]

*Case of Marigny D'Autorie.*

[FEB. 7, 1828.]

gest to the gentleman from North Carolina, [Mr. BRYAN] that though the common law would punish a man for the abuse of his beast, yet it would not do so because it cares for the life of that beast, or because the owner has not absolute power over its being, but simply because an exhibition of wanton cruelty is offensive to public morals, and of "evil example to all others in like cases offending." A man may not burn his own house in the night time, and when it is inhabited, or at any time when it may endanger the property of others; but with some such exceptions he may, because it is his property; so a man may destroy his own horse, because it is his property, taking care to avoid wantonness and cruelty in the execution. And, with such ideas of property as I have described, dwelling in the mind, we give our assent to the proposition that slaves are property, which they certainly are, without once adverting to the distinction between them and "the beast that perisheth." And when we speak of slaves as property, we deceive ourselves, by a name, if we imagine them to be property precisely in the same sense in which the ox and the horse are property.

Some gentlemen seem to have thought that the fact that slaves are entitled to certain civil rights—meaning, I suppose, security of life and person, for I know of no other—proves that they are not property. Or, rather, perhaps, the argument was, that they are not always property, but sometimes persons. Now I hold them to be always property, and always persons. And that they are entitled to certain civil rights, is only the consequence of another fact, which I conceive lies at the foundation of the real distinction between this and every other species of property; and that fact is, that they are reasonable human beings; and I use this expression in the same sense in which it is used in the legal definition of homicide, which is, "the killing of a reasonable human being." So far, therefore, as they are animals, capable of bearing burthens, and performing service, they are property, always property; absolutely property. And at the same time, as reasonable human beings, they are men, always men; absolutely men.—Here then is the important distinction. The slave is your property, but the life of the slave is the property of him who gave it, and who made the slave, and not you, the tenant in possession of it. You may exact the services of your slave; you may keep his person; you may control his actions; you may send him to the end of the world for your profit; you may give him away; you may sell him for his market price; all of which is indubitable evidence that he is your property. But, during all this time, he may carry his life in his hand, and preserve it inviolate. If you inflict a wanton injury on his person, you must answer it to the laws of your country; and if you go farther, and touch his life, you must pass from an unenviable exaltation here—I mean that of the gibbet—to answer for the offence hereafter at the bar of an unerring Judge.

Says the gentleman from Virginia, [Mr. RANDOLPH] "that which the law makes property, is property." Well; and that which is made property by the law, and not otherwise, which, as property, is the creature of the law, is precisely *such* property as the law makes it to be. When the law constituted slaves property, it sanctioned the distinction existing in nature between this and every other species of property; and as it found them reasonable human beings, it left them so, and extended its protection to their lives and members. Sir, the law, like the grave, is a mighty leveller; at least in this country. It puts no difference between the life of the master, and the life of the slave. It sets no price upon either, because both are above, and equally above, all price. And, to guard every possible avenue of approach to that which is so dear to it—the life—it has set the same stamp of inviolability on the person of the slave from wanton attack, as it has on the person of the master. Were it otherwise,

and were there really no distinction between this and every other species of property, I could see no necessity for Colonization Societies. Nobody, I believe, would think of colonizing cattle, for the mere purpose of getting rid of the overstock; we would kill them off, and burn up their carcasses. And those slave holders who complain of slave population, and its increase, as an evil, if slaves were precisely such property as cattle, would not think of colonizing the surplus of this population. No—they would send forth, and slay all the children, "from two years old and under," and repeat the operation as often as there were children to slay, regardless of the "lamentation in Rama;" and they would knock every old man on the head, who had not only become useless, but served only now to consume a portion of that bread which formerly the sweat of his brow had moistened—an operation which would soon bring the slave population within sufferable limits, and, if necessary, to the point of extermination. Let me not be misunderstood. I put forth this idea merely in illustration of a fact; and surely no one will be so unjust as to impugn my motives, when I add my solemn conviction and belief, that slaves in this country are universally treated by their masters with the utmost humanity and kindness.

I have now explained my view of the creature called a slave. He is the property of his master, and precisely such property as the law makes him, and no other. I look upon him as having, and always having, two distinct qualities, which are consistent with each other, if for no other reason, because the law makes them so—the quality of the property, and the quality of humanity. I use this latter term as signifying his nature, not his temper. And, wherever these qualities come in collision, the quality of humanity is the paramount quality, for the reason that both nature and the law make it so, and the quality of property must yield to it. In other words, though the slave is the absolute property of the master, yet the master must always so use his property in the slave, as not to violate his quality of human nature. And the enjoyment of this species of property is, and always must be, subject to the immunities of the slave as a human being. I am not aware that any master can contend for more.

Now, what are the immunities of the slave? Security of life, and inviolability of person from wanton injury; and the right of property in him is always to be exercised by the master, or by any body else, in subjection to these immunities. And, hence, I affirm, that the master cannot, by contract, put his slave into the service of the country, in the face of an enemy, against his will; nor can any officer of the Government impress the slave into such service.

Sir, I shall enter into no argument on the subject of impressment. I cannot agree with the gentleman who has just set down, [Mr. MIXER] in his remarks on this point. If the laws of war justify the impressment of property, on which I now give no opinion, they do not justify the impressment of men. I do not understand the report read by the gentleman to whom I have just alluded, as claiming any such power. That report claims that the Government by a law of Congress, can, if necessary, call out the whole physical force of the country; but not that men may be impressed into the public service without the warrant of law. But, on this subject, I shall content myself, by leave of the honorable gentleman from Rhode Island, [Mr. BUNNEN] with a reference to that gentleman's unanswerable demonstration, that however it may be with property, men cannot be impressed: simply adding, that they cannot be impressed, because of the inviolability of person and life; and this inviolability belongs equally to the slave and the master.

And how is it with the right of the master to put thi

## INDEX TO THE DEBATES IN THE SENATE.

Adjournment, a motion to take up a resolution fixing the time of, rejected, 470.  
a resolution in relation to adjournment submitted, 695.  
taken up. Motion to lay on the table negatived:  
a committee appointed to meet a committee of the House to fix on the period of adjournment, 712.  
the committee reported a day for adjournment: question postponed, 717.  
agreed to, 769.  
adjourned, *sine die*, 810.

Agg John, a communication was presented from him, in relation to a speech of Mr. Randolph, which he had been charged with misreporting by Duff Green, 234.  
rejected, 236.

Appropriation bill, general, read the third time, 139—passed 140.

Appropriations for certain Fortifications for the year 1828, a bill for, taken up, 394.  
an amendment, appropriating \$ 50,000 for Fortifications at the mouth of Barataria, agreed to, 406.  
debate commences, 394.  
the Military Establishment, a bill for, taken up, 406.  
taken up again, 411.  
motion to strike out the appropriation for the expenses of Visitors at West Point, negatived, 414.  
debate commences, 406.

Arkansas, the bill making an additional compensation to the members of the Legislature of that Territory, taken up and ordered to a third reading, 808.

Army, the bill to prevent desertion taken up, 449.  
an amendment reported by the Military Committee as a substitute for the original bill, agreed to, 450.  
ordered to be engrossed, 453.  
debate commences 449.

Armory, Western, a proposition for erecting, 4—withdrawn 7.

Baltimore and Ohio Rail Road Company, the bill authorising the, to import iron for the construction of that work, taken up 678.  
laid on the table 689.  
again taken up, 692.  
ordered to a third reading, 695.  
debate commences, 692.

Barracks at New Orleans, a bill providing for the purchase of a site for, taken up 433,  
and ordered to be engrossed 435.  
debate commences 433.

Breakwater in the Delaware, a bill to provide for the construction of, taken up 341.  
postponed 342.  
again taken up 344, no question decided.  
again taken up, 462,  
and ordered to be engrossed, 470.  
debate commences, 342.

Brevet Rank, resolutions of inquiry introduced on the subject of Brevet Rank, submitted, 417.  
agreed to, 421.  
a bill to abolish Brevet Rank, read a second time and laid on the table, 789.

Brown Major General, his death announced, and arrangements made for his funeral, 369.  
a bill for the relief of his widow, introduced, 372.  
taken up, 521.  
ordered to be engrossed, 528.  
debate commences, 521.

Cahawba Navigation Company, the bill granting the assent of Congress to an act of the legislature of Alabama, incorporating said company, ordered to be engrossed, 65.

Capitol, a message from the President of the United States in relation to an assault in; a resolution in relation to the police of the Capitol taken up, 668; ordered to lie on the table, 669; again taken up, 671; and again laid on the table, 672; a letter from Russell Jarvis in relation to the assault, was announced by the Vice President, which, after some objections, was read and laid upon the table, 674.

debate commences, 668.

Chesapeake and Ohio Canal, the bill from the House to authorize the corporations of Washington, Georgetown, and Alexandria, to subscribe for stock in the Chesapeake and Ohio Canal, the question on its being ordered to a second reading was negatived, 788; on a motion to reconsider this decision, it was carried, and the bill received its second reading, and was referred to the Judiciary Committee; a motion was made to amend the bill by striking out the word 'half' in the first section, making it necessary for the stockholders of the company to pay in the whole of their assessments before the government be required to advance its assessments, which was rejected; the bill was then ordered to be engrossed, 803; and passed its third reading, 806.  
debate commences, 788.

the bill to confirm the act of the Legislature of Virginia, incorporating the Chesapeake and Ohio Canal Company, and an act of the Legislature of Maryland, taken up, 791; ordered to a third reading, 792; read a third time and passed, 794.

Claims of South Carolina, a bill for the adjustment of, taken up, 417; a motion to strike out the allowance of interest lost, 421; ordered to be engrossed, 422.

debate commences, 417.

for slaves, the bill supplementary to an act of 1827, for the adjustment of claims of persons entitled to indemnification under the Treaty of Ghent, was taken up, 406; ordered to be engrossed, 411; bill returned from the House with an amendment, which was concurred with, 787.

debate commences, 406.

Close of the session, messages sent to the President and to the House of Representatives, informing them that the Senate had concluded its business, and inquiring if they had any other communication to make to them, and both Houses adjourned, 810.

Columbian College, a bill for the relief of, taken up, 72; postponed, 74; again taken up, 245; recommit- ted, 248; again taken up, 343; ordered to be engrossed, 344.

- debate commences, 245.
- Cumberland road, a bill brought in for its continuation, 29; the bill taken up, 102; ordered to be engrossed, 125; passed, 127.
- the bill to continue this road being sent from the House with amendments, they were taken up for consideration, 305; ordered to lie on the table, 306; again taken up, 714; sundry resolutions relating to the jurisdiction of the ground over which the road runs, the keeping the road in repair, &c., bill postponed, 717; resolutions again taken up, 717; laid on the table, 728.
- debate commences, 102.
- resolution authorizing an inquiry into the expediency of relinquishing the road to the States through which it passes, 125; agreed to, 127.
- Customs, the bill to authorize the collection of customs in Louisville, Pittsburg, and Cincinnati, taken up, 570; ordered to be engrossed, 571.
- Custom houses at Newport and Mobile, a bill to authorize the purchase of sites, and the erection of custom houses, at Newport and Mobile, and for the repairs of the custom house at Newburyport, passed, 74.
- Decatur, Susan, a bill for the relief of, taken up, 248; motion to recommit the bill negatived, 268; the blanks filled, and a proviso agreed to, 268; ordered to be engrossed, 277; bill passed, 278.
- debate commences, 248.
- Duty on wines, the bill to reduce the duty on imported wines was taken up, 804; and ordered to be engrossed, 805.
- Duties on imports, a memorial presented from a committee of the citizens of Boston, remonstrating against any increase of duties on imports, presented, 9; ordered to be printed and referred, 10.
- a bill in addition to an act concerning discriminating duties on tonnage and impost, taken up, 237; ordered to be engrossed, 244.
- Fortifications, the bill making appropriations for certain fortifications for the year 1828, taken up, 394; and after filling the blank for appropriation with \$50,000 for fortifications at the mouth of Barataria, agreed to, 406.
- the debate commences, 394.
- Franking privilege, a resolution granting it to the Speaker of the House of Representatives, taken up, 474; an amendment extending the franking privilege of members of Congress negatived, 475; an amendment confining the proposed privilege to the sessions of Congress was rejected, and the original resolution ordered to a third reading, 479.
- the debate commences, 474.
- French colonial trade, the bill to regulate intercourse with the islands of Martinique and Guadalupe, taken up, 553; ordered to be engrossed, 570; and read the third time the following day.
- the debate commences, 553.
- Hour of meeting changed to 11 o'clock, 422.
- Imprisonment for Debt, a Bill for abolishing it introduced, 11.
- made the special order of the day, 18.
- amendments proposed 31.
- bill passed, 90.
- debate commences, 11.
- Indemnification to Foreigners, the petition of Robert Hall, a subject of Great Britain, praying for further indemnification for the destruction of the ship Union, 5; laid on the table, 6.
- Indiana, a bill introduced to authorize the Legislature of that State to sell lands appropriated for the use of Schools, 3.
- read a second time, 9; taken up for a third reading, 10.
- Indian Emigration, the bill making appropriation for defraying the expense of a delegation of Choctaw and Chickasaw nations of Indians to examine and survey lands west of the Mississippi, taken up, 660.
- ordered to be engrossed 663.
- debate commences, 660.
- Interest, the bill making further provision for the payment of, on money expended during the late War for the public defence by the States of New-York, Pennsylvania, Delaware, Maryland, and Virginia, taken up, 583.
- ordered to be engrossed, 590.
- debate commences, 583.
- Internal Improvements, the bill to grant certain unappropriated lands to the State of Alabama for the purpose of improving the navigation of her Rivers, taken up, 453.
- ordered to be engrossed, 458.
- debate commences, 453.
- The bill from the House of Representatives making appropriations for, taken up, 603.
- an amendment for confining the proposed appropriation to Surveys already commenced, was carried in Committee of the Whole by the casting vote of the Speaker, 609.
- bill again taken up, 629.
- and the decision afterwards confirmed by a majority of one vote, 631.
- the bill ordered to a third reading, 653.
- bill returned from the House, with a refusal to concur in the Senate's amendments. The committee of the Senate recommend receding from their amendments. The 1st and 2d amendments, were receded from. A recession from the third was refused, 24 votes to 23, and it was insisted on, 725.
- managers appointed to confer with managers of the House, on the disagreement of the two Houses, 734.
- the committee reported to the Senate, and their report was concurred with, 787.
- debate commences, 603.
- Jarvis, Russel, his letter to the Senate, in reference to an assault charged to have been committed by him in the Capitol, read and ordered to lie on the table, 673.
- Judiciary, report of the Judiciary Committee adverse to a Resolution in favor of erecting proper buildings for the United States Courts in the several States, considered and ordered to lie on the table, 127.
- Judicial Process, the bill to regulate process in the States admitted into the Union since 1790, was read a 2d time, 90.
- taken up, 201.
- ordered to lie on the table, 204.
- taken up, 327.
- ordered to be engrossed, 328.
- subject again taken up, 442.
- laid on the table, 343.
- again taken up, 344.
- motion to reconsider carried, 369.
- the bill again taken up, 371; recommitted 372.
- again taken up and ordered to be engrossed, 583.
- debate commences, 201.
- Kenyon College, the bill granting to it a township of land, taken up, 532.
- motion to recommit the bill negatived, and the order to engross it, carried, 550.
- debate commences, 532.

**Land, public**, a resolution submitted instructing the committee on public lands to inquire into the expediency of ceding the public lands within the limits of the new States to the several States in which they lie, 15.  
a bill introduced for graduating the prices of public lands, 23.  
taken up, 151.  
postponed, 166.  
again taken up, 483.  
and the discussion continued for a considerable part of the session; the proposition offering a substitute for the original bill was negatived, 656.  
and the original bill was finally rejected, 678.  
debate commences, 23.

**Land, school**, the bill to authorize the relinquishment of the 16th section of lands for the use of schools in the State of Alabama, where found barren and unproductive, taken up, 479; rejected, 480.

**Land**, the bill granting to Kenyon College a township of land, taken up, 532; motion to recommit the bill, negatived; and an order to engross it, carried, 550.  
debate commences, 532.  
the bill to continue in force for a limited time, and to amend the act to enable claimants to lands within the State of Missouri, and Territory of Arkansas, was taken up, the question on ordering the bill to be engrossed, was negatived, 789.

**Land Claims**, the bill to provide for the final settlement of private land claims in the several States and Territories, was taken up, 458.  
laid on the table, 483.  
again taken up, 506.  
ordered to be engrossed, 507.  
debate commences, 458.

**Larobe Francis**, a bill for his relief, read a second time, and ordered to be engrossed, 35.  
debate commences, 23.

**Lieutenants of the Navy**, the bill for increasing the pay of such as have served ten years and upwards, was taken up for consideration, 80.  
order of the day, 96.  
passed, 102.  
debate commences, 80.

**Major General of the Army**, a resolution submitted for abolishing the office, 371.  
the resolution taken up, 372.  
an amendment making the subject a matter of inquiry for the military committee, carried, 379.  
the committee report it to be inexpedient to abolish the office, 415.  
report recommitted, 416.  
debate commences, 372.  
the bill from the House to abolish the office of Major General of the Army, was ordered to a second reading, 788.  
ordered to lie on the table, 805.  
debate commences, 805.

**Military road in Maine**, the committee on Military Affairs instructed to inquire into the expediency of making such a road, 31.

**Militia**, the bill to provide for the organization of the militia of the United States, taken up, 244.  
laid on the table, 245.  
again taken up, and again laid on the table, 341.  
again taken up and laid on the table, 474.  
debate commences, 244.

**Miami Canal**, the bill to aid the State of Ohio to make the Miami Canal from Dayton to Lake Erie, taken up and ordered to a third reading, 809.

**Military Establishment**, (see appropriations.)

**Navy, Medical Department**, the bill for the better organization of, taken up and ordered to lie on the table, 449.  
the bill for increasing the pay of Lieutenants (see Lieutenants.)

**Navy Yard between Cape Hatteras and Florida**, a resolution submitted, directing the Secretary of the Navy to report to Congress, at their next session, whether the establishment of a navy yard on some point between the above places, &c. together with the expense of the work, 790.  
the resolution agreed to, 792.

**Ogden Abraham**, a bill for the relief of A. Ogden and others, taken up 268.  
The question on engrossing the bill negatived, 276.  
debate commences 268.

**Order**, points of, decided, 166, 228, 234, 235, 236, 316, 340, 341, 544, 561, 631, 632, 633, 651, 559, 670, 678, 691, 692, 693, 711, 715, 717, 734, 787.

**Outrages in the Capitol**, two resolutions laid on the table in relation to the assault made by Russell Jarvis on the President's Private Secretary, and that of Duff Green on E. V. Sparhawk, one of the Reporters, 810.

**Pensioners**, a bill making appropriations for the payment of, taken up, 111.  
bill laid on the table, 114; taken up and ordered to be engrossed, 237.  
debate commences, 111.

**President of the United States**, a communication from him in relation to the arrest and imprisonment, and a demand for the release of John Baker, 400.  
a message stating that his Private Secretary, in passing from the House of Representatives to the Senate Chamber, had been way-laid and assaulted in the Rotundo, 668.

**President pro tem**, the Senate proceeded to the election of this officer; Mr. Macon was declared duly elected; but declining to serve, Mr. Smith of Maryland was then elected, 788.

**Printer to the Senate**, a preamble and resolution on the subject, 2.

**Printing**, the joint resolution from the House proposing to render more economical the printing of the two Houses, was taken up, and ordered to its third reading, 808.

**Public debt**, a resolution introduced, instructing the Committee of Finance to inquire whether any error had occurred in the construction of the fourth section of the act to provide for the redemption of the public debt, as to the amount of surplus revenue to be retained in the Treasury, &c. 379.  
agreed to, 394.

**Public Buildings**, the bill making appropriations for, taken up and passed, 724.

**Reporters to the Senate**, a resolution agreed to directing the Secretary, under the direction of the President of the Senate, to cause seats to be prepared for them on the floor of the Senate Chamber, 8.

**Retrenchment Reports**, a motion made to print 3000 copies of the reports of the Committee of the House of Representatives on Retrenchment, agreed to 794.

**Revolution**, a bill for the relief of the surviving officers of, taken up, 128.  
a motion made to recommit the bill, 140.  
withdrawn, 182.  
again taken up, 423. After several unsuccessful efforts to fill the blank in the bill, with sums va-

- rying from \$1,000,000 to \$500,000, and the rejection of a motion for an indefinite postponement, the bill was ordered to lie on the table. debate commences, 128.
- the bill from the House for the relief of sundry Revolutionary officers, and soldiers, and widows, was read a second time, and referred to the Committee on Pensions, 790.
- the Committee reported, that it was not possible to act upon the bill at so late a period of the session, and was discharged from its further consideration, 804.
- debate commences, 789.
- Rules of the Senate, an amendment to proposed, 6. laid on the table, 7.
- Salt, bill introduced for repealing in part the duty thereon, 3.  
taken up, 591.  
laid on the table, 603.  
debate commences, 591.
- Salt Springs, a bill authorizing the President of the United States to cause the reserved Salt Springs, in the State of Missouri, to be exposed to sale; read a 2d and 3d time, and ordered to be engrossed, 30.
- School Lands in Indiana, a bill to authorize the State to sell the lands heretofore appropriated to the use of Schools, read a 2d time, 8.  
laid on the table, 9.  
again taken up, 10.  
ordered to be engrossed, 11.
- Seats, a resolution for changing the seats of the Senate Chamber, taken up, negatived, 665.
- Sinking Fund, a bill altering the act establishing the Sinking Fund, was taken up and discussed, but finally laid on the table, for want of time duly to consider its provisions, 789.
- Slave Trade, the bill making appropriations for the suppression of the Slave Trade, taken up, and laid on the table, 806.  
again taken up, 808.  
a motion to strike out the first section, providing \$30,000 to restore negroes to the coast of Africa, negatived, and the bill ordered to a third reading, 809.  
debate commences, 806.
- Slaves, deported, a supplementary bill introduced for the adjustment of claims to indemnification, under the treaty of Ghent, 406.  
ordered to be engrossed, 411.  
the bill returned from the House with an amendment, laid on the table, 728.  
amendment of the House concurred with, 787.  
debate commences, 406.
- Slaves, captured, bill passed, cancelling a bond in relation to them, 30.
- South Carolina, Claims of (*See Claims.*)
- Sparhawk, Edward V. his memorial complaining of an assault from Duff Green, in a room devoted to the use of the Senate, presented, 186.  
laid on the table, 187.
- Surplus Revenue, a resolution respecting, introduced by Mr. Benton, and agreed to, (*see Public Debt.*) 379.
- Tariff, the bill to increase the duties on certain imported articles, was taken up, 725.  
bill ordered to be engrossed, 785.  
motion of indefinite postponement negatived; bill passed 786.  
debate commences 725.
- Vaccination, the bill to encourage, taken up, 550.  
rejected, 552.
- Vice President of the United States, his powers considered, in a report of the committee appointed to revise the rules of the Senate, 278; agreed to, 341.  
debate commences, 278.
- Western Armory, a resolution introduced, authorizing the Secretary of War to instruct an officer of the Corps of Engineers to examine the Horse Shoe Bend, on Licking river, in Kentucky, and report the practicability of establishing an armory there, 4; resolution withdrawn, 7.  
debate commences, 4.
- Wines, duty on reduced, (*See Duties.*)
- Yeas and Nays on an amendment to the bill for the abolishment of imprisonment for debt, to strike out the 9th section, which provides, that in all cases where the body shall be subject to imprisonment, such person shall be deprived of prison bounds, and kept in close custody until discharged by due course of law, 70.  
on another amendment to the same bill, striking out a part of one section, and adding several others, 84.  
on the passage of the bill, 90.  
on the passage of the bill to increase the pay of lieutenants in the Navy, 102.  
on engrossing the bill making appropriations for the completion of the Cumberland Road from Bridgeport to Zanesville, 125.  
on a motion to recommit the bill for the relief of Susan Decatur, 268.  
on engrossing the bill for the relief of Abraham Ogden, 276.  
on engrossing the bill for the relief of Susan Decatur, 277.  
on an amendment to a proposed amendment of the Rules of the Senate, in relation to the powers of the Vice President, 337.  
on three other amendments to said proposed amendment, 340.  
on an amendment to the bill to regulate process in the Courts of the U. States, to strike out the original bill, 327.  
on adopting the first section of said bill, 328.  
on adopting the second section, ib.  
on engrossing the bill for adjusting claims for slaves under the treaty of Ghent, 411.  
on filling the blank in the bill for providing for surviving revolutionary officers with \$ 800,000, 448.  
on a motion indefinitely to postpone the bill, ib.  
on filling the blank with \$500,000, ib.  
on engrossing the bill to grant certain relinquished and unappropriated lands to the State of Alabama, for the purpose of improving the navigation of her rivers, 458.  
on engrossing the bill making appropriations for the construction of a breakwater at the mouth of the Delaware Bay, 470.  
on engrossing the bill for the relief of the widow of Gen. Brown, 528.  
on engrossing the bill making further provision for the payment of interest on moneys expended during the late war, for the public defence, by the States of New York, Pennsylvania, Delaware, Maryland, and Virginia, 590.  
on an amendment to the bill making appropriations for internal improvements, inserting the words "until the surveys already commenced are completed," 608.  
on an amendment to the bill to graduate the prices of public lands, to strike out the first section, in order to insert a substitute, 656.  
on a motion to take up the bill repealing, in part, the duty on salt, 672.



on engrossing the bill for the continuation of the Cumberland Road through the State of Indiana, 675.  
 on engrossing the bill for the graduation of the price of Public Lands, 678.  
 on an amendment to the bill for the relief of certain Revolutionary Officers and Soldiers, to strike out the original bill, and insert a substitute. A division of the question being called for, the striking out was agreed to, and the Yeas and Nays were taken on inserting the substitute, 713.  
 on engrossing the bill as amended, *ib.*  
 on the passage of the bill making appropriations for Public Buildings, 724.  
 on the question to recede from an amendment to the bill making appropriations for Internal Improvements, confining the appropriation of \$30,000 to surveys already commenced, *ib.*  
 on striking out the third section of the Tariff bill, 765.  
 on ordering the bill to a third reading, 785.  
 on a motion indefinitely to postpone the bill, 786.  
 on the passage of the bill, *ib.*  
 on a Resolution of the Committee of Conference

on the disagreeing votes of the two Houses on the bill for Internal Improvements, 787.  
 on the question of considering the bill to confirm an act of the Legislature of Virginia, incorporating the Chesapeake and Ohio Canal Company, &c. 792.  
 on an amendment to the bill to authorize the subscription to Stock in the Chesapeake and Ohio Canal, to strike out of the first section the word "half," 803.  
 on an amendment in the 8th line of the first section, *ib.*  
 on another amendment, to strike out the following words—"nor until one half of the aggregate amount of such assessment shall have been paid," *ib.*  
 on engrossing the amendments, and ordering the bill to a third reading, 804.  
 on the passage of the bill, 806.  
 on engrossing the bill to reduce the duty on imported Wines, 805.  
 on ordering the bill to abolish the office of Major-General to a third reading, 807.  
 on ordering to a third reading the bill to aid the State of Ohio to make the Miami Canal, 809.

## INDEX TO THE DEBATES IN THE HOUSE OF REPRESENTATIVES.

Arrangement of Business, Committees on the several subjects in the President's Message, appointed, 813.  
 Armory, a Resolution submitted, instructing the Committee on Military Affairs to inquire into the expediency of establishing an Armory on Harpeth River, 895.  
 agreed to 896.  
 Appropriations for the Navy taken up in Committee, 1917.  
 for Fortifications, on amendment of the Senate, 1920.  
 Accounting Officers of the Treasury, a Resolution respecting, 1954.  
 resolution committed, 1998.  
 Adjournment, a Resolution for appointing a joint Committee to fix on a day of adjournment, 2480.  
 the Committee reported the 26th of May, 2541.  
 resolution agreed to, 2596.  
 Assault on the President's Secretary by Rumel Jarvis, two Reports on the subject, 2715.  
 ordered to lie on the table, 2723.  
 subject noticed and remarked upon, 2754.  
 Alabama Land, a bill to aid in a Canal round the Muscle Shoals, 2733, 2743.  
 Bank of the United States, a Resolution introduced instructing the Committee of Ways and Means to inquire into the expediency of providing by law for the sale of that portion of the Stock of this Bank held by the Government, and of applying the proceeds to the payment of the public debt, 815.  
 laid on the table, 818.  
 taken up, 827.  
 a motion to lay the Resolution on the table negatived, 850.  
 rejected, 858.  
 debate commences, 827.  
 Battle of New Orleans, a Resolution proposing to have an Historical Painting of the Battle of New Orleans placed in one of the panels of the Rotundo of the Capitol, and that Washington Allston be engaged to design and finish the work, 929.

various amendments were proposed to this Resolution, embracing some of our most remarkable Battles by sea and land, which were all negatived. The particulars appear in the debate on the occasion.  
 debate commences, 929.  
 Brown, General, a message received from the Senate, announcing the death of the General, and the orders made in relation to his funeral, 1608.  
 Brown, Mrs. a bill for her relief, taken up, 2079.  
 ordered to be engrossed, 2086.  
 bill passed, 2089.  
 Brazil, affairs with, a resolution calling for a certain correspondence, 2509.  
 resolution adopted, 2540.  
 Barracks at Sackett's Harbor, a Resolution to authorize the President to loan them to a Military School, agreed to, 2540.  
 Boundary Lines of Ohio, Indiana, and Illinois, a bill for ascertaining the true boundary, taken up, 2250.  
 Breakwater in the Delaware, bill to commence the erection of a, taken up, 2732.  
 ordered to a third reading, 2734.  
 Clerk and other Officers of the House appointed, 812.  
 Committees, Standing, appointed, 813.  
 Chaplain to Congress elected, 815.  
 Chesapeake and Ohio Canal, the Chairman of the Committee on, reported a bill to amend and explain an act confirming an Act of the Legislature of Virginia incorporating the Chesapeake and Ohio Canal Company, and an Act of the State of Maryland for the same purpose, 890.  
 also, a bill authorizing a subscription to the Stock of the Chesapeake and Ohio Canal Company, *ib.*  
 Chesapeake and Ohio Canal, the Committee of the Whole was discharged from the further consideration of the bills in relation to this subject, 2571.  
 the bill taken up by the House, 2596.  
 ordered to be engrossed, 2616.  
 the bill passed, 2639.  
 the bill for enlarging the powers of the Corporation of Washington was taken up, 2670.  
 ordered to be engrossed, 2677. bill passed, 2695.

Canal in Michigan, resolutions submitted instructing the Committee on Roads and Canals to inquire into the expediency of appropriating a sum of money for examining and determining upon a suitable route for a Canal across the peninsula of Michigan, to connect the Waters of Lakes Michigan and Erie, 898.  
resolutions agreed to, 899.

Captured Africans, a bill from the Senate to authorize the cancelling of a bond therein mentioned, was twice read, 915.  
ordered to lie on the table, 916.  
bill again taken up, 955.  
recommitted, with instructions that the facts of the case be reported, 968.  
the Judiciary Committee make their Report, 998.  
the bill from the Senate on the same subject referred to the same Committee of the Whole, with the bill of this House, 1005.  
debate commences, 955.

Carroll, Charles, of Carrollton, privilege of franking extended to him, 2732, 2753.

Close of the Session, 2768.

Cumberland Road, notice given that the bill which was before Congress at its last session, would be called up at this, and a proposed amendment thereto, ordered to be printed, 1004.

Cherokee Indians, a Resolution taken up, requesting the President to inform the House whether any, and what measures have been taken to preserve inviolate that part of the Constitution which declares that no new State shall be formed within the jurisdiction of any other State, &c. 1592.  
resolution laid on the table, 1593.  
agreed to, 1718.  
debate commences, 1592.

Creek Indians, information called for in relation to a Treaty concluded with them in Nov. 1827, 1953  
resolution calling on the President for any Charges that had been preferred against the U. States Agent for the Creek Indians, agreed to, 2245.

D'Auterive Marigny, a bill for the relief of, was taken up, 899.  
amendment proposed providing a compensation for the lost time of the petitioner's slave, and the expenses of medical treatment, 900.  
after a discussion of this amendment for several days in committee of the whole, on the committee's rising, the House refused leave to sit again, 1029.  
a motion was made to discharge the committee of the whole from the further consideration of the bill, a division of the question being called for, and the question for discharging the committee passed in the affirmative, ib.  
a motion was then made to recommit the bill and report to the Committee of Claims, ib.  
an amendment proposing an additional section allowing \$234 for the injury done to the slave, 1048.  
adopted, and the bill ordered to be engrossed, 1122.  
on its third reading, a motion to recommit the bill carried, 1486.  
debate commences 899.

Dubord Anna, a bill for the relief of, was rejected, 2573.

Election, a memorial from the city of Philadelphia, representing that John Sergeant and Henry Horn had each received a like number of votes at the late election for members of this House, and suggesting some irregularity in the election, 818.  
referred to the Committee of Elections, 818.

the Committee of Elections report, that John Sergeant is entitled to his seat, which report is concurred with, 999.

Emigration of Indians, the bill making appropriations for the Indian Department, taken up, 1533.  
amendment proposed to strike out the words, "and for aiding said Cherokees, and such other Indians as may be so disposed, to emigrate to places west of the Mississippi, 1539." Negativated, 1566.  
the committee reported the bill to the House, 1592.  
debate commences, 1533.

Engineers, a call on the President to know what causes have prevented him from communicating the report of, on the practicability of uniting by a canal, the waters of James and Great Kenhawa Rivers, 1936.  
ordered to lie on the table, 1938.

Electoral votes for President, a resolution calling for information on the subject, in relation to the form of certificates of such elections, 2640.  
motion laid on the table, 2643.

Florida, Right of Suffrage, a bill reported to secure to certain inhabitants the right of voting, &c. 819.  
ordered to its third reading, 820.  
a bill to alter the time of meeting of the Legislative Council, 2216.

Fortifications, the bill making appropriations for, 1920.

Florida Land Claims, a bill for settling them, ordered to be engrossed, 2380.  
committed to a Committee of the Whole, 2413.  
taken up, 2723.  
ordered to be engrossed, 2728.

Georgia and Florida Boundary Line, a message from the President on the subject, 1090.  
referred to the Committee on the Judiciary, 1092.

Greek and Latin books, a bill to reduce the duty on, passed, 2496

Herkimer, the late Brigadier, a resolution instructing the Committee on Revolutionary Claims to inquire into the expediency of carrying into effect a resolution of Congress in 1777, directing a Monument to the memory of the Brigadier, who was killed in fighting for the liberties of his country, 914.  
resolution adopted, 915.

Historical Paintings, a resolution introduced, proposing to fill one of the pannels of the Rotundo of the Capitol with a Painting of the Battle of New Orleans; and that Washington Allston be engaged to design and finish the work, 929.  
various amendments to this resolution were proposed, embracing some of our most remarkable battles by sea and land, which were all negatived. The particulars appear in the debate on the occasion.  
debate commences, 929.

Holcombe, Mr. his death announced, and the usual resolution for going into mourning, adopted, 1063.

Harbours, a bill for the improvement of certain, taken up, 2556.

Internal Improvement, a resolution taken up, directing the Secretary of War to communicate to the House the report of the Engineers on the practicability of uniting, by a canal, the waters of James and the Great Kenhawa rivers, 891.  
resolution adopted, 894.  
bill making appropriations for Internal Improvements, taken up, 1510.  
and went through the Committee of the Whole, 1522.

- the House took up the bill for consideration, 1609.  
amendment proposed to add the following proviso: "that no part of the appropriation be expended on any other surveys, except such as have already been contracted for, or where the surveys hereafter made are preparatory to the construction of roads or canals, for the transportation of the mail, or for military purposes," 1630.
- negated, 1698.
- Another amendment proposed: "provided that only so much of this appropriation hereby made as shall be necessary for the completion of such surveys and examinations as have been already commenced, shall be expended, 1698.
- rejected, 1810.
- the bill ordered to be engrossed, 1811.
- passed its third reading, 1819.
- resolution of Mr. Wickliffe, calling for an estimate of the amount necessary to execute the propositions for Internal Improvements, 2132.
- resolution passed, 2218.
- the amendments proposed by the Senate to the bill making appropriations for Internal Improvements, were taken up, 2576.
- a part of the amendments agreed to, and the rest referred to a Committee of Conference, 2588.
- the Committee recommends a compromise, 2674.
- both Houses having concurred in the report of the compromise, the bill passed, 2695.
- debate commences, 1510.
- Indians**, a resolution introduced instructing the Committee on Indian Affairs to inquire into the expediency of establishing some mode of removing gradually all the Indians east of the Mississippi to the west of that river, &c. 820.
- adopted, 823.
- removal of, a resolution in relation to the removal of the Choctaw and Chickasaw Indians, taken up, 896.
- adopted, 898.
- a bill reported by the Committee on Indian Affairs, making appropriation to defray the expenses of certain Indians who propose to emigrate, 914.
- bill for removal of Choctaw Indians, passed, 2553.
- Indian Affairs**, a resolution concerning, taken up, 1939.
- agreed to, 1952.
- Indian Governments**, the Chairman of the Judiciary Committee, to whom was committed a resolution to inquire if any of the Indian tribes have organized an Independent Government, with a view to a permanent location in said States; if so, into the expediency of reporting necessary measures to arrest such location, wished to be discharged from its consideration, 914.
- the above resolution taken up for consideration, 925.
- an amendment was proposed to strike out the words "to arrest such permanent location," 926.
- motion negated, and resolution adopted, 929.
- debate commences, 925.
- Indian Appropriations**, the bill making appropriations for the Indian Department for 1828, taken up, 1533.
- amendment proposed to strike out the words "and for aiding said Cherokees, and such other Indians as may be so disposed, to emigrate to places west of the Mississippi," 1539.
- negated, 1566.
- the Committee reported the bill to the House, 1592.
- bill again taken up, 2480.
- bill passed, 2494.
- debate commences, 1533.
- Rail-road**, the bill to aid the Baltimore Rail-road Company by remitting the duty on their imported iron, 2733, postponed, 2761.
- Jarvis Russel, his letter respecting his assault on Mr. John Adams, 2581.
- Judicial Process, a bill from the Senate, further to regulate processes in the Courts of the United States was read a third time and passed, 2650.
- Land Offices, the Secretary of the Treasury directed to report a list of the persons appointed to examine them, &c. 1909.
- Lands Public, a bill for the sale of, 2050.
- bill passed, 2053.
- a resolution proposing to reduce the price of, 2373.
- laid on the table, 2380.
- lands relinquished in Alabama, the bill postponed, 2765.
- Manufactures, the Chairman of the Committee on this subject submitted a resolution, proposing to give to the committee power to send for persons and papers, 862.
- motion to lay the resolution on the table, negated, 882.
- an amendment, limiting the objects of inquiry, agreed to, 888.
- the resolution, as amended, agreed to, 889.
- leave given to the Committee to sit during the sitting of the House, 955.
- Report of the Committee, accompanied by a bill in alteration of the several acts imposing duties on imports, 1274.
- see the proceedings on this subject under the head *Tariff*.
- Meade, Richard W. the claim of, the bill for the relief of Mr. Meade, taken up, 1594.
- the committee rose, as stated, with a view to further inquiry, 1608.
- again taken up, 1819.
- committee reported progress, 1830.
- the subject again taken up, 1910.
- bill rejected, 1970.
- Mobile Court Martial**, a resolution introduced, directing the Secretary of War to furnish the House with a copy of the proceedings of a court-martial, which commenced its sittings at or near Mobile, on the 5th of December, 1814, for the trial of certain Tennessee militiamen, &c. 975.
- the resolution taken up, but no decision had, 999.
- the subject resumed, 1031.
- adopted, with some amendments, 1048.
- the report of the Secretary of War laid before the House, 1252.
- a resolution taken up, instructing the Secretary of War to furnish the House with copies of all correspondence between the Secretary of War and Gen. Jackson, from the commencement of the Creek war, until the 1st of March, 1815, on the subject of the draft, service, and discharge of the several corps of Tennessee militia, and agreed to, 1486.
- report of the Secretary of War laid before the House, and taken up, 1487.
- previous question called for, motion prevailed, 1506.
- the resolution then passed, ib.
- debate commences, 999.
- Military Appropriations**, the bill making military appropriations for the year 1828, taken up, 1522; ordered to a third reading, 1592.
- debate commences, 1522.
- Militia military executions**, resolutions offered, declaring the execution of certain militiamen in Tennessee, to be in contravention of their rights as citizens,

- and in derogation of the constitution and laws of the land; a motion to lay them on the table and to print them, rejected, 1726.
- Mounted Volunteers**, proposition for inquiring into the expediency of raising, adopted, 2054.
- Memorials**, a resolution respecting the printing of them, 2407.
- Major General**, an inquiry into the expediency of abolishing the office, 2484.  
resolution agreed to, 2493.  
the bill for abolishing the office taken up, 2678.  
ordered to be engrossed, 2694.  
bill passed, 2695.
- Mint of the United States**, a bill to continue the mint in Philadelphia, &c. taken up, 2679.
- Morgan, William**, a memorial on the subject of his abduction by the freemasons, presented, 2644.  
referred to the President of the United States.
- Navy Hospitals**, a resolution submitted, instructing the Committee of Ways and Means to inquire into the expediency of causing to be paid to the Commissioners of the Navy Hospitals such sums as may be due to the Navy hospital fund, from the Treasury of the United States, 820.  
resolution adopted, 823.  
a bill reported making an appropriation to the Navy Hospital Fund, twice read and committed, 890.
- Navy Appropriations**, the bill making appropriations for the Naval service for 1828, taken up, 1506.  
committee rose and reported the bill, 1510.  
amendments of the Senate to the bill taken up, 1917.
- Naturalization**, a bill to amend the acts on this subject taken up, 2555.
- North Carolina Indians**, an amendment to the bill making appropriation for the Indian Department, for refunding money expended by that State in extinguishing certain Indian titles, 2889.  
the House receded from its disagreement to the Senate's amendment, 2595.
- National Paintings**, means to be taken to secure them from injury from the effects of dampness, 2768.
- Order**, points of, 865, 869, 871, 874, 893, 909, 927, 928, 933, 937, 947, 965, 1002, 1030, 1049, 1055, 1098, 1112, 1128, 1142, 1154, 1155, 1170, 1192, 1193, 1195, 1201, 1203, 1208, 1222, 1223, 1224, 1225, 1226, 1229, 1245, 1252, 1398, 1417, 1419, 1420, 1423, 1425, 1432, 1455, 1456, 1457, 1490, 1493, 1494, 1498, 1504, 1689, 1721, 1724, 1726, 1749, 1753, 1784, 1830, 1831, 1835, 1950, 1962, 1966, 2053, 2055, 2056, 2131, 2135, 2193, 2210, 2211, 2213, 2222, 2261, 2267, 2289, 2291, 2293, 2309, 2310, 2312, 2366, 2479, 2563, 2605, 2664, 2673, 2698, 2699, 2710, 2714, 2740, 2750, 2766, 2767.
- Ohio Canal bill**, taken up, 2733, 2735.  
rejected, 2743.
- Ohio Canals**, a bill to aid that State in extending the Miami Canal from Dayton to Lake Erie, taken up, 2733, 2735.  
passed, 2767.
- President's Message** communicated, 812.
- Printing Public Documents**—a Resolution introduced, instructing the Committee on the Rules to inquire whether any amendment be necessary in relation to the printing of Reports and other documents, 1718.  
resolutions and amendments laid on the table, 1725.  
debate commences, 1718.
- Printing of Congress**—a Resolution altering the manner of printing, 2730, 2746.  
adopted, 2753.
- Private Property**—a Resolution introduced, instructing the Judiciary Committee to enquire into the expediency of settling by law, under what rules, private property (if to be taken at all) shall be taken for public use, 1005.  
agreed to, 1006.
- Public Buildings**—a Resolution submitted, instructing the committee on this subject to inquire and report whether it be expedient to place the Public Buildings, &c. under the protection of the City Police, or to create a distinct authority to watch over them, 861.  
resolution agreed to, 862.  
bill making appropriations for completing the public buildings taken up, 2506.  
ordered to be engrossed, 2508.
- Public Land**—the bill to revive and continue in force several acts making provision for the extinguishment of the debt due by the purchasers of public lands; and the bill for the relief of purchasers of public lands, which have reverted for non-payment, 894.  
ordered to be engrossed for a third reading, 895.
- Public Business**—a Resolution introduced to inquire into the expediency of adopting some rule for the dispatch of public business, 1754.  
rejected, 1756.
- Public Lands**, a bill to provide for the sale of, 2050.  
bill passed, 2053.
- Public Documents**, resolution for distribution of, 2728.
- Rail Roads**, a bill to authorize the importation of iron and machinery, duty free, 2508.
- Randolph, Jehn**, applies to the Senate to be excused from serving on the Committee of Ways and Means, and is excused accordingly, 819.
- Ratio of Representation**, a bill introduced to fix it after the 3d of March, 1833, 815.  
referred to a select committee, 327.  
the committee reported that it was inexpedient at this time to pass any law on the subject, 1143.
- Representatives' Hall**, a resolution introduced prohibiting the use of, unless specially granted by order of the House, 1699.
- Revolutionary Land Warrants**, a Resolution submitted directing the Secretary of War to lay before the House a statement of the number of Military land warrants due to the Officers and Soldiers of the Revolution, which remain in his office uncalled for, 860.
- Revolutionary Soldiers**—a bill for the relief of the surviving officers and soldiers of the revolution, taken up, 2596.  
bill passed, 2670.
- Retrenchment**, sundry Resolutions introduced on this subject, 1064.  
After much discussion and sundry amendments, the Resolutions, as amended, passed unanimously, 1458.  
debate commences, 1064.  
a resolution offered for sending for persons and papers, 2256; carried, 2158.  
two reports were made, one by the Chairman of the Committee, the other by a member in behalf of the minority, both ordered to be printed, 2714.  
a resolution respecting the Public Printing, reported, 2730, 2752.  
ordered to lie on the table, 2768.  
the chairman reported the documents which had accumulated on the table of the Committee, 2759.
- Road from Columbus to Sandusky**, a bill to grant land for, the bill ordered to be engrossed, 2308.
- Rules**, amendment proposed, 823.  
laid on the table, 827.

- referred to a Select Committee for amendment, 1004.
- Rules of the House amended, 2578.
- Russian Treaty, a bill for the punishment of contraventions of, taken up, 2560.
- bill passed, 2563.
- Sedition Law, a resolution submitted, declaring the act of 1798 a violation of the Constitution of the U. States, and proposing that a bill be brought in to refund to the several persons who had suffered penalties under it, the fines inflicted upon them, with interest, 859.
- ordered to lie on the table, ib.
- Slaves, a resolution introduced, instructing the Committee of Ways and Means to enquire into the expediency of repealing so much of the 16th section of an act to prohibit the importation of slaves, &c. as requires that the owner or captain intending to transport a slave coastwise, shall previously deliver to the collector a manifest, &c. 897. adopted, 898.
- deported, a resolution instructing the committee to whom the bill from the Senate on this subject is or may be referred, 1811.
- agreed to, 1835.
- a bill to extend the time of the sitting of the Ghent commissioners on this subject—a motion to discharge the committee from the further consideration of it, 2314.
- the Committee of the Whole discharged from the further consideration of the bill, and the bill passed, 2576.
- Slave Trade, a bill to abolish the U. States agency on the Coast of Africa, and to provide otherwise for suppressing the slave trade, taken up, 2744.
- bill passed, 2753.
- Speaker of the House elected, 811.
- address to the House, 811.
- Speaker's Address at the close of the session, 2769.
- Stenographers, the rules of the House committed to a select committee for amendment, in relation to stenographers, &c. 1004.
- debate commences, 1001.
- a resolution respecting, 2406.
- ordered to lie on the table, 2407.
- Survey of the Coast, a resolution submitted, instructing the Committee on Naval Affairs to report on the expediency of making suitable legislative provision for reviving and carrying into effect the act of Feb. 1807, providing for a survey of the Coast of the U. States, 933.
- agreed to, 954.
- Surveys in the Pacific, resolutions submitted to cause a vessel to be sent, to examine coasts, harbors, &c., 2731.
- Tariff, the Committee on Manufactures, made a report on the subject, accompanied by a bill in alteration of the several acts imposing duties on imports, 1274.
- 6000 copies of the report, bill, &c. ordered to be printed, ib.
- the bill taken up in Committee of the Whole on the state of the Union, 1727.
- debate commences, 1729.
- again taken up, 1924.
- bill reported to the House, 2188.
- ordered to be engrossed, 2348.
- passed its third reading, 2472.
- amendments proposed by the Senate, considered, 2696.
- all the amendments were agreed to, 2714.
- Treasury, resolution in relation to the Accounting Officers of, 1954.
- resolution committed, 1998.
- Tennessee Land Titles, a bill to authorize that State to issue grants, &c. 2496.
- laid on the table, 2550.
- thanks to the Speaker, 2766.
- Washington City College, the bill concerning it taken up and re-committed, 1487.
- West Point, a resolution directing the Secretary of War to furnish the House with information in relation to the number of Cadets now at West Point, their names, where from, &c. 1520.
- Wilde Richard H. a bill to authorize the cancelling of a certain bond, 2501.
- bill passed, 2503.
- Wines, a bill to alter the duties on wines imported, 2745.
- ordered to be engrossed, 2748.
- Young, Mr. from Kentucky, his death announced, 812.
- Yeas and Nays, on the resolution proposing to sell the stock owned by the government in the United States Bank, 858.
- on the resolution authorizing the Committee of Manufactures to send for persons and papers, 889.
- on paintings for the Rotundo, 952.
- on the case of Marigny D'Auterive, 1122.
- on engrossing the bill on internal improvements, 1810.
- on the passage of the bill, 1818.
- on the claim of R. W. Meade, 1970.
- on engrossing the bill for the relief of Mrs. Brown, 2086.
- on the passage of do. 2089.
- on laying the duty on cotton bagging, 2208.
- on laying an additional duty on distilled spirits, 2245.
- on striking out an amendment of Mr. Mallory, on woollen cloth, 2289.
- on an appeal of Mr. Cambreleng from the Chair, 2305.
- on a motion to recommit the tariff bill, 2307.
- on Mr. Mallory's amendment, as amended, 2313.
- on the previous question on the tariff bill, 2347.
- on engrossing the tariff bill, 2348.
- on the previous question on the passage of the tariff bill, 2470.
- on the passage of the tariff bill, 2471.
- on the resolution for inquiring into the expediency of abolishing the office of Major General, 2493.
- on ordering Delaware breakwater bill to a third reading, 2734.
- on engrossing the Chesapeake and Ohio Canal bill, 2616.
- on the passage of do. 2639.
- on the passage of the bill for relief of Revolutionary officers and soldiers, 2670.
- on engrossing the bill for enlarging the powers of the corporations within the District of Columbia, 2677.
- on engrossing the bill for abolishing the office of Major General, 2694.
- on the question for engrossing the Ohio Canal bill, 2736, 2743.
- on ordering to a third reading the Alabama land bill, 2744.
- on engrossing the bill to alter the duty on wines, 2748.
- on engrossing the bill providing for the removal of the Choctaw and other Indians, 2751.

## INDEX TO THE NAMES

## OF THE SPEAKERS IN THE DEBATES IN THE SENATE, ALPHABETICALLY ARRANGED.

- Barnard, Mr.** on the bill providing for the payment of interest to sundry States on debts incurred during the late War, 588.  
on authorizing the importation of Iron for the Baltimore and Ohio Railroad, 682, 693.  
on the Tariff, 733, 734, 735, 785.
- Barton, Mr.** on authorizing the State of Indiana to sell lands appropriated to the use of Schools—10.  
selling the reserved Salt Springs in Missouri—30.  
graduating the price of the Public Lands, 28, 483, 582, 666, 667.  
on abolishing imprisonment for Debt, 40.  
on the powers of the Vice President, 304.  
on providing for the settlement of Private Land Claims, 458, 459, 470, 473, 474, 481.  
on relinquishing School Lands in Alabama, 478, 460.  
on granting land to Kenyon College, 543.  
on Internal Improvement, 630, 681.
- Bateman, Mr.** on the bill to encourage Vaccination, 550, 552.
- Bell, Mr.** on the bill for abolishing Imprisonment for Debt, 66, 85.  
for the relief of surviving Officers of the Revolution, 228, 436.  
for the relief of Abraham Ogden, 274.  
the powers of the Vice President, 306.
- Benton, Mr.** on allowing further indemnification for the destruction of the British ship Union, 6.  
on graduating the price of the Public Lands, 23, 507, 603, 609, 653, 657, 659, 660, 666, 667, 672.  
on the bill for completing the Cumberland Road, 109.  
on the powers of the Vice President, 282.  
on abolishing the office of Major-General, 377.  
on introducing Resolutions in relation to the surplus revenue in the Treasury 379.  
on making appropriations for certain Fortifications, 405.  
for the Military Establishment, 413.  
on purchasing a site for Barracks at New-Orleans, 435.  
on the settlement of Private Land Claims, 459.  
on the Delaware Breakwater, 466.  
on granting land to Kenyon College, 541.  
on Internal Improvements, 629, 630.  
appropriation for Indian Emigration, 660.  
Cumberland Road, 715, 717.  
the Tariff, 726, 727, 728, 732, 733, 747, 765, 770, 774, 776, 777, 782, 783, 784, 785, 786.
- Berrien, Mr.** on abolishing Imprisonment for Debt, 19, 33, 43, 44, 66, 67, 68, 71, 76.  
on cancelling a bond in relation to captured negroes, 30.  
on regulating process in the States admitted into the Union since 1789, 94, 95.  
on increasing the pay of the Lieutenants of the Navy who have served ten years, 100.  
on relieving the surviving officers of the Revolution, 150, 205.  
on the powers of the Vice President, 394.  
on abolishing the office of Major-General, 375, 377, 378.  
on making appropriations for certain Fortifications, 399.  
on a supplementary bill for adjusting claims for deported Slaves, 406, 407.  
on the settlement of Private Land Claims, 459, 461, 470, 473, 474, 480, 481, 483, 507.  
on graduating the price of Public Lands, 678.  
on the relief of the widow of Gen. Brown, 525, 528.
- Branch, Mr.** on the bill for abolishing Imprisonment for Debt, 34, 43.  
on the bill to increase the pay of Lieutenants of the Navy, who have served ten years as such, 80.  
to complete the Cumberland Road, 103, 104, 111.  
in favor of the surviving Officers of the Revolution, 138, 224.  
to graduate the price of Public Lands, 166, 656, 658, 665.  
making appropriations for the Military Establishment, 406.  
granting land to Kenyon College, 536, 542.  
the French Colonial Trade, 554, 556.  
for reducing the duty on Salt, 603.  
the Cumberland Road bill, 714, 715.  
the Tariff, 732, 735, 748.
- Chambers, Mr.** on abolishing imprisonment for debt, 87.  
on increasing the pay of Lieutenants of the Navy who have served ten years, 101.  
on the surviving Officers of the Revolution, 183, 196, 198.  
on relieving Susan Decatur, 260, 262, 264, 276.  
on the powers of the Vice President, 283, 316, 318, 330.  
on appropriations for the military establishment, 411, 414, 415.  
granting land to Kenyon College, 543.  
the payment of interest on debts due to the States, 583, 587, 589.  
on the importation of Iron for Rail roads, 687.  
on the Chesapeake and Ohio Canal, 788, 792, 797, 801, 806.  
for the relief of Revolutionary Officers, 790.  
the suppression of the Slave Trade, 806, 809.
- Chandler, Mr.** on the Columbian College, 73.  
on increasing the pay of Lieutenants of the Navy who have served ten years, 81, 98.  
on the Cumberland Road, 117.  
on Revolutionary Pensioners, 113.  
on the surviving Officers of the Revolution, 137, 200, 427.  
on the organization of the Militia, 245.  
on relieving Abraham Ogden, 272.  
on abolishing the office of Major General, 372, 374, 376, 402, 416.  
on appropriations for the Military Establishment, 412.  
on South Carolina claims, 418, 421.  
on purchasing a site for Barracks at New Orleans, 434.  
to prevent desertion, 451, 452.  
to appropriate lands in Alabama to improve the navigation of her Rivers, 464, 455.  
on the settlement of private land claims, 458, 460.  
on the Delaware Breakwater, 470.  
on extending the franking privilege, 478.  
relinquishing School Lands in Alabama, 480.  
graduating the price of public lands, 658, 666.  
on relieving the widow of Gen. Brown, 524, 528.  
granting land to Kenyon College, 537, 542.  
on Internal Improvements, 605.  
on the Tariff Bill, 726, 732.  
on abolishing brevet rank, 789.  
on reducing the duty on Wines, 805.  
suppression of the slave trade, 808.



on aiding the Miami Canal, 809.

**Cobb, Mr.** on abolishing imprisonment for debt, 43, 70.  
on completing the Cumberland Road, 103, 110.  
on relieving Revolutionary Pensioners, 113, 214.  
for the relief of Susan Decatur, 266.  
on certain Fortifications, 400, 402.  
on the South Carolina claims, 419, 421.  
appropriating lands for the improvement of the navigation of the Rivers in Alabama, 456, 457, 473.  
graduating the price of public lands, 655, 656, 658, 659.  
on relieving the widow of Gen. Brown, 528.  
on the payment of interest to the States, 587, 588, 589.  
on Indian Emigration, 661, 662.  
on relieving Revolutionary Officers, 790.  
on the Chesapeake and Ohio Canal, 794, 795, 801, 802.  
on aiding the Miami Canal, 809.

**Dickerson, Mr.** on the powers of the Vice President, 281, 338.  
on certain fortifications, 394, 396, 398, 404.  
on graduating the price of public lands, 530, 675.  
to encourage vaccination, 551, 552.  
authorizing the importation of Iron for Rail-roads, 680, 687, 688, 694.  
on the Tariff, 725, 726, 727, 732, 733, 734, 735, 744, 747, 750, 769, 772, 774, 775, 776, 782, 783, 785.  
the Chesapeake and Ohio Canal, 792, 797, 800, 802.

**Eaton, Mr.** on affording further indemnification for the destruction of the British ship Union, 5.  
on abolishing imprisonment for debt, 66, 76.  
the Columbian College, 73.  
increasing the pay of the Lieutenants of the Navy who have served ten years, 81.  
on the Cumberland road, 114.  
on abolishing the office of Major General, 416.  
on the Tariff, 733, 782.  
on the Chesapeake and Ohio Canal, 788.

**Ellis, Mr.** on the bill for graduating the price of public lands, 658, 659.  
Indian emigration, 661.

**Foot, Mr.** on relinquishing the Cumberland Road to the States through which it passes, 126.  
on relieving surviving officers of the Revolution, 150.  
discriminating duties, 244.  
on relieving Abraham Ogden, 268, 270.  
on the powers of the Vice President, 278, 280, 281, 325, 341.  
on the Delaware Breakwater, 462, 468.  
on granting land to Kenyon College, 539.  
on the Tariff, 747, 749, 785.  
Chesapeake and Ohio Canal, 792, 799, 803, 804.  
on outrages committed in the Capitol, 810.

**Harrison, Mr.** on repealing the duty on imported salt, 5, 591.  
on abolishing imprisonment for debt, 43.  
on increasing the pay of Lieutenants of the Navy, who have served ten years, 81, 96, 99.  
on the Cumberland Road, 125.  
on Revolutionary pensioners, 112.  
on relieving the surviving officers of the Revolution, 139, 140, 200, 423.  
on relieving Susan Decatur, 259, 262.  
on abolishing the office of Major General, 373, 376, 415, 416.  
on certain fortifications, 395, 398, 401.  
on appropriations for the military establishment, 411, 413, 415.  
on South Carolina Claims, 417.

on the Western Armory, 7.  
on purchasing a site for barracks at New Orleans, 433, 434.

on desertion, 449, 451, 452, 453.  
on relieving the widow of General Brown, 521, 523, 528.  
granting land to Kenyon College, 536, 540, 543.  
to encourage vaccination, 551.  
on the French Colonial Trade, 564.  
on the importation of iron for the Railroad, 693.  
on the Tariff, 735.  
on abolishing brevet rank, 789.  
on the Chesapeake and Ohio Canal, 796.  
on abolishing the office of Major General, 805.  
on aiding the Miami Canal, 809.

**Hayne, Mr.** on allowing further indemnification for the destruction of the British ship Union, 6.  
on a memorial from Boston against increasing duties on imports, 9.  
on the bill for abolishing imprisonment for debt, 22, 36, 44, 69.  
on increasing the pay of Lieutenants of the Navy, who have served ten years, 80, 98, 101.  
on relieving Susan Decatur, 248, 260, 261, 266, 277, 278.  
on the powers of the Vice President, 302.  
on abolishing the office of Major General, 375, 377.  
on adjusting claims for deported slaves, 410.  
on appropriations for the military establishment, 414.

South Carolina Claims, 418, 419, 421.  
on the surviving officers of the Revolution, 427.  
on desertion, 451, 452, 453.  
on the settlement of private land claims, 459, 470, 481, 507.  
on extending the franking privilege, 478.  
granting land to Kenyon College, 545, 549.  
the French Colonial Trade, 557, 564.  
on the payment of interest to the States on debts incurred during the late war, 585, 586, 588, 589.  
on reducing the duty on salt, 603.  
on internal improvements, 607, 631.  
on the importation of iron for Railroads, 682, 695.  
on the Tariff, 746, 748, 770, 777, 786.  
on establishing a Navy Yard between Cape Hatteras and Florida, 790.  
on the Chesapeake and Ohio Canal, 792.  
suppression of the slave trade, 806, 808.

**Hendricks, Mr.** on the Western Armory, 7.  
on ceding the public lands within the new States to the States in which they lie, 15.  
on the Cumberland Road, 102, 117.  
on relinquishing the Cumberland road to the States through which it passes, 125, 127.  
on graduating the price of public lands, 151, 665, 666.  
on internal improvements, 631.  
on the Chesapeake and Ohio Canal, 791, 792, 794, 795, 796, 802.

**Johnson, Mr.** of Kentucky, on the Western Armory, 4, 7.  
on abolishing imprisonment for debt, 11, 20, 22, 31, 38, 71, 82.  
on Columbian College, 72.  
on increasing the pay of Lieutenants of the Navy, who have served ten years, 82.  
on regulating process in the States, 94, 95, 203.  
on the claims of South Carolina, 419.  
on extending the franking privilege, 474, 475.  
on graduating the price of Public Lands, 571, 659.  
on relieving the widow of Gen. Brown, 528.  
on Indian Emigration, 661, 663.  
on changing the seats of the Senate, 664.  
on the Cumberland Road, 714.  
on the Tariff, 727, 762, 785.

- Johnston, Mr.** Louisiana, on relieving Abraham Ogden, 270, 271, 273.  
 on the powers of the Vice President, 328, 338.  
 on the Surplus Revenue, 385.  
 on making certain Fortifications, 396, 402.  
 on adjusting claims for deported slaves, 408, 786.  
 on a site for Barracks at New Orleans, 434, 435.  
 on the settlement of Private Land claims, 460, 470, 473, 481.  
 extending the franking privilege, 477.  
 graduating the price of Public Lands, 665.  
 the French Colonial Trade, 560, 561, 565, 569.  
 on Internal Improvements, 604, 606, 607, 608, 631.  
 on changing the seats of the Senate Chamber, 665.  
 on the Tariff, 727, 730, 735.
- Kane, Mr.** on abolishing imprisonment for debt, 22, 34, 38, 70.  
 on regulating process in the States admitted into the Union, since 1789, 94, 202.  
 on relinquishing the Cumberland Road to the States through which it passes, 127.  
 on the Powers of the Vice President, 316.  
 on appropriations for the Military Establishment, 413.  
 on the settlement of Private Land claims 459, 461,  
 on the Delaware Breakwater, 467.  
 on graduating the price of Public Lands, 497.  
 granting land to Kenyon College, 532, 537.  
 on Internal Improvement, 631.  
 Chesapeake and Ohio Canal, 794.
- King, Mr.** on erecting a Western Armory, 7.  
 on Revolutionary Pensions, 114.  
 the powers of the Vice President, 278, 280.  
 on appropriations for the Military Establishment, 413, 414.  
 appropriating lands in Alabama for the improvement of the navigation of her rivers, 454, 458.  
 on the settlement of Private Land claims, 458, 459, 470, 473.  
 on relinquishing School Lands in Alabama, 479.  
 on graduating the prices of public Land, 656, 657, 665.  
 on Internal Improvements, 630.  
 on Indian Emigration, 662, 663.  
 on the suppression of the Slave Trade, 806, 808.
- Knight, Mr.** on the payment of interest to the States, 588.  
 the Tariff, 772, 773.
- Macon, Mr.** on allowing further indemnification for the destruction of the British ship, Union, 6.  
 on abolishing imprisonment for debt, 22, 64.  
 on increasing pay of Lieutenants of the Navy who have served ten years, 102.  
 on the Cumberland Road, 109, 125.  
 on the expediency of relinquishing the Cumberland Road to the States through which it passes, 125  
 on the surviving Officers of the Revolution, 224, 448.  
 on the powers of the Vice President, 250, 339.  
 on abolishing the office of Major General, 375.  
 on the Surplus Revenue, 394.  
 on extending the franking privilege, 475, 478.  
 on graduating the price of public lands, 660, 665.  
 on relieving the widow of Gen. Brown, 527.  
 on granting land to Kenyon College, 549.  
 on regulating the French colonial Trade, 570.  
 on providing payment for interest to the States, 590.  
 for reducing the duty on salt, 601.  
 on the importation of iron, for rail roads, 694.  
 on the Tariff, 732, 735, 769, 772.  
 Chesapeake and Ohio Canal, 793.  
 on the suppression of the slave trade, 806, 809.
- Marks, Mr.** on the Delaware breakwater, 464.  
 on payment of interest to the States, 588.  
 on the importation of iron for rail roads, 692.  
 on the Cumberland road, 714.  
 on the Tariff, 735, 748.  
 Chesapeake and Ohio Canal, 799.
- M'Kinley, Mr.** on abolishing imprisonment for debt, 31, 66, 67.  
 on regulating process in the States admitted into the Union since 1789, 96.  
 on the powers of the Vice President, 297.  
 on granting lands for improving the navigation of the rivers of Alabama, 453, 454, 456, 457, 458.  
 on relinquishing school lands in Alabama, 480.  
 graduating the price of public lands, 507, 657, 658, 675.
- M'Lane, Mr.** on increasing the pay of Lieutenants of the Navy, who have served ten years, 99.  
 on Revolutionary Pensions, 112.  
 on the powers of the Vice President, 287.  
 on appropriations for the military establishment, 413.  
 on the South Carolina Claims, 419.  
 on the Delaware breakwater, 467.  
 granting land to Kenyon College, 542, 549.  
 French colonial Trade, 558.  
 on Internal Improvements, 605, 606, 608, 630.  
 on the importation of iron for rail roads, 687.  
 on the Chesapeake and Ohio Canal, 788, 798, 803.  
 on the suppression of the slave trade, 806.
- Noble, Mr.** on the Western Armory, 7.  
 on authorizing Indiana to sell lands appropriated for her schools, 10.  
 on the Cumberland Road, 29, 121.  
 on abolishing imprisonment for debt, 70, 72, 74, 84.  
 on the powers of the Vice President, 341.  
 on abolishing the office of Major General, 378.  
 on appropriations for the military establishments, 411.  
 on appropriating lands in Alabama, for improving the navigation of her rivers, 455.  
 on graduating the price of public lands, 577, 657, 659.  
 on relieving the widow of Gen. Brown, 525.  
 on Internal Improvements, 631, 632, 633.  
 on Indian Emigration, 663.  
 on the Tariff, 745, 773.  
 Chesapeake and Ohio Canal, 788.  
 on revolutionary Officers, 789, 790.
- Parria, Mr.** on Revolutionary Pensions, 112.  
 the surviving officers of the Revolution, 149, 150, 166, 182,  
 appropriations for the military establishment, 414.  
 on purchasing a site for barracks at New Orleans, 434.  
 granting land to Kenyon College, 536, 537.  
 on Internal improvements, 604, 629, 630.  
 on the Tariff, 726, 727, 728, 734, 736, 745, 776.
- Ridgely, Mr.** on the Cumberland Road, 128.  
 on the powers of the Vice President, 273.
- Robbins, Mr.** on the surviving Officers of the Revolution, 198, 425.  
 on relieving Susan Decatur, 256.  
 on reducing the duty on Salt, 396  
 on the Tariff, 726, 735.
- Rowan, Mr.** on abolishing Imprisonment for Debt, 32, 34, 45, 64.  
 for regulating Process in the Courts of the United States admitted since 1789, 201, 344.  
 graduating the price of Public Lands, 675.  
 on the Tariff, 730, 732, 735, 748, 776.  
 on the Chesapeake and Ohio Canal, 788.
- Ruggles, Mr.** on the Western Armory, 7.  
 on the Cumberland Road, 102.  
 on the surviving Officers of the Revolution, 182, 183.

- on the powers of the Vice President, 279.  
on South Carolina Claims, 418, 419.  
on appropriating lands in Alabama, for improving the navigation of her rivers, 457.  
on extending the franking privilege, 475.  
on graduating the price of Public Lands, 658.  
granting land to Kenyon College, 533, 542, 543.  
on payment of interest to the States, 585, 587.  
on Internal Improvements, 604, 630.  
on aiding Ohio in the Miami Canal, 809.
- Sanford, Mr.** on reducing the duty on Salt, 595.  
on the Tariff, 734, 785.
- Seymour, Mr.** on relieving Susan Decatur, 259.
- Silsbee, Mr.** on regulating the French Colonial Trade, 555, 559, 560.  
on the importation of Iron for Railroads, 692.  
on the Tariff bill, 734, 750.
- Smith, Mr.** of Maryland, on increasing the pay of the Lieutenants of the Navy who have served ten years, 81.  
on a petition for further indemnification for the destruction of the British ship Union, 5.  
on the Cumberland Road, 104, 109, 111.  
on making appropriations for the payment of Pensioners, 111, 257.  
on surviving officers of the Revolution, 148, 167, 183.  
concerning discriminating duties, 243.  
on relieving Abraham Ogden, 273, 275.  
on the powers of the Vice President, 287.  
on abolishing the office of Major General, 374, 415, 416.  
on the surplus Revenue, 385.  
on appropriations for certain Fortifications, 394, 398, 402.  
on appropriations for Military Establishment, 412, 414, 415.  
on the claims of South Carolina, 420.  
on desertion, 452, 453.  
on the Delaware Breakwater, 469.  
on extending the franking privilege, 478.  
graduating the price of Public Lands, 658.  
on relieving the widow of Gen. Brown, 527.  
the French Colonial Trade, 558, 560, 561, 570.  
on the payment of interest to the States, 586, 587, 589.  
on Internal Improvements, 603, 604, 605, 629, 631.  
on changing the seats in the Senate, Chamber, 664.  
on the importation of Iron for Railroads, 679, 688, 693.  
on the Tariff, 725, 727, 735, 736, 744, 769, 770, 772, 774, 775, 777, 782, 784, 785.
- Smith, Mr. S. C.** on abolishing Imprisonment for Debt, 32, 40, 82.  
on the Cumberland Road, 119.  
to relinquishing the Cumberland Road to the States thro' which it passes, 126.  
on the surviving officers of the Revolution, 187, 147, 224, 448.  
on relieving Abraham Ogden, 273, 274, 275.  
on the powers of the Vice President, 295, 313.  
on abolishing the office of Major General, 376.  
on making appropriations for certain Fortifications, 399.  
on the claims of South Carolina, 420, 421.  
on the settlement of Private Land Claims, 458, 460, 470.  
on Internal Improvements, 634.  
on changing the Seats of the Senate Chamber, 664.  
on the Tariff, 776, 784.  
the Chesapeake and Ohio Canal, 792.
- Tazewell, Mr.** on abolishing imprisonment for debt, 18, 21, 65, 66, 67, 68.  
relieving Susan Decatur, 262.  
powers of the Vice President, 278, 297.
- abolishing the office of Major General, 378.  
on adjusting claims for deported slaves, 407, 408, 786.  
extending the franking privilege, 476.  
graduating the price of public lands, 656, 657, 658, 659, 660, 665, 678.  
the French colonial trade, 556, 557, 566  
internal improvements, 631.  
the tariff, 765, 785.
- Tyler, Mr.** on the Cumberland road, 107.  
surviving officers of the Revolution, 228.  
on the powers of the Vice President, 337.  
on extending the franking privilege, 475.  
graduating the price of public land, 659.  
granting land to Kenyon College, 540.  
providing for the payment of interest to the States, 585.  
on the importation of iron for rail roads, 687.
- Van Buren, Mr.** on the abolishment of imprisonment for debt, 38, 44, 68, 70.  
on regulating process in the States admitted into the Union since 1789, 92, 93, 95, 203.  
on the surviving officers of the Revolution, 149, 150, 167, 224, 448.  
on relieving Susan Decatur, 265, 267.  
on relieving Abraham Ogden, 271, 272, 275.  
on the powers of the Vice President, 281, 313, 338.  
on the settlement of private land claims, 483, 506.  
on extending the franking privilege, 477.  
on graduating the price of public lands, 674.  
on changing the seats of the Senate Chamber, 664.  
on authorizing the importation of iron for rail roads, 695.  
on the tariff, 735, 785.
- Vice President,** on the extent of his powers, 316, 341.  
his explanation of the grounds on which he gave the casting vote on a question in relation to internal improvements, 609, 632, 653.  
on changing the seats of the Senate Chamber, 664.
- Webster, Mr.** on the settlement of private land claims, 473, 474.  
extending the franking privilege, 476, 477, 488.  
graduating the price of public lands, 660, 665, 666, 667, 672, 674  
the payment of interest to the States, 585, 586.  
internal improvements, 604, 605.  
the tariff, 735, 750, 765, 772, 774, 775, 776, 784, 785, 786.  
the Chesapeake and Ohio Canal, 788, 800, 803.  
the abolishing of brevet rank, 789.  
the case of Revolutionary officers, 790.  
abolishing the office of Major General, 805.  
the suppression of the slave trade, 806.
- White, Mr.** on regulating process in the States admitted into the Union since 1789, 90, 93, 96.  
on adjusting claims for deported slaves, 410.  
on appropriations for the support of the military establishment, 411, 412, 414.
- Woodbury, Mr.** on abolishing imprisonment for debt, 89.  
on increasing the pay of Lieutenants of the Navy who have served ten years, 80, 97, 100.  
on the surviving officers of the Revolution, 128, 137, 149, 150, 166, 196, 200, 440.  
on discriminating duties, 237.  
on relieving Susan Decatur, 260, 268, 270, 271, 275.  
on relieving Abraham Ogden, 268, 270, 272, 275.  
on the powers of the Vice President, 323.  
on the Delaware breakwater, 467, 469, 470.  
on the French colonial trade, 553, 556, 557, 559, 565.  
on the tariff, 735, 773, 775, 782, 783, 784, 785.  
on reducing the duty on wines, 804.

## INDEX TO THE NAMES OF THE SPEAKERS

## IN THE HOUSE OF REPRESENTATIVES, ALPHABETICALLY ARRANGED.

- Allen, Mr. of Massachusetts**, on the case of Marigny D'Auterive, 1060.
- Alexander, Mr.** on a resolution calling upon the President for information respecting the Canal uniting the waters of the James and Kenhawa Rivers, 1937.  
the Tariff, 2414.  
the bill for enlarging the powers of the Corporations within the district, 2676.
- Anderson, Mr. of Pennsylvania**, on Retrenchment, 1186.  
on the bill concerning Washington College, 1487.  
Tariff, 2031.
- Anderson, Mr. of Maine**, on the Tariff, 1772.
- Archer, Mr.** on an amendment to the Rules, 824.  
on the case of Marigny D'Auterive, 1011.  
on internal improvements, 1609.  
on R. W. Meade's Claim, 1917, 1952.  
on deported slaves, 2332.  
on abolishing the office of Major General, 2491.
- Barbour, Mr. P. P.** on a resolution in relation to the United States Bank, 815, 827, 837, 857.  
on the case of Marigny D'Auterive, 1006.  
on the case of captured Africans, 915, 953, 956.  
on internal improvements, 1513, 1644.  
on relieving R. W. Meade, 1607, 1819, 1916, 1962.  
on deported slaves, 2315.  
on the Tariff, 2413.  
on contraventions of Russian Treaty, 2560, 2561, 2562.  
on the Chesapeake and Ohio Canal bill, 2615.  
on regulating Judicial Process, 2619.
- Bates, Mr.** on the Retrenchments, 1400.  
on the case of Marigny D'Auterive, 1484.  
on Indian appropriations, 1335.  
on Indian affairs, 1948, 1950.  
on the tariff, 1998, 2324, 2353.  
on regulating judicial process, 2649, 2651.
- Buchanan, Mr.** on authorizing the Committee on Manufactures to send for persons and papers, 873.  
on calling up the bill of last session in relation to the Cumberland Road, 1004.  
on the Mobile Court Martial, 1031, 1497.  
on Retrenchments, 1088, 1136, 1189, 1360.  
on Internal Improvements, 1513.  
on granting the use of the Hall of Representatives, 1702.  
on the case of R. W. Meade, 1967.  
on the Tariff, 2038, 2039, 2053, 2079, 2089, 2346, 2414.  
on the sale of Public Lands, 2052, 2053.  
on Importing iron and machinery for Rail-roads duty free, 2505.  
on the Naturalization laws, 2555.  
on abolishing the office of Major General, 2679, 2684.
- Brent, Mr.** on the case of Marigny D'Auterive, 1475.  
on the appropriations for Fortifications, 1920, 1921,  
on a report of the Committee of Finance, 2216.
- Bassett, Mr.** on amending the Rules, 823.  
on Paintings for the Rotundo, 937.  
on Internal Improvements, 1511, 1512, 1521.  
on military appropriation bill, 1530.  
on granting the use of the Hall of Representatives, 1702, 1717.  
on the Revolutionary officers and soldiers bill, 2661.  
on the Tariff, 2698.
- Buckner, Mr.** on the Retrenchment resolutions, 1205.  
on the Tennessee Land claims, 2548.
- Bartlett, Mr.** on an amendment of the Rules, 823, 824.  
on Indian Governments, 926, 927.  
on Paintings for the Rotundo, 940, 942.  
on the bill in relation to captured Africans, 955, 963.  
on the Retrenchment resolutions, 1396, 1401.  
on Washington College, 1487.  
on Militia Courts Martial, 1495.  
on granting the use of the Hall of Representatives, 1699, 1702.  
on the rules for printing documents, 1719.  
on accounting officers, 1958, 1963, 1978.  
on Internal Improvements, 2189.
- Barnard, Mr.** on the case of Marigny D'Auterive, 1468.  
on the Tariff, 1924, 1963.
- Barringer, Mr.** on the Revolutionary officers and soldiers bill, 2660, 2661.
- Buck, Mr.** on an amendment to the Rules, 825.  
on Military appropriations, 1524.  
on abolishing the office of Major General, 2490.
- Barney, Mr. Maryland**, on paintings for the Rotundo, 934.  
on the Retrenchment resolutions, 1084, 1182, 1176.  
on Navy appropriations, 1508, 1918.  
on Internal Improvements, 1514, 2194.  
on Military appropriations, 1523, 1526.  
on the Tariff, 1749, 2218, 2219, 2221, 2246, 2297, 2696.  
on abolishing the office of Major General, 2679.
- Bell, Mr. of Tenn.** on establishing an armory on Harpeth River, 895.  
on the Mobile Court Martial, 1034, 1039.  
on Retrenchment resolutions, 1946.  
on Tennessee Land titles, 2524, 2549.  
on regulating Judicial process, 2651.
- Blake, Mr.** on the Retrenchment resolutions, 1184, 1188, 1215.  
on improving the channel of the Wabash, 1567.  
on Tennessee Land titles, 2515.  
on the Chesapeake and Ohio canal bill, 2617.  
on the Ohio canal, 2739.
- Brown, Mr. New Hampshire**, on Militia Courts Martial, 1504.  
on Tennessee Land titles, 2520.
- Bunner, Mr.** on the case of Marigny D'Auterive, 976.  
on the case of R. W. Meade, 1958.  
on Internal Improvements, 2577.
- Barbour, Mr. J. S.** in relation to the accounting officers of the treasury, 1954, 1966, 1971.
- Bryan, Mr. of N. Carolina**, on the case of Marigny D'Auterive, 1079.  
on Internal Improvements, 1621.  
on the Tariff, 2110.  
on Indian appropriations, 2558.
- Burges, Mr.** on the case of Marigny D'Auterive, 1093.  
on paintings for the Rotundo, 938.  
on the Mobile Court Martial, 1046, 1489.  
on Retrenchment resolutions, 1399.  
on Washington College, 1487.  
in relation to a report of the Committee of Finance, 2210, 2212, 2214.  
on the Tariff, 2260, 2523, 2452.
- Beecher, Mr.** on Militia Courts Martial, 1504.  
on the Ohio canal, 2742.
- Cambreleng, Mr.** on authorising the Committee on Manufactures to send for persons and papers, 879.  
on the Tariff, 2291, 2303, 2326, 2328, 2357, 2381, 2697, 2698, 2708,

- on the improvement of certain Harbors, 2556  
on the Chesapeake and Ohio Canal, 2613.
- Carson, Mr.** on Retrenchment, 1170, 1195.  
on granting the use of the Hall of Representatives, 1700.  
on deported Slaves, 1834.  
bill for relief of Mrs. Brown, 2085.  
on the Tariff, 2118.  
on Indian Appropriations, 2551, 2553, 2589.
- Carter, Mr.** on Retrenchment, 1223.  
Internal Improvements, 1653.  
the Chesapeake and Ohio Canal bill, 2615.
- Chilton, Mr.** on Retrenchment 1064, 1065, 1122, 1141, 1170, 1182, 1188, 1208, 1215, 1223.  
on granting the use of the Hall of Representatives, 1700.  
bill for relief of Mrs. Brown, 2086.  
the Tariff, 2203.  
Internal Improvements, 2585.
- Claiborne, Mr.** on the Tariff, 1789.
- Clark, Mr. J. C.** of New York, on the case of Marigny d'Auterive, 916.  
bill for relief of Mrs. Brown, 2086.  
on abolishing the office of Major General, 2487.  
the Ohio Canal, 2736.
- Clark, Mr.** of Kentucky, on Retrenchment, 1181, 1186, 1419.  
Tariff, 2156, 2162.  
Revolutionary Officers and Soldiers bill, 2661.
- Condict, Mr.** on Military Land Warrants, 860.  
on Indian Governments, 926.  
Tariff, 2332, 2342, 2344, 2696.
- Coulter, Mr.** on Affairs with Brazil, 2510, 2539.
- Crockett, Mr.** on the bill for relief of Mrs. Brown, 2086.  
Tennessee Land titles, 2518.
- Culpeper, Mr.** on the Mobile Court Martial, 1036.  
Retrenchment Resolutions, 1128.  
on granting the use of the Hall of Representatives, 1718.  
the Rules for printing documents, 1749.  
the Naval Appropriations, 1920  
bill for relief of Mrs. Brown, 2081.  
do. for relief of Revolutionary Officers and Soldiers, 2651.
- Daniel, Mr.** Kentucky, on Retrenchment, 1141, 1178.  
on the Tariff, 2452, 2453.
- Davis, Mr.** of Massachusetts, on the Tariff, 1878.  
on the Tennessee Land Claims, 2542.
- Dorsey, Mr.** on the case of Marigny d'Auterive, 979-  
on Retrenchment, 1201, 1253, 1398, 1455.  
the Tariff, 2307.
- Dayton, Mr.** on the case of Marigny d'Auterive, 968.  
on Paintings for the Rotundo, 935, 1455.  
Militia Courts Martial, 1489, 1490, 1506.  
Internal Improvements, 1630, 1639.  
Richard W. Mead's claim 1910.  
sale of Public Lands, 2053.  
Tariff, 2324.  
the Revolutionary Officers and Soldiers bill, 2652, 2661.
- Duncan, Mr.** on Military Appropriations, 1532, 1533.  
the expediency of raising Mounted Volunteers, 2054.
- Dwight, Mr.** on Paintings for the Rotundo, 931, 940.  
the bill in relation to captured Africans, 958.  
Naval Appropriations, 1507, 1918, 1919.  
Internal Improvements, 1512.  
Military Appropriations, 1525, 1532.  
Mr. Meade's claim, 1819, 1960.  
on the Tariff, 2045.  
a report of the Committee of Finance, 2214.  
abolishing the office of Major General, 2679.
- Everett, Mr.** on the case of Marigny d'Auterive, 1057, 1098.  
on Paintings for the Rotundo, 932, 939, 941, 949.  
on Retrenchment, 1300.
- Military Appropriations, 1527.  
relieving R. W. Meade, 1594, 1917, 1967.  
deported Slaves, 1813.  
Creek Treaties, 1953, 1954.  
Tariff, 2297.  
the bill for completing the Public Buildings, 2506, 2507.
- affairs with Brazil, 2509, 2513, 2539.
- Floyd, Mr.** on the North Eastern Boundary, 814.  
on a resolution in relation to U. S. Bank, 850.  
on authorizing the Committee on Manufactures to send for persons and papers, 886.  
on the practicability of uniting the waters of James and Kenhawa Rivers, 891, 892, 894.  
on the removal of the Choctaw and Chickasaw Indians, 896.  
on the Mobile court martial, 1045, 1048, 1499, 1501.  
retrenchments, 1144, 1197, 1200, 1201.  
resolution respecting stenographers, 1517.  
Indian appropriations, 1540.  
bill for relief of Mrs. Brown, 2085.  
Wickliffe's resolution concerning Internal Improvements, 2134, 2192.  
deported slaves, 2314.
- Fort, Mr.** on the case of Marigny D'Auterive, 904.  
on Indian governments, 925, 936.  
on the Tariff, 2322.  
on Indian appropriations, 2559.
- Forward, Mr.** on the tariff, 2014, 2253.
- Gilmer, Mr.** on Indian Governments, 927.  
the bill in relation to captured Africans, 959, 961, 962.  
on the Georgia and Florida boundary line, 1092.  
military appropriations, 1522.  
internal improvements, 1797.  
deported slaves, 1832, 1835, 2316, 2352, 2356.  
Creek treaties, 1953, 1954.  
sale of public lands, 2050, 2051.  
bill for relief of Mrs. Brown, 2082, 2084.  
Tariff, 2299, 2327, 2708.  
the revolutionary soldiers bill, 2602, 2652.  
the Chesapeake and Ohio Canal bill, 2615, 2616, 2624.
- Gorham, Mr.** on the resolution in relation to the United States Bank, 842.  
internal improvements, 1690.  
Tariff, 2332, 2696.
- Gurley, Mr.** on the case of Marigny D'Auterive, 989, 990  
1030, 1048, 1120.  
appropriations for fortifications, 1920.  
the Tariff, 2202.
- Hamilton, Mr.** on the north eastern boundary, 814.  
on a resolution in relation to the United States Bank, 852.  
on the old sedition law, 859.  
on the case of Marigny D'Auterive, 910, 1029, 1030, 1114.  
on paintings for the rotundo, 929, 981, 933, 941, 944, 948.  
on retrenchments, 1335, 1399, 1453, 1457.  
militia courts martial, 1488, 1489, 1495, 1498, 1504.  
internal improvements, 1514, 1661.  
military appropriations, 1528, 1683.  
the Tariff, 2431.  
abolishing the office of Major General, 2485, 2492.  
the Chesapeake and Ohio Canal, 2612.
- Haile, Mr.** on the removal of the Choctaw and Chickasaw Indians, 896, 897.  
on the case of Marigny D'Auterive, 1061  
military appropriations, 1625.  
Indian appropriations, 1533, 1534, 1535  
expediting the public business, 1754, 1755.  
the Tariff, 2318, 2339.

- Haynes, Mr. on Indian governments, 926.  
on the Georgia and Florida boundary line, 1092.  
militia courts martial, 1502.  
a resolution in relation to West Point, 1520.  
internal improvements, 1521, 1522.  
Indian appropriations, 1534, 1629.  
deported slaves, 1834.  
the Chesapeake and Ohio Canal bill, 2614, 2615.
- Hall, Mr. on taking private property for public use, 1005.  
internal improvements, 1609, 1629, 1650.
- Hoffman, Mr. on authorizing the Committee of Manufactures to send for persons and papers, 888.  
on a monument to the memory of Brigadier Herkimer, 915.  
on Indian governments, 927.  
navy appropriations, 1506, 1507, 1509, 1510, 1917, 1918.  
Indian appropriations, 1585.  
the Tariff, 1951, 1978, 2284.  
the Chesapeake and Ohio Canal, 2611.
- Hobbie, Mr. on abolishing the office of Major General, 2487, 2685.
- Hunt, Mr. on the Tariff, 1784, 2329.
- Ingham, Mr. on the case of Marigny D'Auvergne, 995.  
on retrenchments, 1215, 1400.  
on militia courts martial, 1493.  
on military appropriation bill, 1527.  
on the rules for printing documents, 1718, 1720, 1721, 1723.  
Tariff, 1988, 2253, 2256, 2305, 2311.  
Indian concerns, 1945.
- Ingersoll, Mr. on the case of Marigny D'Auvergne, 1068.  
on paintings for the rotundo, 931.
- Ingersoll, Mr. of Connecticut, on the Tariff, 2123.
- Isacks, Mr. on the public land debt, 894.  
internal improvements, 2198, 2217.  
Florida land claims, 2380.
- Jennings, Mr. on paintings for the rotundo, 947.  
military appropriations, 1524.
- Johns, Mr. on the Tariff, 1940.
- Kerr, Mr. on the case of Marigny D'Auvergne, 1049.
- Kremer, Mr. on the case of Marigny D'Auvergne, 912.  
on Paintings for the Rotundo, 931.  
the Retrenchments, 1087, 1175, 1195, 1453, 1456.  
internal improvements, 1516.  
military appropriations, 1522, 1523.  
on granting the use of the Hall of Representatives, 1701.  
abolishing the office of Major General, 2490.  
the Chesapeake and Ohio Canal bill, 2614.  
enlarging the powers of the Corporations within the District, 2673, 2674.
- Lea, Mr. Tennessee, on a resolution proposed as a substitute to one offered by Mr. Wickliffe, on internal improvements, 2133, 2218.
- Leffler, Mr. on the Tariff, 2697.
- Letcher, Mr. on Retrenchments, 1289.
- Little, Mr. on the bill for the relief of Mrs. Brown, 2082, 2084.  
Revolutionary officers and soldiers' bill, 2661.
- Livingston, Mr. on the removal of the Indians, 822.  
on authorizing the Committee of Manufactures to send for persons and papers, 871.  
on the case of Marigny D'Auvergne, 899, 902, 987.  
on retrenchments, 1298.  
deported slaves, 1812, 1833.  
appropriations for fortifications, 1921, 1924.  
bill for the relief of Mrs. Brown, 2081, 2083.  
Tariff, 2327, 2346, 2697, 2698, 2709.  
contraventions of Russian Treaty, 2560, 2562.  
regulating Judicial process, 2650.
- enlarging the powers of the Corporations within the District, 2672.  
to alter the duty on wines, 2745.
- Locke, Mr. on Tennessee land titles, 2500, 2514.
- Lumpkin, Mr. on the removal of the Indians, 822.  
on Indian Governments, 926, 928.  
resolution respecting Stenographers, 1519.  
Indian appropriations, 1534, 1538, 1584, 2486, 2552.  
on the Cherokee Indians, 1593.  
Indian Affairs, 1947.
- Mallory, Mr. on giving power to the Committee of Manufactures to send for persons and papers, 862, 869.  
the report of the Committee on Manufactures, 1274.  
resolution respecting Stenographers, 1518.  
on military appropriations, 1524.  
on the Tariff, 1721, 1722, 1727, 1729, 2038, 2045, 2252, 2293, 2696.  
Indian Affairs, 1947.  
bill for relief of Mrs. Brown, 2081.  
importing iron and machinery for railroads, duty free, 2505.
- Marable, Mr. on the Tariff, 2322.
- Martindale, Mr. on protecting the public buildings, 861.  
on the case of Marigny D'Auvergne, 1071.  
on the Tariff, 1899, 2344.
- Marvin, Mr. on amending the Rules, 825.  
on Paintings for the Rotundo, 946.  
militia courts martial, 1504.  
internal improvements, 1809.  
deported slaves, 1834.  
Indian Affairs, 1948.  
Sale of public lands, 2052, 2053.  
on the Tariff, 2201, 2698.  
Indian appropriations, 2482.  
abolishing the office of Major General, 2492.  
contraventions of the Russian Treaty, 2560.
- Maxwell, Mr. on uniting the waters of James and Kenhawa rivers, 894, 1937.
- Mercer, Mr. on amending the Rules, 825.  
on uniting the waters of James and Kenhawa rivers, 892, 893, 1938.  
on captured Africans, 958.  
on internal improvements, 1517, 1646, 1672, 2192, 2194, 2495.  
on the rules for printing documents, 1720.  
Tariff, 2335.  
the bill for completing the public buildings, 2507.  
the Chesapeake and Ohio Canal bill, 2570, 2596, 2604, 2610, 2611, 2612, 2742  
on enlarging the powers of the Corporations in the District, 2660, 2671, 2674, 2675, 2677.
- Miner, Mr. on military land warrants, 860.  
on Paintings for the Rotundo, 936.  
on captured Africans, 962, 963, 966.  
the case of Marigny D'Auvergne, 1458.  
internal improvements, 1610.  
the Tariff, 2219, 2276.
- Mitchell, Mr. of Tennessee, on the removal of the Indians, 820.  
on retrenchments, 1138, 1182, 1184.  
Indian concerns, 1939, 1945.  
internal improvement, 2158.  
the bill for completing the public buildings, 2507.  
Indian appropriations, 2553.  
Revolutionary officers and soldiers bill, 2660.  
enlarging the powers of the Corporations within the District, 2672.
- M'Coy, Mr. on military land warrants, 860.  
on the case of Marigny D'Auvergne, 906.  
on paintings for the Rotundo, 945.  
internal improvements, 1512.  
on a resolution in relation to West Point, 1521.



- on granting the use of the Hall of Representatives, 1700.
- Tennessee land titles, 2523.
- Indian appropriations, 2551, 2555.
- improvement of certain harbors, 2557.
- McDuffie, Mr.** on the resolution in relation to the Bank United States, 837.
- on the case of Marigny D'Auterive, 1025, 1028, 1486.
- on retrenchments, 1064, 1141, 1160, 1180, 1222, 1400.
- naval appropriations, 1506, 1507, 1508, 1917.
- internal improvements, 1512, 1521, 1522, 1629, 1637, 1797, 1809, 1817, 2576.
- military appropriations, 1522, 1523, 1526, 1532, 1533.
- Indian appropriations, 1533, 1640, 2488, 2494, 2554.
- appropriations for fortifications, 1920, 1923.
- bill for relief of Mrs. Brown, 2081, 2084.
- explanatory of a report from the Committee of Finance, 2209.
- on the tariff, 2382, 2699.
- importing iron and machinery for railroads, duty free, 2505.
- abolishing the office of Major General, 2681.
- to alter the duty on wines, 2745.
- M'Lean, Mr.** on the removal of the Indians, 896.
- on Indian Governments, 926.
- Indian appropriations, 1534, 1535, 1559, 2481, 2482.
- Indian concerns, 1939.
- the bill for completing the public buildings, 2506.
- Tennessee land claims, 2549.
- M'Hatton, Mr.** on reducing the price of public lands, 2373.
- Martin, Mr. S. C.** on the Report of the Committee of Manufactures, 1274.
- internal improvements, 1512, 1663.
- the Tariff, 2293, 2453, 2708, 2709.
- the Chesapeake and Ohio Canal bill, 2613.
- Metcalfe, Mr.** on Internal Improvements, 2580.
- the Chesapeake and Ohio Canal bill, 2620.
- Mitchell, Mr. S. C.** on transporting slaves coastwise, 897.
- on the case of Marigny D'Auterive, 909, 1015.
- on the Tariff, 2344.
- Miller, Mr.** on a resolution in relation to West Point, 1520.
- the Tariff, 2050, 2347.
- Moore, Mr. of Alabama,** on deported slaves, 1832, 1834, 1835.
- the Tariff, 2207.
- Tennessee land titles, 2515.
- abolishing the office of Major General, 2694.
- the Ohio Canal, 2742.
- relinquished lands in Alabama, 2762.
- Moore, Mr. T. P.** on the Tariff, 2169.
- on regulating judicial process, 2651.
- Newton, Mr.** on the bill for improving certain harbors, 2556.
- Oakley, Mr.** on authorizing the Committee on Manufactures to send for persons and papers, 868, 869, 873, 880, 886.
- Internal Improvements, 1698.
- R. W. Meade's case 1962.
- on abolishing the office of Major General, 2489.
- Orr, Mr.** on abolishing the office of Major General, 2488.
- Owen, Mr. of Alabama,** on the case of Marigny D'Auterive, 905, 1119.
- Indian appropriations, 1541.
- deported slaves, 1812, 1831.
- Pearce, Mr.** on the retrenchment Resolutions, 1230.
- military appropriations, 1525.
- Tariff, 2356, 2357.
- the improvement of certain harbors, 2564.
- Pheps, Mr.** on Indian appropriations, 2494.
- Polk, Mr.** on the Mobile Court Martial, 1036, 1490.
- relieving R. W. Meade, 1600, 1967.
- Tennessee land titles, 2496, 2523, 2548.
- Ramsey, Mr.** on Resolution in relation to West Point, 1521.
- on Internal Improvements, 1522.
- on abolishing the office of Major-General, 2492, 2682.
- Randolph, Mr.** in relation to the Stock of United States Bank, 850.
- on authorizing the Committee of Manufactures to send for persons and papers, 877, 886.
- on the case of Marigny D'Auterive, 920, 989, 1024, 1029.
- on Paintings for the Rotundo, 940, 947, 948, 950, 964.
- on amending the Rules as to Stenographers, 1001.
- on the Mobile Court Martial, 1040, 1042, 1043.
- Retrenchments, 1126, 1128, 1146, 1163, 1315, 1377.
- R. W. Meade's case, 1967.
- Tariff, 2038, 2353.
- Reed, Mr.** on Militia Courts Martial, 1501.
- on granting the use of the Hall of Representatives, 1718.
- on the Tariff, 2135.
- on surveys in the Pacific, 2731.
- Rives, Mr.** on Retrenchments, 1380, 1406.
- Internal Improvements, 1692.
- deported Slaves, 2475.
- Sergeant, Mr.** on Retrenchments, 1343.
- on Naval Appropriations, 1508, 1509.
- on Internal Improvements, 1640.
- on R. W. Meade's Claim, 1916.
- on the Mint, 2579.
- on the Chesapeake and Ohio Canal, 2615.
- Sevier, Mr.** on Indian Appropriations, 2493, 2494.
- Smith, Mr. of Indiana,** on Indian Appropriations, 1541.
- Smyth, Mr. of Virginia,** on Retrenchments, 1417.
- on the Tariff, 2304.
- the Chesapeake and Ohio Canal bill, 2615.
- enlarging the powers of the Corporations within the District, 2675.
- abolishing the office of Major General, 2676, 2680, 2682.
- Stanberry, Mr.** on the Tariff, 2119, 2184, 2711.
- on the Chesapeake and Ohio Canal, 2613.
- Ohio Canal, 2740.
- Sloane, Mr.** on the Mobile Court Martial, 999, 1000, 1031, 1032, 1046, 1048, 1252, 1486, 1503.
- Stewart, Mr. of Pa.** on the resolution in relation to the United States Bank, 848.
- on authorizing the Committee on Manufactures to send for persons and papers, 864, 873, 874, 876.
- on paintings for the Rotundo, 945.
- on Retrenchments, 1148.
- Internal Improvements, 1516, 1661, 1692.
- the Rules for printing Documents, 1721, 1725.
- the Tariff, 2176, 2222, 2224, 2335.
- the Chesapeake and Ohio Canal bill, 2614.
- enlarging the powers of the Corporations within the district, 2671.
- Sprague, Mr.** on the North Eastern Boundary, 813, 814, 815.
- on authorizing the Committee of Manufactures to send for persons and papers, 883, 886.
- on the Mobile Court Martial, 1038.
- on Internal Improvements, 1510, 1511.
- on Indian appropriations, 1536.
- on granting the use of the Hall of Representatives, 1717, 1718.
- the claim of Mr. Meade, 1819.
- uniting the waters of the James and Kenhawa Rivers, 1938.

- on the Tariff, 2050, 2053, 2054, 2296, 2307, 2334.  
on a Report of the Committee of Finance, 2216.  
enlarging the powers of the Corporations within the District, 2672, 2673, 2675.
- Stevenson, Mr.** from Pennsylvania, on authorizing the Committee of Manufactures to send for persons and papers, 863, 868, 883.  
on Militia Courts Martial, 1505.  
Resolution respecting Stenographers, 1517.  
Tariff, 1756, 2246.  
importing iron and machinery for Rail-roads duty free 2508.
- Storrs, Mr.** on amending the rules, 827.  
on authorizing the committee of manufactures to send for persons and papers, 866.  
on the case of Marigny D'Auterive, 923, 1002, 1028.  
on paintings for the rotundo, 932, 934.  
on militia courts martial, 1468, 1502.  
on naval appropriations, 1507.  
on the Cherokee Indians, 1593.  
on Internal Improvements, 1639.  
on granting the use of the Hall of Representatives, 1700.  
on Mr. Meade's claim, 1916.  
the tariff, 2031, 2045, 2306, 2697.  
on retrenchments, 2157.  
on Indian appropriations, 2482.  
on enlarging the powers of the corporations within the district, 2671.
- Strong, Mr.** on amending the rules, 823, 824.  
on authorizing the committee of manufactures to send for persons and papers, 862, 865.  
on the case of Marigny D'Auterive, 909.  
on retrenchments, 1398, 2157.  
military appropriation bill, 1527.  
tariff, 2267, 2697.  
abolishing the office of Major General, 2490.  
Tennessee land titles, 2524.  
boundary line of Ohio, Indiana and Illinois, 2550.  
contraventions of the Russian treaty, 2562, 2563.  
the revolutionary officers and soldiers bill, 2660.
- Sutherland, Mr.** on the case of Marigny D'Auterive, 1054.  
on granting the use of the Hall of Representatives, 1700, 1702.  
on R. W. Meade's claim, 1917.  
on the tariff, 2262, 2267, 2335.
- Shepperd, Mr.** on Indian appropriations, 2554.
- Sterigere, Mr.** on the tariff, 2277.  
on abolishing the office of Major General, 2492.  
on internal improvements, 2576.  
on the Revolutionary soldiers' bill, 2602, 2661.
- Taliaferro, Mr.** on deported slaves, 1811, 1812, 1814, 1830, 1832, 1835, 2316, 2352.
- Taylor, Mr.** on amending the rules, 826.  
on the case of Marigny D'Auterive, 913, 1480.  
on the bill in relation to captured Africans, 956.  
on retrenchments, 1128, 1134, 1146, 1400.  
on manufactures, 1274.  
on militia courts martial, 1497.  
on naval appropriations, 1507, 1918, 1919.  
on the tariff, 2261, 2301, 2303.  
on contraventions of Russian treaty, 2561, 2562.  
on the revolutionary soldiers bill, 2596, 2661.
- Thompson, Mr.** of Georgia, on Indian governments, 927.  
on Indian affairs, 1950.  
on the tariff, 2445.
- Tracy, Mr.** presented a memorial in relation to the abduction of William Morgan, 2644.  
on the revolutionary officers and soldiers bill, 2634.
- Tucker, Mr.** on contraventions of Russian treaty, 2563.  
on the revolutionary soldiers bill, 2598.
- Turner, Mr.** on the tariff, 2437
- Vance, Mr.** on retrenchments, 1221, 1223.  
resolution respecting stenographers, 1519.  
resolution respecting West Point, 1520.  
military appropriations, 1523.  
bill for relief of Mrs. Brown, 2079.  
Indian appropriations, 2484.  
internal improvements, 2495.  
contraventions of Russian Treaty, 2563.  
internal improvements, 2576.  
abolishing the office of Major General, 2678, 2679.  
the Ohio Canal, 2741.
- Van Rensselaer, Mr.** on granting the use of the Hall of Representatives, 1699.
- Verplanck, Mr.** on a survey of the coast, 953.  
contraventions of Russian Treaty, 2540, 2561.
- Vinton, Mr.** on internal improvements, 1522.  
Indian appropriations, 1566, 1568, 2481.  
tariff, 2335.  
Tennessee land titles, 2524, 2549.  
the Ohio Canal, 2741.
- Wales, Mr.** on the case of R. W. Meade, 1963.
- Ward, Mr.** on deported slaves, 1832.  
R. W. Meade's case, 1962.  
enlarging the powers of the corporations within the District, 2671.  
abolishing the office of Major General, 2678.  
Ohio Canal, 2742.
- Washington, Mr.** on retrenchments, 1213.
- Weems, Mr.** on the case of Marigny D'Auterive, 1112.  
the bill in relation to captured slaves, 966.  
the Mobile court martial, 1042, 1043.  
the bill concerning Washington College, 1487.  
a resolution in relation to West Point, 1520.  
military appropriations, 1525.  
Indian appropriations, 1565.  
granting the use of the Hall of Representatives, 1717.
- R. W. Meade's claim, 1917.**  
Indian affairs, 1948.  
bill for relief of Mrs. Brown, 2060, 2084.  
tariff, 2328.  
deported slaves, 2334.  
internal improvements, 2588.  
Revolutionary officers and soldiers' bill, 2652.
- Whipple, Mr.** on retrenchments, 1198, 1201, 1396.  
militia courts martial, 1494, 1495, 1505, 1506.  
navy appropriations, 1508, 1920.  
internal improvements, 1515, 1669.  
a resolution in relation to West Point, 1520.  
bill for relief of Mrs. Brown, 2085.
- White, Mr.** of Florida, on the Georgia and Florida boundary line, 1090, 1092.  
military appropriations, 1527.  
Indian appropriations, 1537, 1588.  
land claims, 2380, 2409, 2728.
- Whittlesey, Mr.** on the case of Marigny D'Auterive, 911, 1029, 1030, 1116.  
paintings for the Rotundo, 947.  
militia courts martial, 1491.  
the Chesapeake and Ohio Canal bill, 2618.
- Wickliffe, Mr.** on the bill in relation to captured Africans, 959.  
the Mobile court martial, 999, 1031, 1032, 1046, 1047, 1252, 1274, 1498.  
retrenchments, 1271, 1275, 1506.  
military appropriations, 1523, 1526.  
resolution respecting Cherokee Indians, 1593.  
Indian affairs, 1950.  
tariff, 2045, 2176, 2286, 2342, 2346.  
sale of public lands, 2051.  
bill for relief of Mrs. Brown, 2079, 2080.  
his resolution calling for estimates respecting internal improvements, 2132, 2190, 2197.  
deported slaves, 2314, 2333.  
Indian appropriations, 2484.

internal improvements, 2576.  
 Chesapeake and Ohio Canal, 2603, 2636.  
 enlarging the corporations within the District, 2671.  
**Wilde, Mr.** on the Georgia and Florida boundary line, 1091.  
 the Cherokee Indians, 1592, 1593.  
 internal improvements, 1685, 1686, 1806.  
 deported slaves, 1832, 2333.  
 Indian affairs, 1950.  
 Indian appropriations, 2482, 2494.  
 the form of certificates returned of Presidential elections, 2640.  
 the tariff, 2698, 2699.  
**Williams, Mr.** on Indian governments, 926.  
 the case of Marigny D'Auterive, 1486.  
 navy appropriations, 1507.  
 internal improvements, 1648.  
 abolishing the office of Major General, 2484.  
**Wing, Mr.** on a canal in Michigan, 898.  
**Wolff, Mr.** on the tariff, 2317.  
 revolutionary officers and soldiers' bill, 2651.  
**Wood, Mr.** of New York, on the resolution in relation to the United States Bank, 855.  
 amending the rules, 823.  
 authorizing the Committee of Manufactures to send for persons and papers, 877, 882.  
 the case of Marigny D'Auterive, 1056.  
 internal improvements, 1516, 1522, 1814.  
 tariff, 2288.  
 Indian appropriations, 2554.  
**Wood, Mr. S.** on R. W. Mead's claim, 1690.

**Woodcock, Mr.** on paintings for the Rotundo, 946.  
 militia courts martial, 1496.  
 the tariff, 1870, 2346, 2381.  
 internal improvements, 2577.  
**Woods, Mr.** of Ohio, on Indian governments, 927.  
 militia courts martial, 1498, 1501, 1503.  
 Indian appropriations, 1539, 1548, 2481, 2482, 2493.  
 resolution on Indian concerns, 1939.  
 Creek treaties, 1953.  
 Wickliffe's resolution respecting internal improvements, 2133, 2194.  
 tariff, 2276, 2312, 2346.  
**Wright, Mr.** of Ohio, on the northeastern boundary, 815.  
 military land warrants, 861.  
 authorizing the Committee of Manufactures to send for persons and papers, 862, 878, 883.  
 bill in relation to captured Africans, 955, 960.  
 the Mobile court martial, 1044, 1486, 1498.  
 retrenchments, 1155, 1191, 1197, 1201, 1425, 1454, 1457.  
 the rules for printing documents, 1730, 1732, 1733.  
 the tariff, 1797, 1835, 2131, 2199, 2291, 2305, 2306, 2309, 2312, 2344, 2709.  
 sale of public lands, 2051.  
**Wright, Mr.** of New York, on the tariff, 2045, 2242, 2263, 2342.  
 bill for relief of Mrs. Brown, 2083.  
 internal improvements, 2576.  
 on enlarging the powers of the corporations within the District, 2670, 2676.



~





✓



U











3 2044 106 523 368

